

# INDIAN AFFAIRS MANUAL

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Chapter 6

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Grants and Cooperative Agreements

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- 1.1 **Purpose.** This chapter establishes the grants and cooperative agreement (collectively “award” or “agreement”) policy of Indian Affairs (IA), and describes the responsibilities of IA officials for grant and cooperative agreement administration, policy, oversight, systems, and training.
- 1.2 **Scope.** This policy applies to all programs and offices under the authority of the Assistant Secretary-Indian Affairs (AS-IA), including offices reporting to the AS-IA, the Bureau of Indian Affairs (BIA), and the Bureau of Indian Education (BIE). This policy does not apply to agreements made pursuant to Public Law (P.L.) 93-638, Indian Self-Determination and Education Assistance Act (ISDEAA), as amended.
- 1.3 **Policy.** All agreements in which any IA office is a party will be carried out in accordance with applicable laws, regulations, and policies.

IA staff that perform as the government’s agents with regards to grants and cooperative agreements must determine and use the appropriate financial assistance instrument (i.e., grant agreement or cooperative agreement) when making such awards, and adhere to the uniform administrative requirements at 2 CFR 200, unless otherwise directed by Federal statute or regulations. IA offices must conduct periodic reviews to ensure compliance with this policy, and with Federal grants and cooperative regulations.

IA staff that award and administer grants and cooperative agreements must complete grants management training based on curriculum approved by the IA Office of the Chief Financial Officer (OCFO), and must also maintain a minimum of 16 hours of continuing education annually.

## 1.4 Authority.

### A. Statutes and Regulations.

- 1) 31 U.S.C. §§ 6301-6308 - Federal Grant and Cooperative Agreement Act
- 2) 31 U.S.C. § 6102(a) - Federal Assistance Award Data System
- 3) P.L. 106-107, Federal Financial Assistance Management Improvement Act
- 4) 2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 5) 2 CFR 1402 - DOI Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

### B. Guidance.

- 1) 505 Department Manual (DM) - Grants Administration

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- 2) 507 DM - Program Information and Data
- 3) 511 DM - Coordination with State and Local Governments
- 4) 512 DM - American Indian and Alaska Native Programs
- 5) DOI-AAAP-0007, Department of the Interior (DOI) Policy, Procedures, and General Decision-Making Criteria for Deviations from Negotiated Indirect Cost Rates under Federal Financial Assistance Programs and Agreements (Dec. 22, 2014)
- 6) DOI-AAAP-0008, Conflict of Interest and Mandatory Disclosures for Financial Assistance (Dec. 22, 2014)
- 7) DOI-AAAP-0009, Financial Assistance Application and Merit Review Process (Dec. 26, 2014)

## C. Handbooks.

- 1) DOI Financial Assistance Policy, available at [https://www.doi.gov/pam/programs/financial\\_assistance](https://www.doi.gov/pam/programs/financial_assistance)
- 2) Partnership Legal Primer (Published by DOI Office of the Solicitor (SOL), Sept. 2004)

## 1.5 Responsibilities.

- A. **Deputy Assistant Secretary-Indian Affairs (Management) (DAS-M)** is responsible for establishing policy, setting internal controls, and managing the process for training certification.
- B. **Directors, BIA and BIE** are responsible for ensuring IA processes and resources are in place to facilitate cooperation and responsiveness to meet grant and cooperative agreement management requirements.
- C. **Chief Financial Officer (CFO)** is responsible for the management, administration, and oversight of IA acquisition policies and procedures. The CFO is the Senior Acquisition Official and Head of Contracting Activity (HCA) for IA.
- D. **Head of Contracting Activity (HCA)** is responsible for the overall management of IA's contracting activity.
- E. **Bureau Procurement Chief (BPC)** is responsible for the overall management of the contracting activity, as delegated by the HCA.

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- F. Chief Contracting Officer (CCO)/Supervisory Contracting Officer (SCO)** as certified oversees the administration of grants and cooperative agreements.
- G. Specialists (Grant and Cooperative Agreements)** oversee business and other non-programmatic aspects of one or more grants and/or cooperative agreements. These activities include, but are not limited to, evaluating grant applications for administrative content and compliance with statutes, regulations, and guidelines; negotiating grants; providing consultation and technical assistance to grantees; and administering grants after award.
- H. Agreements Technical Representatives (ATR)** are responsible for the programmatic, scientific, and/or technical aspects of assigned applications and grants. The ATR's responsibilities include, but are not limited to, developing program initiatives to meet IA's mission and working in partnership with grant management on post-award administration, which includes reviewing progress reports, participating in site visits, and other activities.

**1.6 Definitions.** Additional definitions may be found at 2 CFR 200, Subpart A - Acronyms and Definitions.

- A. Catalog of Federal Domestic Assistance** is a publication as well as a database produced by the General Services Administration that lists the domestic assistance programs of all Federal agencies and gives information about a program's authorization, fiscal details, accomplishments, regulations, guidelines, eligibility requirements, information contacts, and application and award process.
- B. Cooperative Agreement** is a written legal instrument reflecting a relationship between IA and a non-Federal entity (e.g., a Tribal government) in which the principal purpose is to transfer money, property, services, or anything of value to the non-Federal entity to stimulate or support a public purpose authorized by Federal statute. Substantial involvement is anticipated between IA and the non-Federal entity during performance of the contemplated activity.
- C. Discretionary Grant** is a grant program that permits the Federal Government, according to specific authorizing legislation, to exercise judgment in selecting the program, grantee, and/or amount of the award through a competitive grant process.
- D. Federal Financial Assistance** is the transfer of a thing of value from a Federal agency to an eligible recipient to carry out a public purpose of support or stimulation as authorized by Federal law. An agency may provide financial assistance through various types of transactions, including grants, cooperative agreements, non-cash contributions or donations of property, direct appropriations, food commodities, and

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other financial assistance. Additional information as to what constitutes financial assistance may found at 2 CFR 200.40.

- E. Grant Agreement** is the same type of instrument as a cooperative agreement except that no substantial involvement is anticipated by the Federal Government during the grant.
- F. Mandatory Grant** is a grant program in which the agency is required to make an award based on prerequisites specified by statute. There is generally no competition for funds among eligible entities in mandatory grants.
- G. Non-Federal Entity** means a state, local government, Indian Tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or sub-recipient.
- H. Self-determination Contract** is a contract (or grant or cooperative agreement used in lieu of a contract) pursuant to title I of the ISDEAA.
- I. Sole Source** is a funding opportunity specifically directed to a known recipient either statutorily designed or determined by a bureau or office to be an appropriate partner based on demonstrable criteria.

## 1.7 Selection of an Award Instrument.

- A. Funding Vehicle.** Only one award instrument shall be used per funding activity. For example, both a P.L. 93-638 agreement and a grant should not be used simultaneously.
- B. Cooperative Agreements** must be used when the following conditions are met:
  - 1) The agreement is used to transfer money, property, services, or anything else of value from the IA office to the recipient;
  - 2) The principal objective of the financial assistance is to carry out a public purpose of support or stimulation authorized by Federal law; and
  - 3) The IA office involved anticipates substantial programmatic involvement during the performance of the contemplated activity.

Examples of substantial programmatic involvement include: IA involvement in program management decisions; IA collaboration in the accomplishment of the activity; or IA operational involvement or participation during the activity. This list of examples is not comprehensive and IA offices should carefully consider whether substantial involvement is anticipated.

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**C. Grant Agreements** must be used when 1.7 B. 1) and 2) are met, and the IA office involved does not anticipate being substantially involved during the performance of the contemplated activity.

Examples of involvement that are not substantial include: agency monitoring or reviewing of performance during or after completion; unanticipated agency involvement to correct deficiencies in the project; general administrative requirements pursuant to 2 CFR 200; agency approval of the recipient plans prior to making an award; and normal exercise of Federal stewardship responsibilities, such as periodic site visits, performance reporting and auditing to ensure the terms and conditions of the award are accomplished.

- 1.8 Office of Management and Budget (OMB) Exemptions.** Requests for exemptions to the Federal Grant and Cooperative Agreement Act must be submitted by the head of the bureau or office through the DAS-M or his designee to obtain Departmental and OMB approvals.
- 1.9 Administrative Requirements.** Administrative requirements will vary by the type of non-Federal entity receiving the award, the type of award instrument used, and the terms and conditions agreed upon by the parties. Unless otherwise specified by statute or regulations, the uniform administrative requirements at 2 CFR 200 apply.
- 1.10 Structure and Contents.** The grant or cooperative agreement must be structured in a manner which adequately describes the relationship between the IA office involved and the recipient. The grant or cooperative agreement should describe and clarify the degree of programmatic involvement between the parties, including defining and allocating respective responsibilities, describing obligations and rights, and addressing accountability as appropriate to the specific project. The agreement should set forth the respective rights and obligations of the parties in such areas as project performance and management, partial or total termination of work, changes in the scope of work, period of performance, application of funding and resources, title to property, records maintenance and access, and potential liability issues. IA staff shall refer to 505 DM 2.10, consult with their program offices, and/or consult with SOL on the terms and conditions that should be included in a grant or cooperative agreement.
- 1.11 Posting Funding Opportunities.** Competitive, discretionary grant and cooperative agreement award opportunities will be published on Grants.gov and entered into the Federal Assistance Award Data System (FAADS). IA offices are encouraged to use Grants.gov when requesting applications from eligible non-Federal entities. However, use of Grants.gov may not always be appropriate and in such cases, submission via fax, email, or regular mail should be used.

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All grants and cooperative agreements must have a Catalog of Federal Domestic Assistance (CFDA) number.

**1.12 Competition.** Federal Financial Assistance awards must be subjected to the competitive process, unless there is an exception by Congress or other legal means.

**1.13 Sole Source Determinations.** Under limited circumstances, it may be appropriate to make an award without competition.

A. In order to make an award without competition, the award must satisfy one or more of the following criteria:

- 1) Unsolicited proposal - The proposed award is the result of an unsolicited assistance application which represents a unique or innovative idea, method, or approach, which is not the subject of a current or planned contract or assistance award, but which is deemed advantageous to the program objectives.
- 2) Continuation - The activity to be funded is necessary for the satisfactory completion of the mission, or is a continuation of an activity presently being funded, and for which competition would have a significant adverse effect on the continuity or completion of the activity.
- 3) Legislative intent - The language in the applicable authorizing legislation or legislative history clearly indicates Congress' intent to restrict award to a particular recipient or purpose.
- 4) Unique Qualifications - The applicant is uniquely qualified to perform the activity in accordance with the evaluation criteria set forth for the grant or cooperative agreement.
- 5) Emergencies - Program/award where there is insufficient time available (due to a compelling and unusual urgency, or substantial danger to health or safety) for adequate competitive procedures to be followed.

B. For anticipated sole-source awards of \$25,000 or more, the IA office must publish a "Notice of Intent to Award" either in the Federal Register or on Grants.gov, and prepare a written justification explaining why competition is not practicable. The written justification shall include a statement of which criteria justifies the action and a discussion of the program legislative history, unique capabilities of the proposed recipient, and cost-sharing contribution offered by the proposed recipient, as applicable.

**1.14 Financial and Business Management System (FBMS).** All grants and cooperative agreements will be processed and obligated in the PRISM Grants system. A hardcopy of the

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PRISM Purchase Request (PR) form shall be completed and entered into FBMS Core Financials by the requester as a financial assistance PR.

- 1.15 Automated Standard Application for Payments System (ASAP).** All payments must be processed through ASAP. If the recipient fails to comply with project objectives, Federal law, or the terms and conditions of the award, then the award payment may be placed on agency review and require the approval of the Specialist before funds are released from ASAP.
- 1.16 Monitoring.** Post award monitoring must be completed during the period of performance, with closeout procedures being conducted at end of the term in accordance with 2 CFR 200. The IA employee administering the grant or cooperative agreement must take all the necessary steps to ensure that funds are being used for the intended purpose. The administrator of the grant or cooperative agreement must ensure that all reports required for the particular grant or cooperative agreement type (i.e., Quarterly Reports, and the Final Report 90 days following the close of the Period of Performance), are certified by the grantee or recipient of the cooperative agreement to ensure appropriate use of funds.
- 1.17 SOL Legal Sufficiency Review.** SOL review will be obtained for proposed grant or cooperative agreements regardless of dollar amount because of complexity, novelty, intellectual property (IP) issues, potential conflicts of interest, or other such concerns to warrant legal review. IA offices must also seek SOL review when developing new programs or policies affecting future allocations of financial assistance awards. Legal review is not required for well-established programs.

## Approval



James N. Burckman  
Acting Deputy Assistant Secretary- Indian Affairs (Management)

4/28/16

Date