

§ 36.206

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(v) Identification of Federal employee transfers contemplated;

(vi) Personnel system and key personnel;

(vii) The work plan for carrying out the contract including the timetable for delivery of optimum services.

(9) Evidence of community support for or lack of opposition to the contract.

(10) Information concerning training to be given to personnel who will perform under the contract.

(11) Estimate of the number of Indians to be served.

(12) A budget, including separate cost estimates for salaries and wages, equipment, supplies, services, travel, sub-contracts, other direct costs and overhead.

(13) Justification and request for advance payments.

(14) Names and telephone numbers of the tribal organization's business and technical personnel who may be contacted during the evaluation and negotiation process.

(15) A description of the tribal organization including:

(i) The legal and organizational relationship of the tribal organization to the Indians in the area to be served or effected by the contract.

(ii) A description of the participation of Indians in all phases of the tribal organization.

(iii) Whether the tribal organization is controlled, sanctioned or chartered by the governing body of Indians to be served, and, if so, evidence of such fact.

(iv) And, if elected, a description of the election process, voting criteria, and extent of voter participation.

(16) Evidence of adequate liability insurance coverage or an explanation of why such insurance cannot or should not be obtained. Such insurance shall provide that prior to cancellation the Secretary must be notified and must further provide that each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance car-

rier to waive or otherwise limit the Tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

(17) The intended financial participation, if any, of the tribal organization or the tribes to be served specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials, or facilities, or other contributions.

(18) Specifically include any requests for waivers to 41 CFR chapter 1 and 3 in accordance with 36.216.

(c) The Indian Self-Determination Contract Proposal shall be executed by a person or persons authorized to act on behalf of the tribal organization and shall be accompanied by evidence that such person or persons are authorized to bind the tribal organization.

(d) The Indian Self-Determination Contract Proposal should be addressed to the Area Director of the appropriate Indian Health Service Area. Such proposals should be submitted, in 5 copies, well in advance of the desired beginning of support.

(e) Tribal organizations may obtain assistance in preparing Indian Self-Determination contract proposals from the IHS Area Offices. The Area Directors shall make any information available to the tribal organization which is needed in the preparation of its proposal except as may be exempt from disclosure by the Freedom of Information Act, 5 U.S.C. 552(b) and the Department of Health and Human Services regulations thereunder, 45 CFR, part 5.

§ 36.206 Tribal clearances—initial contracts.

(a) Before the IHS may enter into a contract with a tribal organization, it must be requested to do so by the tribe. The tribe's request shall be in the form of a resolution by the tribal governing body. If the tribal organization is applying for a contract to perform services benefiting more than one tribe, an authorizing resolution from each tribal governing body must be obtained before submitting the application to IHS for approval. A tribal governing body may pass a single resolution authorizing a tribal organization to apply for, negotiate, and execute more than one

contract if the resolution specifies for each contract the same information required in paragraphs (b) and (c) of this section.

(b) The resolution of the tribal governing body shall authorize the applicant tribal organization to apply for, negotiate and contract with the IHS subject to the specific terms, conditions and limitations of the resolution and applicable tribal laws, codes, and regulations and custom. The resolution shall include the date the resolution was approved, and signature of the person authorized to certify the accuracy of the information contained in the resolution.

(c) The tribal governing body's request (resolution) should include the following:

(1) When the tribal organization is the tribal governing body:

(i) A brief statement of the contract scope.

(ii) The tribal official authorized to negotiate the contract and any amendments thereto.

(iii) The tribal official authorized to execute the contract and any amendments thereof.

(iv) The expiration date of the authorities granted by the resolution.

(v) The extent and procedure, if any, for review of the contract and any amendments thereto by the tribal governing body before execution.

(vi) The proposed date for contract commencement.

(vii) The proposed term of the contract.

(2) When the tribal organization is other than the tribal governing body:

(i) The name of the tribal organization.

(ii) A brief statement of the contract scope.

(iii) The extent and procedure, if any, for review by the tribal governing body of the contract and any amendments thereto prior to execution by the tribal organization.

(iv) The tribal office or official to which the IHS should send copies of contract documents and correspondence.

(v) The proposed term of the contract.

(vi) The proposed date for contract commencement.

(vii) Any limitations on authorities granted the tribal organization.

(d) Any procedures specified in this section concerning the manner in which a tribal governing body passes a tribal resolution shall apply except where inconsistent with tribal constitution, law, code, ordinance, or custom. In such cases, the tribal law or procedures shall be cited in the resolution and shall take precedence.

§ 36.207 Tribal clearances—renewal contracts.

The Secretary may renew a contract for the same function(s) or programs as the original contract at the written request of the tribal organization designated in the tribal resolution. Requests for contract renewals shall be made as follows:

(a) If the original contract provided services to only one Indian tribe, written applications for renewal shall be sent by the tribal organization to the Area Office as follows:

(1) Directly, when the tribal organization involved is the governing body of the tribe.

(2) Through the governing body of the tribe for review when the tribal organization is not the governing body of the tribe. Submission shall be made to the governing body at least 75 calendar days before the original contract expires. The tribal organization shall promptly notify the IHS Area Office in writing of the date the tribal governing body received the application. If, within 45 calendar days after receiving the application, the tribal governing body does not provide the IHS Area Director with a formal resolution objecting to the application for renewal, the absence of receipt of such a resolution shall constitute the tribe's request for renewal of the contract.

(b) If the original contract provided services to more than one Indian tribe, the tribal organization must give a copy of the written application for renewal to each tribal governing body at least 75 calendar days before the original contract expires. The tribal organization shall promptly notify the IHS Area Office where the application is to be submitted in writing, of the date the tribal governing bodies received copies