

§ 273.48

25 CFR Ch. I (4-1-11 Edition)

§ 273.48 Audit and inspection.

(a) During the term of a contract under this part and for three years after the project or undertaking is completed, the Comptroller General and the Secretary, or any of their duly authorized representatives, shall have access, for audit and examination purposes, to any of the contractor's books, documents, papers, and records which, in their opinion, may be related or pertinent to the contract or any sub-contract.

(b) The contractor will be responsible for maintaining all documents such as invoices, purchase orders, canceled checks, balance sheets and all other records relating to financial transactions in a manner which will facilitate auditing. The contractor will be responsible for maintaining files of correspondence and other documents relating to the administration of the contract properly separated from general records or cross-referenced to general files.

(c) The contractor receiving funds under this part shall be responsible for contract compliance.

(d) The records involved in any claim or expenditure that has been questioned shall be further maintained until final determination has been made on the questioned expenditures.

(e) All contracts, non-confidential records concerning all students served by the program, reports, budgets, budget estimates, plans, and other documents pertaining to preceding and current year administration of the contract program shall be made available by the contractor and local school officials to each member of the Indian Education Committee and to members of the public upon request. The contractor or local school official shall provide, free of charge, single copies of such documents upon request.

§ 273.49 Freedom of information.

(a) Unless otherwise required by law, the Bureau shall not place restrictions on contractors which will limit public access to the contractor's records except when records must remain confidential.

(b) A contractor under this part shall make all reports and information concerning the contract available to the

Indian people which the contract affects. Reports and information may be withheld from disclosure only when both of the following conditions exist:

(1) The reports and information fall within one of the following exempt categories:

(i) Specifically required by statute or Executive Order to be kept secret.

(ii) Commercial or financial information obtained from a person or firm on a privileged or confidential basis.

(iii) Personnel, medical, social, psychological, academic achievement and similar files where disclosure would be a clearly unwarranted invasion of personal privacy.

(2) Disclosure is prohibited by statute or Executive Order or sound grounds exist for using the exemption given in paragraph (b)(1) of this section.

(c) A request to inspect or copy reports and information shall be in writing and must reasonably describe the reports and information requested. The request may be delivered or mailed to the contractor. Within ten (10) working days after receiving the request, the contractor shall determine whether to grant or deny the request. The requester shall be notified immediately of the determination.

(d) The time limit for making a determination may be extended up to an additional ten (10) working days for good reason. The requester shall be notified in writing of the extension, reasons for the extension, and date on which the determination is expected to be made.

§ 273.50 Annual reporting.

(a) A contractor under this part shall make a detailed annual report to the approving official before September 15 of each year and covering the previous school year. The report shall include, but not be limited to, an accounting of the amounts and purposes for which the contract funds were expended, information on the conduct of the program, a quantitative evaluation of the effectiveness of the contract program in meeting the stated objectives contained in the applicant's educational plans, and a complete accounting of actual receipts at the end of the contract period.

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(b) In addition to the yearly reporting requirement given in paragraph (a) of this section, the contractor shall furnish other contracted-related reports when and as required by the Area Director or Commissioner.

(c) A contractor under this part shall send copies of the reports required by paragraphs (a) and (b) of this section to the Indian Education Committee(s) and to the tribe(s) under the contract at the same time as the reports are sent to the Bureau.

§ 273.51 Penalties.

If any officer, director, agent, or employee of, or connected with, any contractor or subcontractor under this part embezzles, willfully misapplies, steals, or obtains by fraud any of the funds or property connected with the contract or subcontract, he shall be subject to the following penalties:

(a) If the amount involved does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) If the amount involved exceeds \$100, he shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

§ 273.52 State school laws.

In those States where Pub. L. 83-280, 18 U.S.C. 1162 and 28 U.S.C. 1360 do not confer civil jurisdiction, State employees may be permitted to enter upon Indian tribal lands, reservations, or allotments if the duly-constituted governing body of the tribe adopts a resolution of consent for the following purposes:

(a) Inspecting school conditions in the public schools located on Indian tribal lands, reservations, or allotments.

(b) Enforcing State compulsory school attendance laws against Indian children, parents or persons standing in *loco parentis*.

§ 273.53 Applicable procurement regulations.

States, school districts, or Indian corporations wanting to contract with the Bureau under this part must comply with the applicable requirements in the Federal Procurement Regulations (41 CFR part 1), as supplemented by the

Interior Procurement Regulations (41 CFR part 14), and the Bureau of Indian Affairs Procurement Regulations (41 CFR part 14H), except 41 CFR part 14H-70.

§ 273.54 Privacy Act requirements.

(a) When a contractor operates a system of records to accomplish a Bureau function, the contractor shall comply with subpart D of 43 CFR part 2 which implements the Privacy Act (5 U.S.C. 552a). Examples of the contractor's responsibilities are:

(1) To continue maintaining those systems of records declared by the Bureau to be subject to the Privacy Act as published in the FEDERAL REGISTER.

(2) To make such records available to individuals involved.

(3) To disclose an individual's record to third parties only after receiving permission from the individual to whom the record pertains. 43 CFR 2.56 lists exceptions to this procedure.

(4) To establish a procedure to account for access, disclosures, denials, and amendments to records.

(5) To provide safeguards for the protection of the records.

(b) The contractor may not:

(1) Discontinue or alter any established systems of records without prior approval of the appropriate Bureau systems manager.

(2) Deny requests for notification or access of records without prior approval of the appropriate Bureau systems manager.

(3) Approve or deny requests for amendments of records without prior approval of the appropriate Bureau systems manager.

(4) Establish a new system of records without prior approval of the Department of Interior and the Office of Management and Budget.

(5) Collect information about an individual unless it is relevant or necessary to accomplish a purpose of the Bureau as required by statute or Executive Order.

(c) The contractor is subject to the penalties provided in section (i) of 5 U.S.C. 552a.