

26.103 Procedures.

(a) *Contracting officers* and prime contractors, acting in good faith, *may* rely on the representation of an *Indian organization* or *Indian-owned economic enterprise* as to its eligibility, unless an *interested party* challenges its status or the *contracting officer* has independent reason to question that status.

(b) In the event of a challenge to the representation of a subcontractor, the *contracting officer shall* refer the matter to the-

U.S. Department of the Interior Bureau of *Indian Affairs* (BIA)

Attn: *Acquisition* Management Director

12220 Sunrise Valley Drive

Reston, VA 20191.

The BIA will determine the eligibility and notify the *contracting officer*.

(c) The BIA will acknowledge receipt of the request from the *contracting officer* within 5 working days. Within 45 additional working days, BIA will advise the *contracting officer, in writing*, of its determination.

(d) The *contracting officer* will notify the prime contractor upon receipt of a challenge.

(1) To be considered timely, a challenge *shall*-

(i) Be *in writing*;

(ii) Identify the basis for the challenge;

(iii) Provide detailed evidence supporting the *claim*; and

(iv) Be filed with and received by the *contracting officer* prior to award of the subcontract in question.

(2) If the notification of a challenge is received by the prime contractor prior to award, it *shall* withhold award of the subcontract pending the determination by BIA, unless the prime contractor determines, and the *contracting officer* agrees, that award *must* be made in order to permit timely performance of the prime contract.

(3) Challenges received after award of the subcontract *shall* be referred to BIA, but the BIA determination *shall* have prospective application only.

(e) If the BIA determination is not received within the prescribed time period, the *contracting officer* and the prime contractor *may* rely on the representation of the subcontractor.

(f) Subject to the terms and conditions of the contract and the availability of funds, *contracting officers shall* authorize an incentive payment of 5 percent of the amount paid to the subcontractor.

Contracting officers shall seek funding in accordance with agency procedures.

Parent topic: Subpart 26.1 - Indian Incentive Program