

§ 36.213

(c) Notify Area Office subordinate activities serving the tribe(s) which will receive services under the contract and obtain any needed information and/or relevant recommendations on the contract.

(d) Assess the contract proposal to determine if it is feasible and if it complies with the appropriate requirements of the Act and of the regulations in this subpart.

(e) Meet with representatives of the tribal governing body and contract applicant to resolve any declination issues.

(f) Whenever declination issues cannot be resolved as in paragraph (e) of this section, notify the tribal organization of deficiencies in the proposal and provide to the extent practicable technical assistance, as requested, to overcome such deficiencies.

(g) Approve or disapprove the proposal after fully reviewing and assessing it and any additional information submitted by the tribal organization provided, however, that no action to disapprove shall be taken during the period of provision of technical assistance.

(h) Promptly notify the tribal organization in writing of the decision to approve or disapprove the proposal. If the proposal is disapproved, the notice shall contain but need not be limited to the following:

(i) Specific objections, which are based on failures to meet applicable program or administrative standards or fund restrictions, which preclude acceptance of the Indian Self-Determination Contract Proposal;

(ii) Guidance to the tribe regarding the steps which need to be taken to overcome the stated objections;

(iii) Identification of assistance which can practicably be made available to the tribe upon request to overcome the stated objections;

(iv) Notification to the tribal organization of its right to appeal and to request an informal or formal hearing in accordance with § 36.214 of this subpart.

§ 36.213 Processing time.

The approving official will approve or disapprove a contract proposal within sixty (60) calendar days after receipt. The sixty (60) calendar day deadline

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may be extended only after obtaining the written consent of the tribal organization.

§ 36.214 Tribal appeals to proposal declinations.

(a) On being advised that an Indian Self-Determination Contract Proposal has been disapproved by the appropriate approving official, and having been informed of the basis of such decision, the tribal organization may file a written appeal to the Contract Proposal Declination Appeals Board within thirty (30) days after receipt of the Declination Notice and may request an informal or formal hearing. The written appeal should either refute or overcome the objections stated as a basis for disapproval. The Contract Proposal Declination Appeals Board shall consider such an appeal, conduct any requested hearing thereon, and recommend a decision to the Director, Indian Health Service, or his representative whose decision shall be final.

(b)(1) The tribal organization and the Indian tribe or tribes affected shall be notified, in writing, of the date, time, place, and purpose of the hearing. The hearing will be conducted within 30 calendar days of written request for a hearing or at such later time as may be agreed upon. The IHS will authorize payment of transportation costs and per diem to allow adequate representation of the applicant, if the meeting is more than 50 miles from the office of the applicant.

(2) The hearing may be held under such rules as may be agreed upon.

(c) If formal hearing is requested, it will be conducted within thirty (30) calendar days from receipt of the written request for a hearing or at such later time as may be agreed upon, and the notice of hearing shall specify in writing the date, time, place, and purpose of the hearing and shall afford the tribe or tribal organization the right:

(1) To written notice of the issues to be considered;

(2) To be represented by counsel;

(3) To written record of the hearing;

(4) To present and cross-examine witnesses;

(5) To file written statements prior to the hearing;