

SUBCHAPTER M—INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT PROGRAM

PART 273—EDUCATION CONTRACTS UNDER JOHNSON-O'MALLEY ACT

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SOURCE: 40 FR 51303, Nov. 4, 1975, unless otherwise noted.

Subpart A—General Provisions

§ 273.1 Purpose and scope.

(a) The purpose of the regulations in this part is to set forth the application and approval process for education contracts under the Johnson-O'Malley Act. Such contracts shall be for the purpose of financially assisting those efforts designed to meet the specialized and unique educational needs of eligible Indian students, including programs supplemental to the regular school program and school operational support, where such support is necessary to maintain established State educational standards.

(b) The application and approval process in this part applies specifically to contracts with a State, school district, or Indian corporation.

(c) Contracts with tribal organizations for supplemental and operational support will be entered into only upon the request of an Indian tribe(s), and

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shall be subject to the provisions of part 900 of this chapter and 41 CFR part 14H-70, except as provided in § 273.11.

(d) Nothing in these regulations shall be construed as:

(1) Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe;

(2) Authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people; or,

(3) Permitting significant reduction in services to Indian people as a result of this part.

(e) Nothing in these regulations shall be construed to mandate an Indian tribe to request a contract or contracts. Such requests are strictly voluntary.

[40 FR 51303, Nov. 4, 1975, as amended at 64 FR 13896, Mar. 23, 1999]

§ 273.2 Definitions.

As used in this part:

(a) "Area Director" means the official in charge of a Bureau of Indian Affairs Area Office.

(b) "Bureau" means the Bureau of Indian Affairs.

(c) "Commissioner" means the Commissioner of Indian Affairs, under the direction and supervision of the Assistant Secretary—Indian Affairs, who is responsible for the direction of day-to-day operations of the Bureau of Indian Affairs.

(d) "Days" means calendar days.

(e) "Economic enterprise" means any commercial, industrial, agricultural, or business activity that is at least 51 percent Indian owned, established or organized for the purpose of profit.

(f) "Education plan" means a comprehensive plan for the programmatic and fiscal services of and accountability by a contractor for the education of eligible Indian students under this part.

(g) "Indian tribe" means any Indian tribe, band, nation, rancheria, pueblo, colony or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the U.S. Government through

the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians.

(h) "Indian corporation" means a legally established organization of Indians chartered under State or Federal law and which is not included within the definition of "tribal organization" given in paragraph (v) of this section.

(i) "Indian Education Committee" means one of the entities specified by § 273.15.

(j) "Indian" means a person who is a member of an Indian tribe.

(k) "Johnson-O'Malley Act" means the Act of April 16, 1934 (48 Stat. 596), as amended by the Act of June 4, 1936 (49 Stat. 1458, 25 U.S.C. 452-456), and further amended by the Act of January 4, 1975 (88 Stat. 2203).

(l) "Operational support" means those expenditures for school operational costs in order to meet established State educational standards or State-wide requirements.

(m) "Pub. L. 93-638" means the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638; 88 Stat. 2203).

(n) "Previously private school" means a school (other than a Federal school formerly operated by the Bureau) that is operated primarily for Indian students from age 3 years through grades 12; and, which at the time of application is controlled, sanctioned, or chartered by the government body(s) of an Indian tribe(s).

(o) "Reservation" or "Indian reservation" means any Indian tribe's reservation, pueblo, colony, or rancheria, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

(p) "School district" or "local education agency" means that subdivision of the State which contains the public elementary and secondary educational institutions providing educational services and is controlled by a duly elected board, commission, or similarly constituted assembly.

(q) "Secretary" means the Secretary of the Interior.