

CROW POLICE DEPARTMENT



POLICY AND PROCEDURAL MANUAL

Crow Police Department Policy and Procedural Manual



POLICY INDEX	SECTION
MISSION STATEMENT	1
POLICY STATEMENT	1
FOREWORD	2
MEANING OF CROW TRIBAL SEAL	3
ABANDONED VEHICLE	4
ACCIDENT INVESTIGATION	5
*ACCOMMODATING PERSONS WITH DISABILITIES	6
ADMINISTRATIVE LEAVE WITH OR WITHOUT PAY	7
ANIMAL CONTROL	8
ASP / BATON	9
AWARDS	10
BIASED BASED LAW ENFORCEMENT	11
*BODY WORN CAMERAS	12
BOMB THREAT	13
COMPLAINTS AND INTERNAL INVESTIGATIONS	14
CRIMINAL JUSTICE INFORMATION AND DISSEMINATION	15
CRITICAL INCIDENT STRESS MANAGEMENT	16
CUSTODY AND DISPOSITION OF PROPERTY	17
DAILY DUTIES	18
DISCIPLINE	19

Crow Police Department Policy and Procedural Manual



POLICY INDEX	SECTION
DISPATCH	20
ELECTRONIC CONTROL DEVICES	21
*ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS	22
EMERGENCY VEHICLE OPERATION	23
FIELD TRAINING	24
FIREARMS	25
*FOOT PURSUITS	26
GENERAL ARREST AND CUSTODY	27
GENERAL CONDUCT	28
HIRING OF SWORN PERSONNEL	29
INTOXICATED PERSONS	30
JUVENILE ARREST AND CUSTODY GUIDELINES	31
LIGHT DUTY	32
MISCELLANEOUS RULES AND REGULATIONS	33
MUTUAL AID	34
*NEWS MEDIA RELATIONS	35
NON DISCRIMINATION	36
*OFF-DUTY ENFORCEMENT	37
OFFICER INVOLVED SHOOTING	38
OLEORESIN CAPSICUM	39

Crow Police Department Policy and Procedural Manual



POLICY INDEX	SECTION
PARTNER OR FAMILY MEMBER ASSAULT	40
PARTNER OR FAMILY MEMBER ASSAULT, EMPLOYEE	41
PERFORMANCE EVALUATION	42
PERSONS WITH MENTAL DISORDERS	43
*PHOTOGRAPHIC LINE-UPS & SHOW-UPS	44
*PRESERVATION OF BIOLOGICAL EVIDENCE	45
RADIO EQUIPMENT	46
RELATIONS WITH SUPERIOR OFFICERS	47
RETIRED OFFICERS	48
RIDE ALONG	49
SEARCH AND SEIZURE	50
SOCIAL MEDIA	51
SPECIAL DUTY AND ADVANCEMENT	52
SPECIAL TACTICAL SITUATIONS	53
TRANSPORTING SUSPECTS IN CUSTODY	54
UNIFORM REGULATIONS	55
USE OF DEPARTMENT PROPERTY	56
USE OF FORCE	57
VEHICULAR PURSUITS	58

Crow Police Department Policy and Procedural Manual



2. MISSION STATEMENT

We, the members of the Crow Police Department, are committed to protecting life and property, preventing crime, and reducing the fear of crime through a commitment to excellence in law enforcement and dedication to ALL who live, work in, or visit the Crow Nation.

We will provide service with respect and understanding, a swift response with care and compassion, job performance with integrity and dedication to duty, and law enforcement with maturity and vision.

GUIDING VALUES

INTEGRITY
PROFESSIONALISM
ETHICAL BEHAVIOR
COMMUNICATION
TEAMWORK
SAFETY
EMPLOYEE DEVELOPMENT
CONSISTENCY
EQUALITY

DEPARTMENTAL GOALS

START A SOLID FOUNDATION AND BECOME UNITED THROUGH A COLLECTIVE SENSE OF PURPOSE.

POLICY STATEMENT

This Crow Police Department Policy and Procedural Manual (“PPM”) does not supersede or replace the Crow Tribal Personnel Manual, but is used in conjunction with said manual. Employees of the Crow Police Department shall be held accountable to both policies.

The words he or his in the following document are not to be construed to mean the male gender only, but are to be used in the reference to police officers whether male or female.

FOREWORD

The policies, rules and regulations contained in this manual are published for the information and guidance of the Crow Police Department. They are not intended to cover every conceivable situation that may arise in the discharge of police duties, as there will be times when the officer will utilize his own discretion and good judgment. In fact, an officer's value to this department will be gauged by not

Crow Police Department Policy and Procedural Manual



only by his compliance with these rules and regulations, but by his demonstration of good judgment, zeal, and loyalty to his administration, department, and the law enforcement profession.

All employees will be required to read this manual and familiarize themselves with it so that they may know their duties and perform them properly. It must be remembered at all times that as an employee you were hired to serve the public and that the laws and rules regulating your function hinge on this principle. Your duties shall be performed with zeal and professionalism. Passion shall not lead you to brutality, nor shall fear, favoritism, or sympathy direct your actions towards illegal leniency or failure to perform your duties in a lawful manner.

It must always be borne in mind that all persons having business, in whatever capacity, with the Crow Police Department, are entitled to courtesy and respectful consideration, as well as to every assistance that may be rendered under the rules and purpose of this department. Every employee is expected to give such assistance cheerfully and in keeping with the idea that he is an employee of the public engaged to protect and serve.

Crow Police Department

Policy and Procedural Manual



3. The Meaning of the Crow Tribal Seal

Flag and Emblem: The Crow Cultural Commission designed the Crow tribal emblem and flag and the graphic illustration was designed by Lawrence Big Hair. The flag is trimmed in gold, symbolizing the horns and hooves of the Seven Sacred Rams. The flag background is blue. The belief it represents states that when the sky and the waters are clear everything between them is good and peaceful. The emblem on the flag is encircled. This represents the Path of All Things. There is the sun and its rays. These represent the clans of the Crow. Three mountains are depicted. They are the three mountains on the present day Crow Reservation: the Wolf Teeth, the Pryor and the Big Horn Mountains. They are considered sacred by the Crow. The two rivers depicted are the Big Horn and the Little Big Horn Rivers.

The tipi is white because it represents purity and goodness. The tipi has the foundational structure of the four base poles. They represent the never ending Cycle of the Seasons. The tipi has the two ventilator flap poles. They are the sentries that watch over the home: the Coyote by day and the Owl at night. The tipi is anchored by stakes, which were gifts from the badger who said the stakes have the strength of his claws when they are imbedded in the ground. The tipi is flanked by the two war bonnets, representing the Crow clan system.

The Crow belief system has four major foundations, and each is represented on the emblem: the clan system, the sweat lodge, the sacred tobacco bundle, and the pipe. The tipi on the emblem represents the white tipi given to Yellow Leggings by White Owl. The sweat lodge is a gift from the Creator since the beginning of the Crow. The sacred tobacco bundle represents the foundation of the religion of the Crow. The pipe is the spiritual gift from the Seven Sacred Buffalo Bulls and Buffalo Woman. When the pipe is lit, the mind is to be filled with good, pure thoughts and peace.

Crow Police Department Policy and Procedural Manual



4. ABANDONED VEHICLE POLICY

1) PURPOSE

- a) The purpose of this policy is to establish a process for handling abandoned vehicles within the incorporated townships. This policy shall set forth guidelines and criteria for the proper enforcement and disposal of abandoned vehicles.
- b) The intent of this policy is to keep townships free of hazards caused by abandoned vehicles and to have effective enforcement procedures to handle abandoned vehicles.

2) POLICY

- a) The Parking Officer shall be responsible for all abandoned vehicle calls during his/her work hours. This would include those calls of all vehicles parked in the incorporated city limits of townships in violation of City Ordinances for parking and abandoned vehicles.
- b) The Parking Officer shall not have powers of arrest but shall be authorized to issue Notices to Appear for parking and abandoned vehicle violations specified by City Ordinances and Traffic Regulations.
- c) The Parking Officer shall be under direct supervision of the Chief of Police or the command officer in charge during the Chief's absence. The Chief of Police is responsible for scheduling work hours for the Parking Officer. In the absence of a Parking Officer due to scheduled days off or other commitments, Crow Tribal Police Patrolmen will handle parking and abandoned vehicle complaints.

Crow Police Department Policy and Procedural Manual



3) PROCEDURE

- a) For the purpose of this procedure, “Officer” will be the Parking Officer, or in his/her absence a Police Officer.
- b) When a complaint of an abandoned vehicle is received, the Officer will respond to the location and notify dispatch of the exact location, make, model, and license number of the vehicle. The Officer will mark the vehicle tire in an area that is readily visible for the purpose of seeing if the vehicle has been moved. The Officer will also complete a warning sticker and place it noticeably on the vehicle. The warning sticker will have the vehicle information completed, advising the date that further enforcement action will to be taken. The Officer will log into the narrative of the report the date and time the vehicle was tagged and when the vehicle is to be moved.
- c) If the owner fails to correct the violation within the specified time, a citation may be issued for violation of City Ordinance if the owner is known. When the required number of days has expired for the violation and the vehicle has not been moved, the vehicle may be referred to a Junk Vehicle Department for disposal.

Crow Police Department Policy and Procedural Manual



5. ACCIDENT INVESTIGATIONS (level 1)

1) PROCEDURE

- a) All accidents that occur in within the city limits on public property will be investigated and an accident form completed.
- b) This will include accidents where the vehicles have been moved. Show in the diagram where the final resting places of the vehicles were, when the officer arrived. Show in dotted lines the position of the vehicle when the accident occurred.
- c) If the vehicles have been moved to where a diagram cannot be done, note on the accident form: "VEHICLES MOVED, NO DIAGRAM POSSIBLE." Note in the narrative section a brief description of what each driver stated. The only exception to this is when both vehicles have left the scene of the accident, I.E. they drove to the Crow Police Department to report the accident), in this case a white form will be issued.

Crow Police Department Policy and Procedural Manual



- d) All hit and run accidents on public property will be investigated and have an accident form completed. When a suspect vehicle is found, the information will be added to the case.
- e) On private property accidents, without evidence of traffic crime, white forms will be issued and officers will facilitate the exchange of information. A narrative will be completed in the case report.

6. ACCOMMODATING PERSONS WITH DISABILITIES

1) PURPOSE

The purpose is to provide guidelines on how to reasonably accommodate citizens who are disabled.

2) POLICY

It is the policy of the Crow Police Department to afford people who have a disability the same rights, dignity, and access to law enforcement services as are provided to all citizens.

3) DEFINITION

“Disability” means:

- a. people who have a physical or mental impairment that substantially limits one or more of their life activities, including the ability to communicate, hold a job, or care for themselves;
- b. people who have a record of such impairment; or

Crow Police Department Policy and Procedural Manual



- c. people who are regarded as having such impairment.

4) PROCEDURE

Notification of Disability. An officer who has been notified by an individual of a disability should make a reasonable effort to accommodate the person's disability and any service animals.

Effective Communication. Officers must make a reasonable effort to ensure effective communication with individuals who are disabled. Officers should be aware that some individuals who are disabled may need special accommodations such as communications by written word, signing or lip-reading. Officers should attempt to accommodate an individual's reasonable request to accommodate their disability.

Detention. Officers who have taken a person into custody and are notified of the person's disability should make a reasonable effort to accommodate the person's disability while they are detained. In the event that the person with a disability is to be incarcerated, officers shall clearly communicate the known or suspected disability to Detention Center staff.

7. ADMINISTRATIVE LEAVE WITH OR WITHOUT PAY (level 2)

1) PURPOSE

- a) The Crow Police Department should observe all other appropriate policies and procedures generally applicable to investigation of alleged employee misconduct. The Crow Police Department should respect the rights of the accused employee under applicable Collective-Bargaining Agreements and case law.
- b) The Chief of Police or acting Chief of Police in his/her absence, may temporarily place an employee on administrative leave with pay. A command officer may place an employee on administrative leave with pay for the remainder of a shift. The employee will immediately leave all Crow Tribal property until ordered to return.
- c) Administrative investigations should be conducted by an officer designated by the Chief of Police or by an outside agency as directed by the Chief of Police.
- d) Where sufficient information exists, the Crow Police Department shall make appropriate restrictions to assignments, law enforcement powers, building and record access, and the Department will consider administrative reassignment and/or leave.

Crow Police Department Policy and Procedural Manual



- e) An employee on administrative leave, with or without pay, will not be allowed unrestricted access to the Crow Police Department and must be escorted and supervised when at the Crow Police Department. The employee will turn in all access cards, identification cards, department issued badges, department owned firearms and will not wear the uniform of the Crow Police Department.
- f) In determining the proper course of action, the Crow Police Department may consider consulting with treatment professionals and reviewing such factors as the employee's past conduct and history of complying with agency rules.
- g) Crow Police Department employees may be ordered to undergo a fitness for duty evaluation, psychological exam, and/or a chemical dependency assessment prior to any final disposition. The employee may return to full duty pending results of the examinations by a health provider of the agency's choosing. The employee may acquire a second opinion at the employee's expense. If the two opinions disagree, the employee and representatives of this agency shall cooperate and act in good faith in selecting a third health-care provide to provide an opinion, and both parties shall be bound by the majority opinion.

2) LOSS OF CERTIFICATION

- a) **LEVEL 3** / Any Crow Police Department member that loses any certification, license, or clearance that is needed in the performance of their duties will immediately be placed on suspension. The member may use any accumulated vacation, compensation time, or saved holidays during the suspension; otherwise the suspension will be unpaid. The member will have 60 calendar days from the date of such loss to have that loss reinstated. If the member fails to have the loss reinstated within the 60 day time period, a hearing will be called with the Chief of Police, Chairman, and Chairman's Attorney. They will hear from the member and any other witnesses to decide on the member's employment status.

Crow Police Department Policy and Procedural Manual



8. ANIMAL CONTROL POLICY (level 1) (Future implementation)

1) PURPOSE

- a) The purpose of this policy is to define the duties, role, and responsibility of the Animal Control Officer within the Crow Police Department. The intent of this policy is to institute operative guidelines regarding specific tasks and designated responsibilities.

2) ANIMAL CONTROL OFFICER

- a) The Animal Control Officer shall be responsible for animal calls during his/her work hours. This would include those calls of live animals as well as removal of deceased animals from city streets or ways open to the public within the incorporated city limits of Laurel.
- b) The Animal Control Officer shall not have powers of arrest, however, shall be authorized to issue Notices to Appear for animal violations specified by City Ordinances.
- c) The Animal Control Officer shall be directly supervised by the Chief of Police or the command officer in charge during the Chief's absence. The schedules work hours of the Animal Control Officer shall be set by the Chief of Police.
- d) In the absence of the Animal Control Officer, due to scheduled days off, Crow Police Patrol Officers shall handle all animal control complaints received.
- e) For purposes of this chapter, impound is defined as boarding an animal at the Hardin or Billings animal shelter.

3) SPECIFIC DUTIES

- a) The Animal Control Officer shall check for current City dog licenses. A citation may be issued to the owner of any dog not having a current City dog license as per City Ordinance.

Crow Police Department Policy and Procedural Manual



- b) The Animal Control Officer, in cases of nuisance or vicious dog complaints, shall ascertain if said dog has valid rabies vaccinations as well as current City dog license. A citation may be issued to owner of said dog in violation of City Ordinance.
- c) The Animal Control Officer shall have the authority to capture and impound any dog which is running at large within the incorporated city limits of the city. A citation may be issued to the owner of the dog, in violation of City Ordinance.
- d) The Animal Control Officer shall carry a functioning portable radio and be in constant radio availability from dispatch.
- e) Other duties of the Animal Control Officer may be added as the Chief of Police deems necessary.

4) PROCEDURES

- a) When a complaint is received, the Animal Control Officer will be dispatched to the location of the complaint. In the absence of the Animal Control Officer, a Patrol Officer will be dispatched to said complaint. For purposes of this procedure, "Officer" will be either the Animal Control Officer or in his/her absence a Police Patrol Officer. The following will be the procedure for handling specific animal complaints:
 - 1. Dog at Large- Officer will respond and attempt to capture the dog. If the owner is known, the dog will be returned and a citation will be issued. If the owner is not known the dog will be taken to impound and a citation will be issued as per City Ordinance. If the dog does not have current license, a citation for Dog License will be issued per City Ordinance.
 - 2. Nuisance Dog (barking) - The officer will respond and park in the area to listen for the barking dog, trying to ascertain a location of the dog. The Officer will remain in the area for a reasonable amount of time to determine if the dog is barking. The officer will ascertain from the complainant their desire to fill out a written statement and pursue charges. Based on this statement the officer will contact the owner and get a description of the dog and issue a citation or warning. The description of the dog will be placed into the case narrative for future complaints. If nobody is at the residence, a door hanger will be left informing the occupant(s) of the citation or warning.
 - 3. Nuisance Dog (barking but unfound) - The officer will respond to the scene and park in area to listen for the barking dog and to verify the location of dog. If the barking dog is not found, the officer will add that to the case narrative. The officer will ascertain from the complainant their desire to fill out a written statement and

Crow Police Department Policy and Procedural Manual



pursue charges, explaining they may be required to testify at court. Based on this statement the officer may contact the owner, get a description of the dog, and issue a citation or warning. If nobody is at the residence, a door hanger will be left informing the occupant(s) of the citation or warning.

4. Vicious Dog (owner known) – The officer will respond to any vicious dog complaint and first determine if medical attention is needed, dispatching EMS when needed. The officer will attempt to capture the dog if dog is running loose. If the owner is known, the dog will be released to the owner and a citation for Nuisance Dog as per City Ordinance. The officer will be responsible to determine if the dog in question has current rabies vaccination. If the owner does not have proof of a current rabies vaccination, the dog will be placed on a 14-day quarantine at the owner's expense. The owner will be notified that the dog cannot be destroyed during the quarantine period, that the dog must be kept inside, and if the dog is allowed outside that the animal must be on a leash and under direct supervision. The officer will fill out a quarantine notice form and obtain a statement from the victim about the circumstances surrounding the vicious dog complaint.

5. Vicious Dog (owner unknown) – The officer will respond to any vicious dog complaint and first determine if medical attention is needed, dispatching EMS if necessary. The officer will attempt to capture dog. If the dog is caught and the owner is unknown, the officer will transport the dog to impound. A citation will be issued for Nuisance Dog per City Ordinance. A quarantine notice will be filled out and left at impound for Kennel Personnel. The officer will obtain a statement from the victim and any witnesses about the circumstances surrounding the vicious dog complaint.

Crow Police Department Policy and Procedural Manual



9. ASP / BATON (level 2)

1) TRAINING / USE

- a) Service owned police batons/Asps may be issued to or purchased by officers who have been trained properly in their use. Training may have been through the Montana Law Enforcement Academy class, [Or any other state licensed academy], Federal training program, or through departmental in service training with a certified instructor. Until an officer has been trained with baton he will not be authorized by this department to carry the same.
- b) Officers of this department shall never intentionally strike a subject in the head or neck with a baton except in the case of danger of imminent death or serious bodily harm to the officer or another person in his presence.
- c) If a subject is injured from a police baton/Asp, a proper medical examination will be conducted. A medical report shall be filed with the department on its findings.
- d) Officers of this department will give a full written report of use of force with the baton/Asp, or use of force in any manner. This report will be forwarded through the chain of command. All reports will describe the circumstances as thoroughly and accurately as the officer's knowledge of the facts permit.

Crow Police Department Policy and Procedural Manual



10. AWARDS, SWORN

1) OFFICER AWARDS

- a) It is the intent of the Crow Police Department to design and implement an award system that recognizes an officer who does significantly above and beyond the routine performance of their sworn duties. Recognition Awards are intended to be specifically earned and deserved and are not intended to recognize officers who merely excel at the performance of their routine sworn duties.
- b) Officers of the Crow Police Department, including Crow Police Reserve Officers, may receive the following awards. It is not required that an officer be on duty or in jurisdiction to receive any award. Officers must be nominated by the Chief of Police to the Tribal Chairman. The Chairman will present the medal to the officer.
- c) The Crow Chief of Police may also nominate to the Chairman an officer from another agency that was acting within the Crow Nation and met the criteria to be awarded the medal.

2) MEDAL OF HONOR

- a) The Medal of Honor is awarded to an officer who performs any act of outstanding personal bravery while knowingly placing their life in imminent danger with a disregard for their personal safety, receiving injury while doing so. This award is also given to an officer that places their life in imminent danger to save the lives of multiple persons. This award is also to be issued to an officer who died at the hands of another while in the performance of their duties.

Crow Police Department Policy and Procedural Manual



- b) The Medal of Honor award will be similar to the above design, being gold with dark purple accents. The award will have the Crow Tribal Seal in the center. There will be a banner above the state seal stating “Crow Tribal Police Department”. There will be a banner below the state seal stating “Medal of Honor”.



- c) The ribbon for the Medal of Honor will be gold and dark purple in color in the pattern shown in the above example.
- d) The Medal of Honor is the highest medal awarded by the Crow Tribal Police Department.

3) MEDAL FOR VALOR

- a) The Medal for Valor is awarded to an officer who performs any act of outstanding personal bravery while knowingly placing their life in imminent danger with a disregard for their personal safety. An officer knowingly placing themselves in danger to save the life of another would receive this award.



- b) The Medal for Valor award will be like the above design, being gold with dark purple accents. The award will have the Crow Tribal Seal in the center. There will be a banner

Crow Police Department Policy and Procedural Manual



above the state seal stating "Crow Tribal Police Department". There will be a banner below the state seal stating "Medal for Valor".



- c) The ribbon for the Medal for Valor will be gold and dark purple in color in the pattern shown in the above example.
- d) The Medal for Valor is the second highest medal awarded by the Crow Tribal Police Department.

4) POLICE COMBAT CROSS

- a) Officers who have performed an act of extraordinary heroism while engaged in a form of personal combat with an armed adversary are awarded this medal. An officer receiving or being in danger of receiving serious bodily injury at the hands of another, would also receive this award.



- b) The Police Combat Cross will be like the above design, being gold in color. The award will have the Crow Tribal Seal in the center. There will be a banner above the state seal stating "Crow Tribal Police Department". There will be a banner below the state seal stating "Police Combat Cross".



- c) The ribbon for the Police Combat Cross will be gold and dark purple in color in the pattern shown in the above example.

Crow Police Department Policy and Procedural Manual



- d) The Police Combat Cross is the third highest medal awarded by the Crow Tribal Police Department.

5) WEARING OF THE RIBBONS

- a) Ribbons are worn on the right side of the shirt, above the name tag and service stars.
- b) The highest ribbons will be worn toward the right shoulder with lesser awards being worn toward the center of the chest. For multiple rows, the highest ordered ribbon is worn at the upper most row, closest to the shoulder. Awards will be worn three to a row.
- c) For every subsequent award of the same class, a brass oak leaf pin will be added to the ribbon.
- d) Awards from any other agency or department will be worn to the center or below any Crow Tribal Police Department awards.

5) CROW TRIBAL POLICE DEPARTMENT COMMENDATION FOR MERIT

- a) This award is for a civilian or a non-sworn employee of the Crow Police Department. To be eligible to receive this award, the Laurel Chief of Police will nominate the person to the Crow Tribal Chairman. The Chairman will present the award in front of the Tribal Council.
- b) This award will be given to a non-sworn employee who does an action that resulted in great credit being brought to the Crow Police Department. Recognition Awards are intended to be specifically earned and deserved and are not intended to recognize individuals who merely excel at the performance of their routine duties. This award is to be given to someone whose actions displayed a superior insight and effort which resulted in an important apprehension of a suspect, solution to a crime, or a successful conclusion to a sensitive and stressful situation.
- c) This award is also for any citizen who puts themselves in imminent danger to aid a Crow Police Officer or another person.
- d) The award itself will be a certificate accompanied with a description of their actions, typed on department letterhead.

Crow Police Department Policy and Procedural Manual



11. BIASED BASED LAW ENFORCEMENT (level 2)

1) PURPOSE

The purpose is to provide guidelines and to reaffirm the commitment of all employees of the Crow Police Department to fair and unbiased provisions of law enforcement services and to assure the public of this commitment.

2) DEFINITIONS

- a) Racial profiling means the detention, official restraint, or other disparate treatment of an individual based solely on their individual race or ethnicity.
- b) Minority Group is defined as individuals of African American, Hispanic, Native American, Asian, or Middle Eastern descent.

3) POLICY

- a) Impartial Law Enforcement can be achieved by ensuring that investigative detentions, traffic stops, arrests, searches and property seizures by officers only occur upon meeting the standard of particularized suspicion, or probable cause in accordance with the Fourth (4th) Amendment of the U.S. Constitution and Article XI of the Crow Tribal Constitution.
- b) Officers must be able to articulate specific facts and circumstances that support particularized suspicion or probable cause for all investigative detentions, traffic stops, arrests, non-consensual searches, and property searches.
- c) Officers shall not consider race or ethnicity in establishing either particularized suspicion or probable cause unless combined with other particularized factors.

Crow Police Department Policy and Procedural Manual



- d) Officers shall not consider race or ethnicity in deciding to initiate non-consensual encounters that do not constitute legal detentions or requests to consensual searches, unless combined with other particularized factors.
- e) Race or ethnicity alone shall never be motivating factors in making law enforcement decisions.
- f) Officers shall advise, prior to or as reasonably practical, their respective communication center of all traffic stops.
- g) Public safety communicators shall document and record each notification of a traffic stop and confirm the tribal status of the individual, whether the person is either: non-Indian; Indian, and if so what tribe the person is affiliated.

4) OTHER PARTICULARIZED FACTORS

- a) Officers may take into account the reported race or ethnicity of specific suspect(s) based on reliable locally relevant information that links a person of a specific race or ethnicity to a particular unlawful or suspicious incident. Race or ethnicity will never be used as the sole basis for particularized suspicion or probable cause.

5) PREVENTING PERCEPTIONS OF BIAS

- a) In an effort to prevent inappropriate public perceptions of biased law enforcement, each officer shall:
 - 1. Be courteous and professional in their contacts with all persons;
 - 2. In all cases of vehicle stops or personal encounters, introduce themselves to the person and state the reason for their presence, unless providing such information will compromise officer or public safety.
- c) Ensure that temporary detentions in the field of any person are no longer than is reasonably necessary to take appropriate action based upon the facts known at the time or upon the suspected offense. Take all reasonable measures to ensure the person being detained clearly understands the circumstances that could result in a reasonable delay.
- d) Answer all reasonable questions the persons may have, including providing them with an explanation of the judicial process, if relevant.
- e) Politely provide the person with their name and badge number on a business card or in writing when such information is requested.

Crow Police Department Policy and Procedural Manual



- f) Be sincere and contrite to the person in a prompt and professional manner and provide an explanation for the inconvenience, should the detention be deemed unreasonable or unfounded.

6) COMPLIANCE

- a) Written complaints of a violation of this policy shall be promptly and fully investigated by the so-named designated officer of the Crow Police Department who will work in concert with this Agencies' Human Resource Department.
- b) The so-named designated officer shall make personal contact with the complainant within ten (10) days of receipt of the complaint.
- c) Upon completion of the investigation, the so-named designated officer shall notify the complainant and the Administrator in writing the results of the investigation.
- d) If the complainant is unsatisfied with the results of the internal investigation, the Administrator may make a referral to an appropriate outside agency for investigation.

7) FIRST LINE SUPERVISOR RESPONSIBILITY

- a) The Chief of Police shall ensure that all personnel under their immediate command are familiar with, and understand the contents of this policy. Supervising officers shall take all reasonable measures to ensure and monitor compliance.

8) TRAINING

- a) All sworn officers shall attend training regarding biased based law enforcement and racial profiling. The Agencies training officer shall ensure that records of training are current and correct and adequately documented in the officer's training file.
- b) Training courses may include topic matter pertaining to understanding and respect for racial and cultural differences and effective and non-combative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

9) PRETEXTUAL STOPS OF MINORITIES

Officers shall not routinely stop members of minority groups for violations of vehicle laws as a pretext for investigating other violations of criminal law.

10) DRIVER DOCUMENTATION

Crow Police Department Policy and Procedural Manual



- a) Officers shall document the race or ethnicity of the driver for each traffic stop; as well as tribal status: non-Indian or Indian; if Indian, then what tribal affiliation.
- b) Officers shall use their best subjective observational skills to document the race or ethnicity of the driver. Officers shall not ask the race or ethnicity of the driver, but may ask tribal enrollment status.

11) DATA COLLECTION AND PERIODIC REVIEW

- a) The Crow Police Department will collect and accumulate data from each traffic stop.
- b) The Chief of Police or their designee shall periodically review the data to determine whether any officers have a pattern of stopping members of minority groups in a number disproportionate to the population of minority groups residing or traveling within the jurisdiction of the Agency.

12) CORRECTIVE ACTIONS

- a) The Crow Police Department will provide appropriate counseling and training for any officer who is found to be engaged in biased based traffic stops.
- b) Any counseling and training will be implemented within 90 days of the periodic review.
- c) The Crow Police Department may take other disciplinary action the Chief of Police deems appropriate.

Crow Police Department Policy and Procedural Manual



12. BODY-WORN CAMERAS

(NO APPLICABLE CROW LAW APPLIES/NOR FEDERAL LAW)

1) PURPOSE

The purpose of this policy is to provide guidelines for the effective operation and recording of body-worn cameras (BWC) for the officers of the Crow Police Department.

2) POLICY

The policy of Crow Police Department is to properly train and monitor the appropriate and legal use of BWC by department employees and to establish guidelines for that use and the recording and storage of video captured by these devices.

a. BODY-WORN CAMERAS

3) ADMINISTRATION

The Crow Police Department has adopted the use of the BWC to accomplish several objectives. The primary objectives are as follows:

- a) BWCs allow for additional documentation of police-public contacts, arrests, and critical incidents. They also may serve to enhance the accuracy of officer reports and testimony in court.
- b) Audio and video recordings enhance this agency's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
- c) The BWC may also be useful in documenting crime and crash scenes or other events that include the confiscation and documentation of evidence or contraband.

4) WHEN AND HOW TO USE BODY-WORN CAMERAS

- a) Officers shall activate the BWC to record all investigation, and enforcement contacts with citizens in the performance of official law enforcement duties.
 - 1) If a subject asks an officer whether an event is being recorded, the officer is to answer truthfully, but is not bound by this procedure to volunteer the information if the subject does not ask.

Crow Police Department Policy and Procedural Manual



- 2) It is the policy of this department to allow its officers to continue recordings even at the request of individuals to cease the recording.
- 3) Exceptions to activating the BWC would include the following:
 - a. Officer or citizen safety would be jeopardized by activating the BWC, or
 - b. An equipment failure with the BWC
- b) The BWC shall remain activated until the contact is completed in order to ensure the integrity of the recording.
- c) If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated.
- d) No one other than a supervisor shall be allowed to review the recordings except through the process of a court order.

5) PROCEDURES FOR BWC USE

- a) BWC equipment is issued primarily to uniformed personnel as authorized by this agency. Officers who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.
- b) Police personnel shall use only BWCs issued by this department. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the agency. No personally owned BWC's will be worn by members of the department.
- c) Law enforcement personnel who are assigned BWCs must complete an agency approved and/or provided training program to ensure proper use and operation. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
- d) BWC equipment is the responsibility of individual officer and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured.
- e) Officers shall inspect and test the BWC prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems.

Crow Police Department Policy and Procedural Manual



- f) Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the Chief of Police or his or her designee.
- g) Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
- h) Officers shall note in incident, arrest, and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.

6) RESTRICTIONS ON USING THE BWC

- a) BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not generally be used to record:
 - 1) Non-official communications with other police personnel outside the scope of official duties without the permission of the Chief of Police;
 - 2) Encounters with undercover officers or confidential informants; or
 - 3) When on break or otherwise engaged in personal activities

7) STORAGE

- a) All files shall be securely downloaded as frequently as possible. Each file shall contain information related to the date, BWC identifier, and assigned officer.

All images and sounds recorded by the BWC are the exclusive property of the Crow Police Department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.

- 1) All access to BWC data (images, sounds, and metadata) must be specifically authorized by the Police Chief or his or her designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
- 2) Files should be securely stored in accordance with state records retention laws.

8) SUPERVISORY RESPONSIBILITY

Crow Police Department Policy and Procedural Manual



- a) Supervisory personnel shall ensure that officers equipped with BWC devices utilize them in accordance with policy and procedures defined herein, and that the equipment is operating properly.

13. BOMB POLICY

1) POLICY

- a) The safety of life is the first consideration in any situation involving bomb threats and or bombs. The responsibility of protecting personnel, assets and equipment of a facility lies with the management of the facility receiving the bomb threat. The Crow Tribe may contact local state and federal law enforcement agencies to conduct training and to provide support when addressing explosive devices.

2) OFFICER RESPONSIBILITIES

- a) Upon receiving a report of a bomb threat, a Crow Police Officer will respond and immediately contact the person in charge of the facility. If the threat was not made to the facility itself, the officer will explain the received threat.
- b) It will be the decision of the facility's management as to what course of action will be taken. The management of the facility will decide whether to evacuate or not.
- c) If the facility management doesn't wish to evacuate or conduct a search, and wishes no further action from the CPD; then the officer will clear and leave the scene. The officer will ensure that an incident report is completed and that management's actions are noted in the report. It is not a police decision unless there is compelling evidence or concern to believe that there is an immediate and real danger to life.
- d) If the facility's management wishes the CPD to assist, the following is a check list that should be followed by the officer in charge:
 - 1. If the threat was received by the facility itself, have the person who received the threat fill out the CPD Bomb Threat Check Sheet.
 - 2. Recommend to the facility supervisor to either check or have employees who are familiar in their own work areas, check their areas. As they are aware of what should be in their areas and they are also more familiar with possible hiding places for explosive devices.

Crow Police Department

Policy and Procedural Manual



3. Explain to everyone involved that if any suspicious item is located that it is not to be touched, moved, opened, or disturbed in any way.
4. Check all internal areas for anything suspicious or out of the ordinary. Areas to be checked should be public areas, hallways, lobbies, stairways, restrooms, furnace/utility rooms, closets and storage areas.
5. The outside of the building should be checked paying attention to shrubbery, behind ledges or ornamental facings, in and under trash cans, and any vehicles parked next to the building.

3) ACTIONS UPON LOCATING A SUSPICIOUS OBJECT

- a) If a suspicious item is found, the building must be evacuated leaving the building in the current condition (i.e. windows left open/closed, lights on, computers on, etc.).
- b) No radio transmissions or cellular phone use should be made within fifty feet of the area or building involved.
- c) If the danger zone is located, the area should be blocked off or barricaded with a clear zone of three hundred (300) feet until the object has been removed or disarmed by the explosives ordinance disposal specialists.
- d) Have the fire department and medical personnel stage at least 1000 feet from a threat, keeping in mind there could be multiple explosive devices set up to injure emergency responders.
- e) Report the location and an accurate description of the object to the bomb technician.
- f) Check the outside area for a secondary device which could be detonated.
- g) Do not attempt to cover the object.
- h) Contact appropriate explosives ordinance disposal personnel. Begin with the Billings Police Department Bomb Squad. If they are not available contact the U.S. Army Reserve Center, The Montana National Guard, A.T.F. or another law enforcement agency within the state.
- i) Contact command and activate reserves.

Crow Police Department Policy and Procedural Manual



- j) Do not permit re-entry into the building until the device has been removed/disarmed and the building declared safe for re-entry.

4) ACTIONS IF A DEVICE EXPLODES

- a) Release the scene to fire personnel.
- b) Check the outside area for a secondary device which could be detonated.
- c) Contact command, activate the reserves, and contact the A.T.F. for assistance.

14. COMPLAINTS AND INTERNAL INVESTIGATIONS (level 2)

1) PURPOSE

The purpose is to provide guidelines that recognize that effective law enforcement exists in a community which has established a proper relationship between the Crow Police Department and public. This relationship must be based on mutual confidence and trust. Whenever the integrity of a law enforcement agency is in question, effective law enforcement breaks down.

2) COURSE AND SCOPE

- a) Officers must act independently with the authority vested in them. The officer must be free to initiate action without fear of reprisal, but must meticulously observe the rights of all people.
- b) The responsibility rests with the Chief of Police to provide a system of disciplinary procedures which not only subjects personnel to corrective action when improper conduct occurs, but also protects them from unwarranted criticism or charges when duties have been properly performed.
- c) It is imperative that adequate provisions be made for prompt investigation and disposition of all complaints regarding the conduct of employees of the agency.

3) POLICY

- a) It shall be the policy of the Crow Police Department to accept and investigate all complaints of alleged misconduct on the part of any agency personnel in order to achieve the basic objectives of personnel investigation:
 - 1. Responsiveness to the public;

Crow Police Department Policy and Procedural Manual



2. Protection of the integrity of the agency;
3. Protection of individuals against false accusations;
4. Redress for undesirable conduct.

4) DEFINITIONS

- a) “Personnel Complaint” – means all complaints involving personnel of the agency that could be defined as an allegation of misconduct reported from any source. This misconduct could be criminal or non-criminal in nature.
- b) “Deposition Classifications” – are defined as:
 - a. Unfounded. When the investigation indicates the alleged wrong doing did not occur.
 - b. Exonerated. When the investigation indicates that the act occurred, but was justified, lawful and proper.
 - c. Not Sustained. When the investigation discloses insufficient evidence to prove or disprove clearly the allegations made.
 - d. Sustained. When the investigation discloses the action alleged, did in fact occur.
 - e. Sustained with Qualifications. When the investigation discloses the action complained of did in fact occur, but not in the manner or to the degree stated.
 - f. Misconduct Not Based on a Complaint - When the investigation of an allegation discloses misconduct that is not part of the original complaint.
- c) “Misconduct” – means a violation of any statute, ordinance, agency policy, rule, regulation, lawful order, or rule of law.
- d) “Complaint Investigator” – means the officer or investigator appointed by the Chief of Police, in concert with the Human Resources Department, who will conduct the investigation into personnel complaints and or allegations of misconduct.

5) PROCEDURE FOR ACCEPTING COMPLAINTS

- a) A complaint alleging misconduct by personnel of the agency may be made by any person, at any time, to any member of this agency. The Crow Tribe will establish a user friendly, public accessible manner for submitting complaints.

Crow Police Department Policy and Procedural Manual



- b) When a member of the Agency receives information of a complaint or a person requests they be allowed to file a complaint, the information or person should be referred to the supervisor on duty.
- c) This complaint shall be received and reduced to writing by the supervisor on duty. The names of all persons involved in the incident or witness to the allegation, shall be included in the report. A signature of the complainant is desired, but not mandatory.
- d) If it is not possible to obtain in writing the substance of the complaint, from the complainant, the officer receiving the complaint verbally, shall reduce it to writing with whatever information obtained, and forward it to the supervisor. The officer shall state specific allegations and the best information available.
- e) The supervisor will inform the Police Chief of the complaint. This will be done during normal business hours unless the nature of the complaint requires immediate notification.
- f) When a complaint is registered against a supervisor, the Chief of Police will initiate, or may appoint another command level officer to conduct, the investigation.

6) INVESTIGATION OF COMPLAINTS

- a) The officer or investigator appointed to investigate the complaint shall conduct an appropriate investigation, and forward the results to the Police Chief and if available, the Agencies' Human Resource Officer.
- b) If the alleged misconduct amounts to a criminal law violation, the Tribal Attorney's will be notified of all alleged or suspected criminal violations.
- c) Upon completion of any investigations, the completed report is to be provided to the Chief of Police and if available, the Agencies' Human Resource Officer along with all findings, and conclusions.

7. PERSONAL INVOLVEMENT WITH INVESTIGATION OF COMPLAINT

- a) At no time, under any circumstances, shall an officer against whom a complaint has been registered, investigate the complaint.

8. DISPOSITION OF INVESTIGATED COMPLAINTS

- a) All reasonable efforts shall be made to notify all complainants of the results of the investigation.

Crow Police Department Policy and Procedural Manual



- b) A permanent record of each internal investigation will be kept by the Chief of Police and if available, the Agencies' Human Resource Officer.

- c) If the complainant is dissatisfied with the internal investigation, the Police Chief in consultation with the Agencies' Human Resource Officer shall refer the investigation and findings to an appropriate outside agency for further review and any additional investigation deemed necessary in order to make reasonable assurances of non-bias to the public

Crow Police Department Policy and Procedural Manual



15. CRIMINAL JUSTICE INFORMATION AND DISSEMINATION (level 1)

1) PURPOSE

The purpose is to provide guidelines to ensure the accuracy of criminal justice information and individual privacy in confidential and non-confidential criminal justice information collection, storage, and dissemination.

2) POLICY

This Crow Police Department will maintain, control and release when necessary, criminal justice information as prescribed by the Crow Tribal Law and Order Code.

3) DEFINITIONS

- a) “Confidential Criminal Justice Information” means:
 - a. criminal investigative information;
 - b. criminal intelligence information;
 - c. fingerprints and photographs;
 - d. criminal justice information or records made confidential by law; and
 - e. any other criminal justice information not clearly defined as ‘public criminal justice information’, as prescribed in Subsection(B) of this Section.

- b) “Public Criminal Justice Information” means:
 - a. made public by law;
 - b. court records and proceedings;
 - c. convictions, deferred sentences, and deferred prosecutions;
 - d. post-conviction proceedings and status;
 - e. originated by a criminal justice agency, including:
 - 1. initial offense reports
 - 2. initial arrest

Crow Police Department Policy and Procedural Manual



3. information considered necessary by a criminal justice agency to secure public assistance in the apprehension of a suspect; or
 4. statistical information.
- c) “Initial Offense Reports” means the first record of a criminal justice agency that indicates that a criminal offense may have been committed and includes the initial facts associated with that offense. Initial offense reports should contain the following:
- a. the general nature of the charges against the accused;
 - b. the offense location;
 - c. the name, age, and residence of the accused;
 - d. the name of the victim, unless the offense was a sex crime;
 - e. the identity of a witness unless the witnesses identity is otherwise protected by law;

Initial offense reports should not contain:

- a. driver’s license numbers;
- b. social security numbers;
- c. medical records, including but not limited to, mental health records and records relating to drug and alcohol addiction or treatment; and
- d. any information directly or indirectly identifying the victim of the following offenses:

1. Sexual Assault
2. Sexual Intercourse Without Consent
3. Indecent Exposure
4. Incest

unless disclosure is:

1. of the location of the crime scene
2. required by law
3. necessary for law enforcement purposes
4. or is authorized by a district court upon a showing of good cause.

Crow Police Department Policy and Procedural Manual



With respect to the victim of any of these offenses, who requests confidentiality, no information may be released that may directly or indirectly disclose the address, telephone number, or place of employment of the victim or a member of the victim's family, unless disclosure is of the crime scene, is required by law, or is authorized by a district court upon a showing of good cause.

- d) "Initial Arrest Records" means the first record made by a criminal justice agency indicating the facts of a particular person's arrest and includes name of the accused, pending charges against the accused, and any available information regarding bail and court appearances, bail records; and daily jail occupancy rosters;

4) INDIVIDUAL REQUEST TO INSPECT CRIMINAL HISTORY RECORDS

- a) Pursuant to "Inspection or Transfer of Criminal History Records", the Agency may release an individual's criminal history information to that individual or their agent. Individuals requesting criminal justice information must be properly identified. If an individual's criminal history record information is maintained in the state repository, copies of the records shall be transferred to the local agency.
- b) An individual may contest the accuracy or completeness, or both, of the information about themselves.

5) DISSEMINATION OF CONFIDENTIAL CRIMINAL JUSTICE INFORMATION

- a) Pursuant to "Dissemination of Confidential Criminal Justice Information", is restricted to the following:
 - a. Criminal justice agencies;
 - b. to those authorized by law to receive it;
 - c. to those authorized to receive it by a district court upon a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure.
- b) If the prosecutor determines that dissemination of confidential criminal justice information would not jeopardize a pending investigation or other criminal proceeding, the information may be disseminated to a victim of the offense by the prosecutor or by the investigating law enforcement agency after consultation with the prosecutor.
- c) Unless otherwise ordered by a court, a person or criminal justice agency that accepts confidential criminal justice information assumes equal responsibility for the security of

Crow Police Department Policy and Procedural Manual



the information with the originating agency. Whenever confidential criminal justice information is disseminated, it must be designated as confidential.

- d) The Chief Attorney or the Chief Attorney's designee is authorized to receive confidential criminal justice information for the purpose of cooperating with local fetal, infant, and child mortality review teams. The Chief Attorney or the Chief Attorney's designee may, in that person's discretion, disclose information determined to be necessary to the goals of the review team. The review team and the Chief Attorney or the designee shall maintain the confidentiality of the information.

6) DISSEMINATION OF CRIMINAL JUSTICE INFORMATION

- a) If an officer receives a request for Criminal Justice Information, other than set forth by policy, the request should be forwarded to the Chief Attorney. The officer should not attempt to determine if the request involves public or confidential criminal justice information. This determination should be left to the Chief Attorney. This will in no way be construed to be an attempt to restrict the public's right to know.

Crow Police Department Policy and Procedural Manual



16. CRITICAL INCIDENT STRESS MANAGEMENT

1) PURPOSE

The purpose is to provide guidelines to promote a safe mental health environment for Crow Police Department members.

2) POLICY

The Crow Police Department will take reasonably necessary measures to provide resources intended to protect the mental health of all Agency members who are exposed to critical incidents.

3) DEFINITIONS

- a) "Emergency service provider" or "emergency service personnel" means a law enforcement officer, firefighter, emergency medical service provider, dispatcher, rescue service provider, or other personnel who provide emergency response services.
- b) "Critical incident" means an event that results in acute or cumulative psychological stress or trauma to an emergency service provider as a result of response to the incident.
- c) "Critical incident stress management and response services" means consultation, counseling, debriefing, defusing, intervention services, management, prevention, and referral provided by a critical incident stress management team member to emergency service personnel.
- d) "Critical incident stress management" means a process of crisis intervention designed to assist emergency service personnel in coping with the psychological trauma resulting from response to a critical incident.
- e) "Critical incident stress management" means a process of crisis intervention designed to assist emergency service personnel in coping with the psychological trauma resulting from response to a critical incident.
- f) "Debriefing" means a private meeting between individual(s) involved in a critical incident and members of a Critical Incident Stress Management team to allow individual(s) a chance to express their emotional reactions regarding the incident and to make them aware of appropriate stress management techniques.

Crow Police Department Policy and Procedural Manual



- g) "Critical incident stress management team" means the group of one or more trained volunteers or paid professionals who offer critical incident stress management and response services following a critical incident.
- h) "Critical incident stress management team member" or "team member" means an individual specially trained to provide critical incident stress management and response services as a member of an organized team or emergency services provider agency.

4) PROCEDURE

CPD members upon hire and periodically thereafter will receive orientation on self-recognition of signs and symptoms of stress and common strategies for managing stress.

5) RESOURCES

In addition to an orientation CPD will provide Agency members with available resources for dealing with job stress which may include but not limited to:

- a. Employee Assistance Program (EAP)
- b. Professional services
- c. Chaplaincy program
- d. CISM (individual and/or family)
- e. Pre/post CISM training (individual and/or family)
- f. Peer support

The Montana CISM Network may be contacted through Disaster and Emergency Services duty phone at (406) 841-3911.

6) RECOGNITION

All CPD members are responsible for identifying and recognizing critical incidents that may require assistance. Anyone can request available resources or recommend a referral to the Administration for further psychological counseling. The Administrator or designee will determine the resources needed to provide assistance to the CPD member(s).

7) CRITICAL INCIDENT STRESS MANAGEMENT SESSIONS

The Administrator or designee is responsible to schedule or have scheduled a CISM session if requested. Agencies in need of a CISM team may contact the Montana CISM Network.

8) CLOSED MEETINGS AND CONFIDENTIALITY

Crow Police Department Policy and Procedural Manual



All Critical incident meetings are closed and the information shared is deemed confidential. This law specifically states that in order to protect the privacy rights of an emergency service provider in receiving critical incident stress management and response services, critical incident stress management debriefing meetings and other critical incident stress management and response services meetings are closed to the general public and may be closed to anyone who was not directly involved in the critical incident that is the subject of the meeting.

Any information divulged to the team during the provision of critical incident stress management and response services must be kept confidential and may not be disclosed to a third party or in a criminal, civil, or administrative proceeding unless the merits of disclosure exceed the demands of an individual's privacy. Records kept by critical incident stress management team members are not subject to subpoena, discovery, or introduction into evidence in a criminal, civil, or administrative action.

The confidentiality privilege provided in this law does not apply:

- a) for the appropriate referral to or consultation with other critical incident stress management team members or related qualified professionals;
- b) if the emergency service provider conveys that the provider is an imminent threat to the provider or anyone else or if the provider appears to be an imminent threat to the provider or anyone else;
- c) if the emergency services provider divulges information regarding a past, present, or future criminal act that does not involve the critical incident;
- d) if the emergency service provider or the provider's legal guardian gives consent;
- e) if the emergency service provider is deceased; or
- f) to the facts divulged by the emergency service provider concerning a person injured in a critical incident and the services and care provided to or withheld from that person by an emergency service provider.

In order to have a free and open discussion of the feelings of those involved in a Critical Incident Stress Management Session, those individuals participating in a CISM Session should be informed of their right to keep the discussions private. Individuals have a clear and distinct right of privacy in participating in the session, and the involved individual has an absolute right to invoke their right to privacy to protect the discussions occurring during a session.

9) OTHER PROFESSIONAL SERVICES

Crow Police Department Policy and Procedural Manual



If, after the CISM session, an CPD member feels the need for further counseling, or a CISM team member recommends further counseling, the Police Chief or designee will provide an offer of assistance to the Agency member. The Administrator or designee may recommend a licensed professional counselor or psychologist. All expenses associated with the offer of assistance will be paid by the Agency. The employee will be provided Administrative leave with pay to attend sessions with a counselor or psychologist.

10) FITNESS FOR DUTY DETERMINATION

The Chief of Police or designee may require a “fitness for duty” evaluation of the Agency member(s) to determine if the member is free from any mental condition that might adversely affect performance of the member’s duties

Crow Police Department Policy and Procedural Manual



17. CUSTODY AND DISPOSITION OF PROPERTY (level 1)

1) COLLECTION OF EVIDENCE

- a) Evidence or contraband lawfully seized with or without a warrant may be retained in the custody of the officer making the seizure for a time sufficient to complete an investigation.
- b) All evidence collected will be documented in the collecting officer's report. All evidence collected should be packaged and sealed with evidence tape. The evidence tape should be initialed and dated by the collecting officer then a department approved evidence tag securely attached. Any evidence too large to be packaged will have the evidence tag securely attached to the item. All evidence will then be turned in to the evidence custodian, per Crow Police Department procedures.

2) EVIDENCE ROOM STANDARDS

- a) The evidence room standards will be as close as practical to the "International Association for Property and Evidence" property room standards.

Crow Police Department Policy and Procedural Manual



18. DAILY DUTIES OFFICER SHIFTS: INFORMATION AND GUIDELINES (level 1)

1) DAY SHIFT

- a) Read incident reports, teletypes, and information board. Check individual officer files for messages or case follow-up requests.
- b) Check condition of the patrol vehicle to ensure safe operating condition. If service is required, refer vehicle for service.
- c) During school months, patrol school zone areas. Officers should pay special attention to school speed zones especially when children are coming to and from school and during the lunch times.
- d) Answer service calls, perform preventative patrol, and enforce traffic regulations.
- e) Perform investigative duties and case follow-up as needed.
- f) Perform security checks and area checks as required.
- g) All other duties that maybe assigned.

2) AFTERNOON SHIFT

- a) Read incident reports, teletypes, and information board. Check individual officer's file for messages and case follow-up requests.
- b) Check condition of the patrol vehicle to ensure safe operating condition. If service is required, refer vehicle for service
- c) During school months work traffic at school closing in school zones and area surrounding the schools.
- d) Answer service calls, perform preventative patrol, and enforce traffic regulations.
- e) Perform security checks as required.
- f) Perform investigative duties and case follow-up as needed.
- g) All other duties that may be assigned.

Crow Police Department Policy and Procedural Manual



3) NIGHT SHIFT

- a) Read incident reports, teletypes, and information board. Check individual officer's file for messages or case follow-up requests.
- b) Check condition of the patrol vehicle to ensure safe operating condition. If service is required refer vehicle for service.
- c) Work Traffic and be visible around any area that there have been problems in the community. Check businesses thoroughly, and vary patrol routine so as to not establish a pattern.
- d) Answer service calls
- f) Perform any follow-up that requires being done during the night shift time period.
- g) Extensive residential and business patrol.
- h) All other duties that may be required.

Crow Police Department Policy and Procedural Manual



19. DISCIPLINE

1) PURPOSE

- a) The purpose of this section is to set a standard for the maximum amount of discipline for violation of the Crow Police Department policies.

2) LEVEL OF OFFENSES

- a) Level 1 Offense:
 1. 1st occurrence = 1 year letter in personnel file
 2. 2nd occurrence = 2-year letter in personnel file
 3. 3rd or subsequent occurrence = 80 hrs. suspended without pay
- b) Three violations of any level 1 offense within any twelve-month period and the employee may be dismissed.
- c) A yearly (1 year or 2 year) letter is a letter that will be put in the personnel file. The 1 or 2-year letter will show in the employee's yearly evaluation for either one or two years after the date of offense or the date of being found "sustained" through the grievance process, whichever is later.
- d) If an employee goes three years from the date of the last level 1 offense, the next level 1 offense will be treated as a 1st occurrence.
- e) Level 2 Offense
 1. 1st occurrence = 80 hrs. suspended without pay
 2. 2nd occurrence = Dismissal
- f) Level 3 Offense
 1. 1st occurrence = Dismissal
- g) Next to the section title will be the offense level for that section and will apply to the entire section; unless a subsection (identified with number or a lower case letter) has a different offense level or penalty listed.

Crow Police Department Policy and Procedural Manual



20. DISPATCH POLICIES/ LEVEL 1

1) PREAMBLE

Because the Communications Center provides service for fire, ambulance, and police; and work at the direction of their policies and procedures, it is impossible to cover all situations/circumstances in any given manual. Much of the success of the 9-1-1 Center depends on the discretion and common sense of the operators and dispatchers. The following guidelines have been developed to assist employees to handle some of the most common situations. The Crow Police Dispatch Policy Manual is a guide for the policies and procedures that a communications officer shall follow.

2) BASIC INFORMATION

- a) On all calls, as soon as practical, get the **basic information** which is: the caller's name (not the business name), address, telephone number they are calling from, and date of birth; along with a description of the incident, incident location, and information on the subjects involved. Then dispatch the appropriate entity i.e. fire, ambulance, police.

3) CALLS IN PROGRESS

- a) Keep callers on the line if it is safe and there is a chance the situation could escalate or the suspect is still in the area.
- b) If the suspect has left or the situation has calmed down and the caller feels comfortable disconnecting, advise the caller to call back if the situation changes.
- c) Relay all pertinent information regarding suspect description, location, weapons, drinking and if the complainant wants contact from the officer.

4) DRESS CODE

- a) Employees must come to work clean, neat, well groomed and suitably dressed. Undergarments and shoes are required. However, undergarments should be fully covered including bra straps and waistbands of underwear. At no time should undergarments be visible through or below the outer garments. Slippers and pajama pants are not allowed.
- b) Bare midriff, low cut tops, see-through, and backless garments are not appropriate. Tops tied together by strings across the back or around the neck (such as the bandana or halter tied tops), spaghetti strap and tank top style shirts or tops are not acceptable as a style of dress. Shorts/skirts should not be shorter than three inches above the top of the knee cap.

Crow Police Department Policy and Procedural Manual



- c) The employer reserves the right to define what is excessive and to require the employee to change clothes.

5) EMERGENCY TRAFFIC

- a) Dispatchers have the authority to announce “Emergency Traffic” to clear the primary channel for a high risk incident.

6) Received “ATL”

- a) As soon as possible pass on the received information to the officers. Place the received teletype on the teletype board.

7) TRAFFIC WITHIN THE EXTERIOR BOUNDARIES OF THE RESERVATION

- a) With any injury accident, the information will be taken and an “agency assist” call will be started. Information will be taken and relayed to the Montana Highway Patrol. Available ambulance and Fire Department will be dispatched as applicable.
- b) With the exception of injury accidents, all traffic related incidents may be referred to the Montana Highway Patrol. The caller will be given the number to The Montana Highway Patrol and instructed to report the incident directly to the Montana Highway Patrol. If for some reason the caller cannot make the phone call themselves, an “agency assist” call will be started. Information will be taken and relayed to the Montana Highway Patrol.

8) 911 CALLS

- a) This incident type is assigned to “911 hang up” calls or abandoned 911 calls. If “E911” is not available, Trace all “911” hang up calls. When the information is received, dispatch an officer. If the caller information comes back as being outside the exterior boundaries of the Crow Reservation, notify the applicable agency.
- b) On a 911 hang up, if contact is made upon call back, get the basic information, but don’t tell the subject that an officer is being dispatched. If you reach an answering machine or voice mail, do not leave a message. Dispatch an officer.

Crow Police Department Policy and Procedural Manual



21. CONDUCTED ELECTRICAL WEAPONS

1) PURPOSE

The purpose is to provide guidelines to officers in the proper deployment, care, and use of Electronic Control Devices, (ECD).

2) POLICY

Deployment of an Electronic Control Device constitutes an intermediate level of use of force, and officers should use the amount of force which is reasonable and necessary to make an arrest or gain control of a situation. An Electronic Control Device is not a substitute for deadly force.

3) PROCEDURE

The following procedures provide guidance in the deployment and application of an Electronic Control Device.

- a.) Training. Only officers who have successfully completed a recognized training course may carry and or use an Electronic Control Device. To continue to use and carry an Electronic Control Device, ongoing training and familiarization with the deployment and application of an Electronic Control Device is required of every officer.
- b.) Issuance of an Electronic Control Device. Officers may only carry and use an agency authorized Electronic Control Device. A record will be kept of all Electronic Control Devices, their serial numbers, and name of the officer authorized to carry the Electronic Control Device. A record of all Electronic Control Device cartridge serial numbers will be maintained by the agency.
- c.) Alterations or Modifications. No changes, alterations, modifications or substitutions shall be made to the Electronic Control Device or the cartridges. All repairs to Electronic Control Devices or accessories shall be completed by an Agency authorized armorer or vendor. Electronic Control Device repairs shall be documented and the record shall be maintained by the Agency. Officers should evaluate the ability of the subject to comply and need for continued force

4) USE HISTORY

A use history of any Electronic Control Device will be downloaded using the data port access and appropriate software. A use history report will be maintained by the agency in accordance with record retention policies. Use history reports will be generated upon the occurrence of the following:

Crow Police Department Policy and Procedural Manual



- a. the use of any Electronic Control Device;
- b. claims of excessive force by Electronic Control Device application;
- c. hospitalization of the suspect following an Electronic Control Device application.
- d. a death of a suspect following an Electronic Control Device application;
- e. in the event the Electronic Control Device is repaired or is no longer utilized; or
- f. semi-annually.

5). DAMAGED ELECTRONIC CONTROL DEVICE OR CARTRIDGE

Officers are responsible for reporting promptly upon learning that the Electronic Control Device and or cartridge are damaged or malfunction.

The Electronic Control Device or cartridge should immediately be taken out of service. If available, another cartridge and or Electronic Control Device shall be issued to the officer

6). INSPECTION AND TESTING PRIOR TO SHIFT

Officers carrying an Electronic Control Device shall inspect and test all devices and cartridges pursuant to manufacturers' recommendations.

7). ELEVATED RISK FACTORS

Officers should be cognizant of the incapacitating effects of an Electronic Control Device and as such the inherent elevation of certain risk factors which may include the following:

- a. Presence of flammable liquids/fumes or explosive environments;
- b. Elevated positions;
- c. Person operating moving vehicle or machinery;
- d. Person running (fleeing);
- e. Pregnancy concerns regarding falls;
- f. Swimming pool or body of water;

Crow Police Department Policy and Procedural Manual



- g. Application to sensitive areas;
- h. Repeated applications;
- i. Children and Senior Citizens

8) USE ON PERSONS IN RESTRAINTS OR IN CUSTODY

In instances where restraint devices deployed upon persons under arrest fail to adequately gain control of the person an Electronic Control Device may be used when justified in accordance with the use of force policy.

An Electronic Control Device may be used against combative, assaultive, and foreseeably violent persons in custody when justified in accordance with the use of force policy.

9). CARRYING AN ELECTRONIC CONTROL DEVICE

The Electronic Control Device holster will be worn opposite of the firearm in a cross-draw position. Prior to the deployment of an Electronic Control Device the officers have the responsibility to reasonably visually and physically confirm that the tool selected is in fact an Electronic Control Device and not a firearm.

10) MEDICAL ATTENTION AFTER AN ELECTRONIC CONTROL DEVICE APPLICATION

If upon an application of an Electronic Control Device, the suspect exhibits any sign of medical distress, the officers shall render aid and summon emergency medical care. If needed, reasonable and appropriate, medical personnel shall be summoned to the scene to assess the suspect. If the assessment or other circumstances dictate the suspect needs further medical treatment, the suspect shall be transported by reasonable means to a suitable medical facility.

Medical treatment will not be refused for anyone who requests it.

If safety circumstances reasonably dictate moving the suspect to another location, officers may arrange to have emergency medical personnel meet the officers and the suspect at another location to assess the suspect and render care.

11) PROBE REMOVAL

If a subject who has a probe embedded in their body, requests that the probe be removed by medical personnel, then the officers shall arrange for medical personnel to remove the probes. Medical personnel shall remove probes located in sensitive areas such as the face, neck, groin, or female's breasts. Removal of probes in non-sensitive area may be done by officers. Officers, or

Crow Police Department Policy and Procedural Manual



other trained personnel will provide first-aid following removal of the probes. Officers should inspect the probes after removal to see that the entire probe and probe barb has been removed. In the event that a probe barb has broken off and is still embedded in a subject's skin, the subject shall be provided appropriate medical attention to facilitate the removal of the object.

12) PHOTOGRAPHS

When permitted to do so by the subject, photographs should be taken of probe impact sites and any other related injuries as soon as reasonable to do so.

13) HANDLING OF PROBES AND EXPENDED CARTRIDGES

Probes that have been deployed and strike the subject will be treated as biohazard sharps. They may be placed point down into the expended cartridge bores and secured. When the circumstances require, the yellow, pink, and clear microdots, known as "Afids" will be collected and with the probes and expended cartridge shall be maintained as evidence appropriately secured and marked as biohazard.

14) DETENTION NOTIFICATION OF APPLICATION

Detention personnel shall be informed by the transport officer that the subject was controlled by the use of an Electronic Control Device.

15) USE OF AN ELECTRONIC CONTROL DEVICE ON ANIMALS

An Electronic Control Device may be deployed on an animal when the animal is:

- a. threatening or is attacking a person, including officers, or another animal;
- b. if the animal needs to be controlled for the reason of public peace and safety, preservation of property, or other legitimate purpose; or
- c. the animal poses an active threat to officers in their efforts to perform their duty.

16) ACCIDENTAL CARTRIDGE DISCHARGE

In the event of an accidental Electronic Control Device cartridge discharge, the officers shall promptly notify their immediate supervisor.

17) PROHIBITED USES

An Electronic Control Device shall not be used:

Crow Police Department Policy and Procedural Manual



- a. Punitively;
- b. In touch-stun mode as a prod or escort device;
- c. To rouse unconscious, impaired, or intoxicated individuals;
- d. For horseplay or clowning around or in an unprofessional manner;
- e. To experiment on a person or allow a person to experience the effects unless authorized by the agency through training or demonstrations.

Crow Police Department

Policy and Procedural Manual



22. ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS

1) PURPOSE

The purpose of this policy is to provide guidelines for the electronic recording of suspect's statement in custodial interrogations and the associated use, management, storage, and retrieval of such recordings. These guidelines are compilation of best practices and follow relevant Federal law that all custodial interrogations in felony cases shall be electronically recorded.

2) POLICY

The use of electronic recordings during custodial interrogations is intended to enhance the investigative process, assist the prosecution of criminal cases, and provide a level of integrity to the interview and interrogation process. The recording of custodial interrogations will assist the agency in demonstrating the interview process, preserving the statements of the accused, and defending against claims such as a deprivation of the right to counsel, and the right of self-incrimination.

3) DEFINITIONS

Custodial interrogation: An interview conducted by a peace officer in a place of detention for the purpose of investigating a felony or, an offense that would be a felony if committed by an adult if the interview is reasonably likely to elicit a response from the person being interviewed that may incriminate the person being interviewed with regard to the commission of an offense.

- a) **Electronic recording or electronically recorded:** An audio recording, visual recording, or audiovisual recording, if available, that is an authentic, unaltered record of a custodial interrogation.
- b) **Place of detention:** A jail, police or police station, holding cell, correctional or detention facility, office, or other structure in this tribe's jurisdiction where persons are held in connection with criminal charges or juvenile delinquency proceedings.
- c) **Statement:** An oral, written, sign language, or nonverbal communication.

4) PROCEDURES

General Requirements:

Crow Police Department Policy and Procedural Manual



- a) Electronic recording of custodial interrogations is intended to:
 1. Provide the best evidence of the communication that occurred during the interrogation;
 2. Prevent disputes about an officer's conduct or treatment of the suspect during the course of the interrogation;
 3. Prevent a defendant from lying about the account of the events originally provided to law enforcement by the defendant;
 4. Spare judges and jurors the time necessary and the need to assess which account of an interrogation to believe;
 5. Enhance public confidence in the criminal process.
- b) Officers shall electronically audio or audio/visually record custodial interrogations in felony cases. For the purpose of these guidelines a suspect is considered to be in custody if, under similar circumstances, a reasonable person in the suspect's position would feel that his/her liberty to move about freely or leave was being restrained in any way.
- c) Officers should, whenever practicable electronically audio or audio/visually record interrogations of all suspects.
- d) The following exceptions to the recording requirement are authorized by statute (NO APPLICABLE LAW APPLIES) However, the officer must clearly describe and justify the reason the interrogation wasn't electronically audio or audio/visually recorded in their investigative report.
 1. The questions put forth by law enforcement personnel and the person's responsive statements were part of the routine processing or booking of the person;
 2. Before or during a custodial interrogation, the person unambiguously declared that the person would respond to the law enforcement officer's questions only if the person's statements were not electronically audio or audio/visually recorded;
 3. The failure to electronically audio or audio/visually record an interrogation in its entirety was the result of unforeseeable equipment failure and obtaining replacement equipment was not practicable;
 4. Exigent circumstances prevented the making of an electronic audio or audio/visually recording of the custodial interrogation;

Crow Police Department

Policy and Procedural Manual



5. The person's statements were surreptitiously recorded by or under the direction of law enforcement personnel;
6. The person's statement was made during a custodial interrogation that was conducted in another state by peace officers of that state in compliance with the laws of that state; or
7. The person's statement was made spontaneously and not in response to a question.

5) RECORDING PROTOCOLS AND OPERATION OF EQUIPMENT

- a) Officers should not bring other electronic devices (e.g. cell phones, radios, pagers) into the interview room that may interfere with the recordings;
- b) Ensure that recording equipment is functioning properly;
- c) If using a device that requires tapes or DVD's, use new media if possible rather than re-use old media;
- d) When ready to begin custodial questioning, turn the recording on at the beginning, without asking for the suspect's permission. If the suspect then refuses to talk, while being recorded, the refusal will be recorded. The recording shall continue without interruption until questioning ends.
- e) Before beginning a recording, consider giving a notice of recording (per your agency's policy). Officers do not have to inform the person being interviewed that they are being recorded. Lack of consent to a recording does not affect the admissibility of a recorded statement. However, giving notice of a recording can foster public trust in law enforcement. If the suspect asks if the interrogation is being recorded, the officer should answer truthfully and continue the interrogation.
- f) Upon commencing the interview, the primary officer shall announce the names of the officer(s); date, time, and location of the interrogation; the name, address, telephone number and date of birth of the suspect; and if applicable names of others present.
- g) Officers shall provide Miranda warnings, and ensure the rights are waived by the suspect.
- h) Officers should try to ensure the suspect statements will be audible and comprehensible on playback. If the person is speaking in a soft voice or does not enunciate clearly, ask for the response to be repeated.
- i) The recording equipment shall remain running during comfort breaks, recesses or other legitimate purposes. If the interrogation is interrupted, the interviewer shall announce the date and time the interrogation resumes.

Crow Police Department

Policy and Procedural Manual



- j) At the conclusion of the interrogation, the primary officer should state that the interview has ended and again note the names of those persons present at the interview, the date, and time of termination.
- k) Crow Policy will require visual and voice recording as acceptable means of recording, this type of recording will need to be sufficient to validate and properly memorialize the actual content of the interrogation. Therefore, a visual only recording is not recommended as a legitimate means of preserving the interrogation process.

6) RECORDING DEVICE(S) MALFUNCTION

If the recording device(s) malfunctions, the officer conducting the interrogation must decide on whether or how to continue.

- a) If a recording device can be restarted or replaced immediately, the officer should state on the record that the device malfunctioned, how long the device was not working, and whether or not the suspect made any statements that were not recorded.
- b) If the recording device cannot be restarted or replaced immediately, the officer should include in his interview or case report the fact that the device malfunctioned and whether or not the suspect made any statements that were not recorded. The officer should also ask the suspect if they wish to continue the interrogation without a recording device or suspend it until such time as a recording device is available. If the suspect consents to continue, the interrogation should be documented by obtaining a written statement from the suspect. If the suspect refuses to provide a written statement, the documentation of the interrogation can be done in the officer's investigative report.

7) COPYING AND STORING OF ORIGINAL RECORDINGS

All electronically audio or audio/visually recorded interrogations shall be stored in accordance with state law and local policy. As soon as practical, an officer who records the statements of a suspect should create at least one exact copy of the original recording. The copy should be clearly labeled as a copy. Once made, the copy should be used to create additional copies, for investigative review, to prepare transcripts and to comply with discovery requests. No employee is permitted to retain recorded information for personal use. Officers and former officers retaining or maintaining recordings for personal use will be subject to discipline, possible termination as well as civil and criminal penalties.

8) DOCUMENTATION

- a) Officers shall continue to prepare written summaries (investigative reports) and continue to obtain written statements from suspects.
- b) Electronic audio or audio/visually recording should not be relied upon as a sole substitute for traditional methods of memorializing interviews. Written statements from suspect(s)

Crow Police Department Policy and Procedural Manual



may provide a means of memorializing the officer's version of what occurred during the interview. This in turn may provide a means to resolve criminal cases based upon the written reports and statements alone thereby minimizing the costs of additional copying or transcribing of recordings.

- c) Written statements when used in conjunction with an electronic audio or audio/visually recording are important because they can provide clear and concise evidence of guilt or innocence. Written statements also tend to demonstrate that incriminating or exculpatory statements were made voluntarily. It is not necessary for written statements to include all the details of an interview, as the electronic audio or audio/visually recording will suffice.
- d) To help ensure the accuracy and consistency of the accounts of the interrogation or interview, officers should review the recordings when preparing the written reports of the events

Crow Police Department Policy and Procedural Manual



23. EMERGENCY VEHICLE OPERATION/ LEVEL 1

1) PURPOSE

The purpose is to provide guidelines for the effective operation of law enforcement vehicles being driven in emergency vehicle operations.

2) POLICY

The policy of this agency is to direct members to use reasonable judgment and prudent conduct with due regard for their safety and the safety of all persons and property while engaged in emergency vehicle operations.

3) EMERGENCY VEHICLE OPERATIONS

Circumstances and conditions to which a law enforcement officer operating a law enforcement vehicle can engage in emergency vehicle operations and or pursuit situations.

- a) The driver of a police vehicle or authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.
- b) The driver of a police vehicle or authorized emergency vehicle may:
 1. park or stand, irrespective of the provisions of this chapter;
 2. proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 3. exceed the speed limits so long as they do not endanger life or property;
 4. disregard regulations governing direction of movement or turning in specified directions.
- c) The exemptions granted to a police vehicle or authorized emergency vehicle apply only when the vehicle is making use of an audible or visual signal, or both.
- d) The foregoing provisions shall not relieve the driver of a police vehicle or authorized emergency vehicle from the duty to drive with due regard for the safety of all persons,

Crow Police Department Policy and Procedural Manual



nor shall such provisions protect the driver from consequences of their reckless disregard for the safety of others.

4) EMERGENCY VEHICLE OPERATION

- a) Officers should continually reassess all factors and conditions during all emergency vehicle operations. Officers must have a direct influence in choosing the preferred emergency response in direct relation to the event or circumstance that is being confronted all the while being constantly mindful of the risks to self and the public.
- b) Unless circumstances warrant, employees should not use a cellular telephone while operating a vehicle in emergency response mode.

Crow Police Department Policy and Procedural Manual



24. FIELD TRAINING

1) SWORN OFFICER FIELD TRAINING

- a) Sworn officers of the Crow Police Department will have a minimum of five-hundred (500) hours of training before being allowed to patrol on their own with limited supervision.
 1. In cases of extreme emergency, the Chief of Police may temporarily waive the 500 hour requirement.
- b) New officers will be trained, at a minimum, by two field trainers. The field trainers will supervise and train the new officer consecutively and will evaluate and train the new officers using a department approved training system.
- c) New officers will complete and have signed off a department approved training packet. The packet will contain a list of items and events the new officer is to be trained on. If the new officer fails to complete the packet, the field training may be continued, based on the recommendation of the field training officers and the decision of the Chief of Police or his/her designee.
- d) The final phase field trainer will submit a letter to the Chief of Police, recommending the new officer be allowed to full duty status. If the new officer fails to receive the recommendation of field trainer, field training may be continued, based on the recommendation of the field trainers and the decision of the Chief of Police or his/her designee.
- f) Field trainers will document each day of training. This documentation will include, but not limited to, the new officer's appearance, attitude, knowledge, and performance. The field trainers will also document any remedial training given and any problems that occurred during the training.
- g) Field trainers will submit a written report to the Chief of Police or his/her designee if the new officer isn't responding to training. The field trainer will document all of the issues that warrant the report along with a recommendation to either continue a specific type of training or to release the new officer from employment.
- h) Field training for officers may be conducted before attending the Montana Police Academy, after attending the Montana Police Academy, or both.

Crow Police Department Policy and Procedural Manual



2) NON-SWORN EMPLOYEE

- a) Non-sworn employees of the Crow Police Department will have a minimum of 200 hours of training before being allowed to work on their own with limited supervision.
- b) Non-sworn employees will be trained, at a minimum, by two trainers. The trainers will supervise and train the new employee consecutively and will evaluate and train the new employee using a department approved training system.
- c) New employees will complete and have signed off a department approved training packet. The packet will contain a list of items and events the new employee is to be trained on. If the new employee fails to complete the packet, the training may be continued, based on recommendation of the field trainers and the decision of the Chief of Police or his/her designee.
- d) The final phase trainer will submit a letter to the Chief of Police, recommending the new employee be allowed to full duty status. If the new employee fails to receive the recommendation of the trainer, training may be continued, based on the recommendation of the field trainers and the decision of the Chief of Police or his/her designee.
- f) Trainers will document each day of training. This documentation will include, but not limited to, the new employee's appearance, attitude, knowledge, and performance. The field trainers will also document any remedial training given and any problems that occurred during the training.
- g) Field trainers will submit a written report to the Chief of Police or his/her designee if the new employee isn't responding to training. The field trainer will document all of the issues that warrant the report along with a recommendation to either continue a specific type of training or to release the new employee from employment.
- h) Field training for may be conducted before attending the Montana Academy, after attending the Montana Academy, or both.

3) POLICE RESERVE OFFICERS

- a) Training for Crow Police Reserve Officers is detailed in the CPD Reserve Policy Manual.

Crow Police Department Policy and Procedural Manual



25. FIREARM POLICY AND OTHER WEAPONS / LEVEL 2

1) ON DUTY FIREARMS

- a) Each officer will carry, be armed with, and use only approved firearms while on duty.
- b) The approved firearms will be those issued or authorized by the Crow Police Department and any personally owned secondary weapon, approved of by the Chief of Police.
- c) All handgun firearms and magazines carried on duty will be carried fully loaded. If the firearm is a semi-automatic, the weapon will be carried with a round in the chamber.

2) OFF DUTY FIREARMS

- a) Off duty officers are not required to carry a firearm.
- b) Any off duty firearm will be issued by, or approved of by the Chief of Police.
- c) No officer of the Crow Police Department will violate the Crow Tribe's law regarding "Carrying concealed weapon while under the influence."

3) SECONDARY/ BACK UP FIREARMS

- a) Officers will be permitted to carry a backup firearm in addition to their service weapon. This weapon may be used by an officer as force likely to cause death when their duty firearm has been rendered unavailable or unserviceable.
- b) Officers must demonstrate proficiency with all off duty and back up firearms by qualifying with them during Crow Police Department qualification shoots. The make, model, serial number, and caliber must be on file with the department.

4) INSPECTION OF FIREARMS / LEVEL 1

- a) All approved firearms will be subject to inspection at any time by Command officers and firearm instructors.

Crow Police Department Policy and Procedural Manual



- b) All firearms will be kept clean and in good working order.
- c) All weapons will be of manufacturer specifications. No modifications will be allowed unless done by a qualified and certified gunsmith or armorer. All modifications must be authorized by The Chief of Police.
- d) Any disassembly of any approved firearm beyond the authorized "User Level" stripping by anyone other than an approved armorer or gunsmith is prohibited.
- e) All approved firearms will be registered with the police department by make, model, caliber, and serial number
- f) No firearm will pass inspection which does not comply with the regulations set forth by this policy.

5) AMMUNITION / LEVEL 2

- a) Officers will carry and use only that ammunition supplied/authorized by the department for all firearms carried on duty.
- b) Any ammunition for back up firearms must be approved and authorized by the department, but supplied at the expense of the officer if other than .9mm.
- c) Off duty ammunition will be of a similar type as issued by the department.

(6) FIREARMS TRAINING / LEVEL 1

- a) All firearms training will be coordinated through the police department firearms instructors.
- b) Firearms training will be provided to all employees authorized to carry a firearm.
- c) Firearms qualifications will include the on duty firearm, any back up firearm, shotguns, and patrol rifles.
- d) It is recommended that there be at least four (4) firearm training courses conducted by the department each year. There should be at least one (1) training course per quarter. The quarters will be broken down as follow: 1st Quarter-January to March, 2nd Quarter—April to June, 3rd Quarter-July to September, 4th Quarter-October to December.
- e) Crow Police Department officers will qualify each calendar year on all

Crow Police Department Policy and Procedural Manual



firearms authorized to be used on or off duty.

(7) FIREARMS QUALIFICATION

- a) Before an officer is authorized to carry and use an approved firearm, the officer will qualify within the requirements of a firearm course authorized by a departmental firearms instructor who is capable of testing the officer's skills with a firearm and requiring a minimum qualification score.

8) FAILURE TO MEET QUALIFICATION STANDARDS

- a) In the event that an officer fails to meet department qualification standards, that officer shall be evaluated by the firearms instructor. The instructor will determine which of the following is required:
 1. Fundamental Training
 2. Additional Training
 3. Requalification course as prescribed by the department.
- b) If within a ten (10) day period, the officer has failed to meet requirements as prescribed, disciplinary action may be taken by the Chief of Police.

9) CARE IN HANDLING FIREARMS

- a) Officers will exercise maximum care and safety in handling, discharging, wearing, and storing of firearms for which they are responsible.
- b) Anytime an officer is authorized to remove his/her firearm while on duty, when available, the officer will place the weapon in a locked storage compartment provided for that purpose.
- c) Any contest or any other dangerous unauthorized firearm practices are prohibited.
- d) The accidental discharge of a firearm reflects on an officer's duties with the department and is considered unprofessional. Due to the potential disastrous results of this action, an inquiry will be conducted. Disciplinary action will result unless extenuating circumstances are present. In the event of an accidental discharge the officer involved shall immediately submit written reports concerning the incident to the Chief of Police.

Crow Police Department Policy and Procedural Manual



10) DRAWING A FIREARM

- a) Firearms will not be removed from their holster except as may be required by proper performance of the officer's duty, for inspection, training, or to remove the firearm for storage or safekeeping.
- b) Firearms will never be aimed at any person, animal, building, or other object except as necessary in the proper performance of duty.
- c) With firearms of any type, the officer's trigger finger will remain outside the trigger, including moving with the drawn firearm, scanning or searching an area, physically subduing, controlling, escorting, searching, or any other time except:
 - 1. When the decision to fire has been made to fire.
 - 2. When firing is actually in progress.

11) REPORTING OF FIREARM DISCHARGES

- a) Whenever an officer discharges a firearm, other than for training and inspection, he will notify his immediate commanding officer, and will submit a detailed written report as soon as possible to that commanding officer.
- b) The report of the discharge of a firearm will be forwarded through the chain of command, to the Chief of Police.
- c) Essential information required in this report will include but is not limited to:
 - 1. Name and badge number of officer who discharged the firearm.
 - 2. Date, time, and location of the occurrence.
 - 3. Names, addresses, and phone numbers of witnesses.
 - 4. Names of other officers present.
 - 5. Description of firearm and ammunition used.
 - 6. Number and direction of all shots fired, known results of the firearm discharge.
 - 7. Justification for drawing and discharging the weapon

Crow Police Department Policy and Procedural Manual



8. Thoroughly describe the circumstances, action of persons involved, and other pertinent information in narrative form.
9. All reports will describe the circumstances as thoroughly and accurately as the officer's knowledge of the facts permit.

12) LESS LETHAL WEAPONS

- a) All on duty officers of the Crow Police Department will carry on their persons at least one "less lethal" weapon. The weapon will be department approved and the officer may not carry it until certified to carry the weapon.

13) PATROL RIFLE

- a) The purpose of this policy is to establish departmental guidelines for the acquisition and deployment of the patrol rifle.
- b) The authorized patrol rifle may be provided by the police department or individually officer owned.
- c) All authorized patrol rifles must meet the following specifications. The Chief of Police or his designee shall approve any variation in type or caliber of the patrol rifle.
 1. The primary patrol rifle shall be the department issued patrol rifle.
 2. If an officer wishes to purchase and use their own personal patrol rifle, it must be a department approved "AR-15" style weapon. The weapon must be a standardized, factory-built weapon; not built from parts of different manufacturers. The rifle will have matching serial numbers.
 3. The trigger pull for the rifle will be no less than 6 lbs.
 4. Chambered for 5.56 mm caliber rifle ammunition.
 5. A barrel length of at least 16 inches unless accompanied by a respective tax stamp issued to the specific user.
 6. Semiautomatic only.
 7. Iron sights.
 8. The butt stock may be either fixed or collapsible.

Crow Police Department Policy and Procedural Manual



9. Magazines are to be 20 round magazines, loaded with 18 rounds; or 30 round magazines, loaded with 28 rounds.
 10. Ammunition shall be issued by the Crow Police Department or of a type approved by the Chief of Police.
 11. Equipped with a sling system suitable for tactical deployment where the weapon may be retained “hands free” yet ready for immediate use.
- d) No modifications, other than the following list, will be permitted without prior approval of the Chief of Police or the Chief’s designee. Requests for any other modifications must be submitted in writing through a firearms instructor with recommendations then being forwarded to the Chief of Police. The generally approved options are:
1. Front night sight
 2. Weapons light attachment with light
 3. Redi-Mag
 4. Vortex Flash Hider
 5. Ambidextrous safety
 6. Replacement pistol grip
 7. Extractor defender D-ring
- e) Supplemental Sighting System: Use of a supplemental sighting system must be approved by the Chief of Police or the Chief’s designee. The device must be suitable for tactical, close-quarter engagement and allow immediate access to the iron sights should the system fail.
- f) Deployment Policy
1. Patrol rifle will be deployed consistent with the Departmental Use-of-Force Policy.
 2. Officers deploying the patrol rifle will maintain control of the firearm at all times or ensure that the weapon is secured by another police officer.

Crow Police Department Policy and Procedural Manual



- g) Training and Qualification
 1. Officers must complete a department approved patrol rifle training course.
 2. Officers must successfully complete the annual departmental training and qualification course of fire to remain eligible for field deployment of the patrol rifle.
- h) The weapon must be safely secured in the vehicle rack or stored in the trunk of the vehicle.
- i) If an officer's personal rifle must be seized and secured as evidence, the department will issue the officer a department rifle.
- j) The Crow Police Department is not responsible for any maintenance or repair to an officer's personal weapon.
- k) The Crow Police Department is not responsible for an officer's personal weapons if they are held for evidence, regardless of the length of time the weapon must be in evidence.

Crow Police Department Policy and Procedural Manual



26. FOOT PURSUITS

1) PURPOSE

The purpose is to provide guidelines on foot pursuits that will establish a balance between protecting the safety of law enforcement personnel and the public while at the same time facilitating the apprehension of suspects.

2) POLICY

Whenever an officer decides to engage in a foot pursuit a quick and continuous risk assessment must take place. It shall be the policy of the Crow Police Department that officer safety and the safety of the public shall be the overriding consideration in determining whether or not a foot pursuit will be initiated. This policy is intended as a general guideline when deciding if such pursuits are warranted and how they should be conducted.

3) DEFINITIONS

- a) Foot Pursuit: A situation in which an officer, on foot, chases a suspect in an effort to detain or arrest that individual which he or she has reasonable suspicion to believe is about to commit, is committing, or has committed a crime and who is resisting apprehension by fleeing from the officer.
- b) Suspect: Includes any individual who an officer reasonably believes is about to commit, is committing, or has committed an offense or poses an imminent threat to the safety of the public, other officers, or themselves.

4) PROCEDURES

- a) Deciding to Pursue. An officer has the authority to stop any person suspected of committing any criminal offense, violation, or traffic infraction. While it is the officer's decision to initiate the stop, it is the violator who initiates the cause for the pursuit by fleeing. The officer's decision to pursue should always be undertaken with an awareness

Crow Police Department Policy and Procedural Manual



of the degree of risk to themselves or others. Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit without the development of reasonable suspicion of the individuals' involvement in criminal activity.

- b) Alternatives to Foot Pursuit. Depending on available resources, officers should consider the following alternatives to foot pursuit:
1. Surveillance until additional resources become available
 2. Containment of the area
 3. Saturation of the area with patrol personnel
 4. Canine search
 5. Aerial support
- c) Risk Factors: In deciding whether to initiate or continue a foot pursuit, officers should also consider the following risk factors:
1. Whether the suspect is armed
 2. Severity of suspect's offense (i.e. do they pose a serious threat to the community if allowed to escape.)
 3. Officer is acting alone
 4. Backup is not available in a timely manner
 5. Officer's physical condition is not adequate to conduct a foot pursuit
 6. Location. Type of area- (i.e. residential, commercial, highway) which impacts the safety of any individuals that may be affected by the foot pursuit;
 7. Pursuing in inclement weather, terrain, darkness, or reduced visibility conditions;
 8. Area of pursuit is unfamiliar or hostile to law enforcement.
 9. Ability to apprehend the subject at a later time (i.e. identity is known)
 10. Ability to establish and maintain contact with the communications center

Crow Police Department Policy and Procedural Manual



11. Illumination, (daylight, street lights, yard lights, flashlight only, no light)

d) Initiating Officer's Responsibilities:

1. Officers initiating foot pursuits should be in field command and should bear operational responsibility for the foot pursuit unless circumstances dictate otherwise or until relieved by a supervisor. Pursuing officers are reminded that voice transmissions while running and in other field tactical situations may be difficult to understand and may have to be repeated.
2. The officer initiating a foot pursuit should, as soon as practical, provide the following information to the Communications Center:
 - a. Unit identifier
 - b. Officer location and direction of pursuit
 - c. Number of suspects and description
 - d. Whether or not the suspect is armed
 - e. Reason for the foot pursuit
3. The initiating officer should maintain sufficient tactical gap between himself and the suspect to allow time for maintaining cover and allow for the arrival of backup officers.
4. Coordinate with secondary officers to establish a perimeter in the area to contain the suspect.
5. Assisting officers shall immediately attempt to contain the pursued suspect.
6. When two or more officers are in pursuit, they should attempt to remain in sight of each other and maintain communication.

e) Supervisor's responsibility. If a supervisor is on duty, the supervisor should:

1. Decide as soon as possible whether pursuit should continue. The supervisor should order termination of the foot pursuit if the pursuit violates provisions of this or related department policy, procedures, or training;
2. The supervisor should terminate a foot pursuit at any time he or she concludes that the danger to pursuing officers or the public outweighs the necessity for immediate apprehension of the suspect;

Crow Police Department Policy and Procedural Manual



3. Monitor the pursuit and direct available resources to assist in the apprehension of the suspect;
 4. Consider the use of specialized units/personnel to aid in the apprehension of the suspect.
- f) Guidelines and Restrictions. The pursuing officer shall terminate a pursuit if so instructed by a supervisor. Officers are discouraged from engaging or continuing a foot pursuit under the following conditions:
1. The officer believes the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension;
 2. Into buildings, structures, confined spaces, or into wooded or otherwise isolated areas without sufficient backup and containment of the area;
 3. If the officer loses possession of his firearm;
 4. The suspect's identity is established or other information exists that allows for the suspect's probable apprehension at a later time and there is no immediate threat to the public or police officers;
 5. If the suspect's location is no longer known;
 6. The officer loses communication;
 7. If an officer or third party is injured during the pursuit who requires immediate assistance and there are no other police or medical personnel able to render assistance;
 8. If the officer loses visual contact with the suspect;
 9. If the officer is unsure of his own location or direction of travel.
 10. If the officer loses other essential equipment.
- g) Termination. When the officer terminates the pursuit, they should notify their communications center with their location and request any assistance deemed necessary.

Crow Police Department Policy and Procedural Manual



27. GENERAL ARREST AND CUSTODY / LEVEL 1

(Needs review for Crow Law and Order Code)

1) PURPOSE

The purpose is to provide guidance to officers in making arrests and taking persons into custody in a fashion that provides a reasonable level of safety and security for the officer(s), suspect and the public.

2) WHEN ARREST AUTHORIZED WITHOUT A WARRANT

An officer may arrest a person when a warrant has not been issued if the officer has probable cause to believe that the person is committing an offense or that the person has committed an offense and existing circumstances require immediate arrest.

3) WHEN ARREST AUTHORIZED WITH A WARRANT

a) An officer may arrest a person when the officer has a warrant commanding that the person be arrested or when the officer believes on reasonable grounds:

1. that a warrant for the person's arrest has been issued in this state, except that unless otherwise provided by law, a warrant for violation of a city ordinance may not be acted upon unless the person is located within the limits of the city in which the violation is alleged to have occurred; or
2. that a felony warrant for the person's arrest has been issued in another jurisdiction.

4) PERSONS EXEMPT FROM ARREST

Crow Police Department Policy and Procedural Manual



1. Judges, attorneys, clerks, officers, and other court officers shall be privileged from arrest while attending court and while going to and returning from court.
5. Persons exempt from arrest are not immune from prosecution. Officers should continue to intervene as appropriate and engage in sound investigative practices and submit all reports and findings to the appropriate prosecutor for other criminal procedure considerations.

5) METHOD AND MANNER OF ARREST

- a) An arrest is made by an actual restraint of the person to be arrested or by the person's submission to the custody of the person making the arrest. **CHOKEHOLDS ARE PROHIBITED BY ALL CROW POLICE OFFICERS.**
- b) Reasonable force may be used in making an arrest, but the person arrested may not be subject to any greater restraint than is necessary to hold or detain that person.
- c) Reasonable force may be used to affect an entry into any building or property or part thereof to make an authorized arrest.
- d) An arrest may be made at any time of the day or night, except that a person may not be arrested in the person's home or private dwelling place at night for a misdemeanor committed at some other time and place unless upon the direction of a judge endorsed upon an arrest warrant. However, a person may be arrested in the person's home or private dwelling at night if the person is being arrested pursuant to (Crow Law and Order Code) for the offense of Partner/Family Member Assault (PFMA).
- e) An officer making an arrest without a warrant shall inform the person to be arrested:
 1. of the officer's authority;
 2. of the intention to arrest that person;
 3. and of the cause of the arrest, except when the person to be arrested is actually engaged in the commission of or in an attempt to commit an offense or is pursued immediately after its commission, after an escape, or when the giving of the information will imperil the arrest.
- f) When making an arrest pursuant to a warrant, an officer shall inform the person to be arrested:

Crow Police Department Policy and Procedural Manual



1. of the officer's authority;
 2. of the intention to arrest that person;
 3. the cause of the arrest; and the fact that a warrant has been issued for that person's arrest, except when the person flees or forcibly resists before the peace officer has an opportunity to inform the person or when the giving of the information will imperil the arrest.
- g) The officer need not have possession of the warrant at the time of the arrest, but after the arrest, the warrant must be shown to the person arrested as soon as practical if the person requests.
- h) The summoning of an officer to a place of residence by a partner or family member constitutes an exigent circumstance for making an arrest. A person may be arrested in the person's home or private dwelling at night if the person is being arrested pursuant to (Crow Law and Order Code) for the offense of partner or family member assault. Arrest is the preferred response in partner or family member assault cases involving injury to the victim, use or threatened use of a weapon, violation of an order of protection, or other imminent danger to the victim. When an officer responds to a partner or family member assault complaint and if it appears that the parties were involved in mutual aggression, the officer shall evaluate the situation to determine the predominant aggressor. If, based on the officer's evaluation, the officer determines that one person is the predominant aggressor; the officer may arrest only the predominant aggressor. A determination of who the predominant aggressor is must be based on but is not limited to the following considerations, regardless of who was the first aggressor:
1. the prior history of violence between the partners or family members, if information about the prior history is available to the officer;
 2. the relative severity of injuries received by each person;
 3. whether an act of or threat of violence was taken in self-defense;
 4. the relative sizes and apparent strength of each person;
 5. the apparent fear or lack of fear between the partners or family members; and
 6. statements made by witnesses.
- i) When an officer is called to the scene of a reported incident of domestic violence but does not make an arrest, the officer shall file a written report with the officer

Crow Police Department Policy and Procedural Manual



commanding the law enforcement agency employing the officer, setting forth the reason or reasons for the decision.

- j) Officers should take reasonable precautions when effecting an arrest in order to minimize risk of injury to self or others. These precautions could include:
1. Summoning additional assistance;
 2. Searching and seizing weapons found upon or within the immediate area of the perpetrator;
 3. Making an assessment of the location of arrest for relevant hazards;
 4. Conducting pre-arrest criminal history checks;
 5. Utilizing appropriate restraint devices.

6) ALTERNATIVES TO CUSTODIAL ARREST

- a) The decision to make a custodial arrest should be carefully considered and acceptable alternatives utilized when appropriate. The use of a Notice to Appear or a Summons rather than a custodial arrest is the preferred course of action when the offense is non-jailable. Factors to consider in making a custodial arrest include whether there is a factual basis to believe the offender:
1. may abscond from the jurisdiction;
 2. has a history of non-appearance;
 3. is likely to re-offend or continue to engage in criminal conduct;
 5. presents a danger to the safety or welfare to self or others
- b) Alternatives to custodial arrest may include
1. Notice to Appear;
 2. Summons;
 3. Release.

Crow Police Department Policy and Procedural Manual



- c) Notice To Appear - Whenever an officer is authorized to arrest a person without a warrant, the officer may instead issue the person a notice to appear. The notice must:
1. be in writing;
 2. state the person's name and address;
 3. set forth the nature of the offense; and
 4. be signed by the issuing officer;
 5. direct the person to appear before a court at a certain time and place; and
 6. state the failure to appear may result in the suspension of the person's driver's license.

An officer who issues a Notice to Appear shall complete and sign the form, serve a copy upon the defendant and without unnecessary delay cause the original to be filed with the court.

- d) Summons – Tribal Attorney or Attorney General may use discretion in the filing of a charge and when authorized to issue an arrest warrant a court may instead issue a summons. A summons may be served personally or by first-class mail. The summons must:
1. be in writing in the name of the Crow Tribe,
 2. state the name and address of the person summoned;
 3. set forth the nature of the offense charged;
 4. contain the date of issue;
 5. command the person to appear in Crow Tribal Court at a specific date and time; and
 6. be signed by a Crow Tribal Judge.

The summons must plainly state that, upon failure to appear following the service of summons, an arrest warrant must be issued immediately or, if the service is made to a corporation, that a plea of not guilty will be entered.

- e) Release. When no warrant has been issued, a peace officer having custody of a person arrested may release the arrested person without requiring that person to appear before a

Crow Police Department Policy and Procedural Manual



court when the officer is satisfied that there are insufficient grounds to commence prosecution.

- f) Use of Bail Schedule. Acceptance by an Officer. A judge may establish and post a schedule of bail for offenses over which the judge has original jurisdiction. A person may not be released on bail without first appearing before the judge when the offense is:
1. any assault on a partner or family member, as partner or family member is defined in (CLOC);
 2. stalking, as defined in CLOC);
 3. violation of an order of protection, as defined in (CLOC); or
 4. a felony.
- g) An officer may accept bail on behalf of a judge:
1. in accordance with the bail schedule established; or
 2. whenever the warrant of arrest specifies the amount of bail; or
 3. with the offender's permission, accept an unexpired driver's license in lieu of bail for a violation of any offense in Title 61, chapters 3 through 10, except chapter 8, part 4, as provided in subsection (4).
- h) Whenever an officer accepts bail, the officer shall give a signed receipt to the offender setting forth the bail received. The peace officer shall then cause or deliver the bail to the judge before whom the offender is to appear, and the judge shall give a receipt for the bail delivered.
- i) Whenever an officer accepts an unexpired driver's license in lieu of bail, the peace officer shall give the offender a signed driving permit, in a form prescribed by the department. The permit must acknowledge the officer's acceptance of the offender's driver's license and serves as a valid temporary driving permit authorizing the operation of a motor vehicle by the offender. The permit is effective as of the date the permit is signed and remains in effect through the date of the appearance listed on the permit. The peace officer shall cause or deliver the driver's license to the judge before whom the offender is to appear, and the judge shall give a receipt acknowledging delivery of the offender's driver's license to the court.

7) POST-ARREST CONSIDERATIONS

Crow Police Department Policy and Procedural Manual



- a) Before interrogating a person who is in custody, an officer shall inform the person of their Miranda warning in accordance with tribal law. Officers should read from a written Miranda waiver card when advising someone of their rights. The officer should memorialize the reading and any subsequent waiver of the Miranda warning in writing; or by using an audio recording or video recording.

8) FOREIGN NATIONAL ARRESTS

- a) When foreign nationals are arrested or detained the United States Department of Homeland Security should be notified and the foreign national's must be advised of the right to have their consular officials notified. In some cases the nearest consular officials must be notified of the arrest or detention of the foreign national regardless of the national's wishes. Consular officials are entitled access to their nationals in detention and are entitled to provide consular assistance. When a foreign national is arrested or detained, an officer must:
 1. Determine the foreign national's country. In the absence of other information, assume this is the country on whose passport or other travel documents the foreign national travels.
 2. Determine if the foreign national's country is on the list of mandatory or optional notification countries as determined at - www.travel.state.gov
 3. If the foreign national's country is not on the mandatory notification list offer without delay to notify the foreign national's consular officials of the arrest or detention.
 4. If the foreign national asks that the consular notification be given, notify the nearest consular officials of the foreign national's country without delay.
 5. If the foreign national's country is on the list of mandatory notification countries, notify the foreign national's consular officials without delay of the arrest or detention and tell the foreign national that you are making the notification
 6. If a person claims diplomatic immunity, the officer should include this information in the notification to the United State Department of Homeland Security and the foreign national's consular officials.

Crow Police Department Policy and Procedural Manual



28. GENERAL CONDUCT / LEVEL 1

1) PURPOSE AND INTENT

- a) It shall be the purpose of this policy to define the guidelines of professional conduct for members of this department regardless of rank and/or position.
- b) The intent of this policy is to institute procedural guidelines regarding rules and regulations to enhance professional conduct within the membership of the Crow Police Department

2) GENERAL RULES OF CONDUCT

- a) LEVEL 2 / No member, sworn or unsworn, of this department shall act or behave whether privately or officially in such a manner as to bring discredit upon themselves or the Crow Police Department; including but not limited to the following:
 - 1. No member of this department shall willfully violate any federal, state, or local law.
 - 2. If any member is required to engage in any conduct which could be considered immoral or unlawful in the discharge of their duties, it shall be immediately reported in writing to the Chief of Police.
- b) LEVEL 2 / While on duty, no member of The Crow Police Department will engage in conduct that discredits the image of The Crow Police Department such as, but not limited to:
 - 1. Looking at pornographic web sites or materials, other than in the course of official duties.
 - 2. Having sexual intercourse or sexual contact.
 - 3. Sleeping while on duty.
 - 4. Participating in any form of gambling or game of amusement either within the law enforcement facility or anywhere that such activity is subject to public exposure.

Crow Police Department Policy and Procedural Manual



- c) Every member shall conform to the policies and procedures of the Crow Police Department and the Crow Reservation.
- d) No member shall openly criticize directives, policies, procedures, orders, or instructions of a supervisor other than by proper means within the grievance procedure.
- e) No Supervisory Staff member shall openly criticize the actions of a subordinate other than in the course of normal disciplinary action and/or by proper means within the grievance procedures.
- f) All members of the Crow Police Department will conduct themselves in such a manner as to foster reasonable professional cooperation within this department and between other law enforcement agencies.
- g) No member of the Crow Police Department, while in a patrol car, will do anything that distracts them, endangering themselves by not being aware of their surroundings. This will include but not be limited to:
 - 1. Scanning the internet or using a cell phone or computer for an unnecessary purpose.
 - 2. Playing video games, watching television or watching pre-recorded material.
 - 3. Reading books, periodicals, magazines or newspapers.
- h) No member will un-necessarily loiter in any dwelling, theater, or other business while on duty.
- i) Members of the Crow Police Department should restrict their use of chew tobacco and cigarettes when in the view of the public.
 - 1. No one will smoke in the building of the Crow Police Department.
 - 2. Communications Officers must notify an officer to come to the Communication Center while a break is taken.
- j) No member of this department shall contract any debt for liability which they are unable or unwilling to pay. Nor shall they neglect or refuse to discharge honorably and promptly all indebtedness claims and judgments, and satisfy all executions that may be held under false or fraudulent pretenses.

Crow Police Department Policy and Procedural Manual



- k) Members of the Crow Police Department shall give their title, first and last name and badge number in a respectful manner to any person who may ask them to identify themselves.
- l) LEVEL 2 / No member shall convert to their own use or have any claim on any found property, recovered property, or property held as evidence. A member shall promptly deliver all lost, stolen, abandoned, unclaimed, and seized property being held as evidence which comes into his possession into safekeeping after being properly tagged and invoiced.
- m) Employees of the Crow Police Department will arrive for their scheduled shift on time and prepared for work. The employee will be rested and not sleep deprived.

3) USE OF INTOXICANTS / LEVEL 2

- a) Intoxicants shall be defined as any substance, which when taken into the body, diminishes a persons ability to properly perform normal tasks. This shall include but is not limited to alcohol and narcotic drugs.
- b) No member of the Crow Police Department shall use any intoxicants while in uniform or while on duty.
- c) No member shall use or dispense any illegal drug while on or off duty. This includes but is not limited to the use of, or dispensing of controlled substances or scheduled drugs without a proper prescription. No member shall take any prescription drug that isn't in accordance with the prescription given to the employee.
- d) The odor of an alcoholic beverage on the breath of a member while on duty, shall be deemed sufficient evidence that he is unfit for duty. It shall be the responsibility of any member suspected of such alcohol usage to submit to a test to determine presence or absence of alcohol. It shall be the responsibility of any member who has reason to suspect alcohol usage of an on duty member to notify the Chief of Police of such condition.
- e) Members of the Crow Police Department who were off duty and not receiving "on call" pay, may respond to assist in a particular incident if the member has a breath alcohol concentration of .04 or less. Permission to respond under this condition must be given by a command officer.
- e) Members of the Crow Police Department are subject to random urinalysis.

4) FAIR AND IMPARTIAL TREATMENT

Crow Police Department Policy and Procedural Manual



- a) No member shall intentionally provoke or antagonize any person whom they have contact.
- b) Every member of the Crow Police Department shall treat all persons with whom they have contact in a respectful, courteous, and civil manner.
- c) When an officer is involved in an enforcement action, he shall proceed in a courteous, fair, firm, impartial, and professional manner.
- d) No member shall display an officious or overbearing attitude and shall not use any language to belittle, ridicule, or embarrass any person.
- e) All officers shall only detain persons for the minimum amount of time necessary to perform their official duty.
- f) No officer of the Crow Police Department shall cause any person or animal to undergo cruel or unusual treatment.
- g) No member shall negotiate or arrange, whether out of friendship or for any other reason, the escape or penalty of law for any person.

5) ACCEPTANCE OF GRATUITIES

- a) Gratuities shall be described as any item(s) or service which is given voluntarily beyond obligation, which would not be made available to another individual under the same or similar circumstances. Any gift, favor, or service which could be intended to influence the judgment of any member, either immediately or in the future, shall be considered a gratuity.
- b) No member of the Crow Police Department shall solicit any reward in the course of performing his assigned duties.
- c) No member shall use his position to receive free admission to any sport event, place of amusement, etc.
- d) No member shall accept any free meal or any other favor that would not be offered to a private citizen.

Crow Police Department Policy and Procedural Manual



29. HIRING SWORN PERSONNEL

1) PURPOSE

The purpose of this guideline is to define and outline the selection process to ensure the best qualified candidates are selected for employment as peace officers, and that the selection process is valid, job related, and nondiscriminatory.

2) POLICY

It is the policy of the Crow Police Department to select the best qualified candidates for the position of peace officer in accordance with Federal law and other applicable regulations. Applicants who fail to meet the minimum standards set forth by the Agency or by law will not move on to the next phase of the hiring process.

3) PROCEDURE

The procedure used for selection of successful applicants shall be comprised of the following:

- a) Application
- b) Minimum Qualifications
- c) Criminal History Check
- d) Written Test
- e) Physical Fitness Test
- f) Ranking of Applicants
- g) Initial Oral Interview
- h) Conditional Offer of Employment
- i) Personal History Packet

Crow Police Department Policy and Procedural Manual



- j) Background Investigation
- k) Personal Interview
- l) Medical Examination
- m) Psychological Examination
- n) Final Oral Interview

Any candidate that fails any of the steps listed above will be removed from the hiring process until the next testing cycle where they may re-apply.

4) APPLICATION

All persons interested pursuing employment for the position of peace officer must submit a formal application.

5) MINIMUM QUALIFICATIONS

All applicants shall meet all qualifications as outlined in Chapter 5, of the Personnel Practices and Policy Manual.

6) CRIMINAL HISTORY CHECK

The Agency shall complete a criminal history check on all applicants.

7) WRITTEN TESTING

- a) All applicants shall be required to submit to a written examination selected by the Agency. Applicants must receive a passing score as determined by the Agency.
- b) Applicants will be notified of time and location for which the written test will be administered.
- c) Applicants who receive a passing grade on the written test will proceed to the physical ability test.

8) PHYSICAL ABILITY TEST

Crow Police Department Policy and Procedural Manual



All applicants may be required to participate in the Montana Law Enforcement Academy (MLEA) physical ability test to determine that the applicant has met the minimum requirements for acceptance and successful completion of the Law Enforcement Officer Basic Course.

9) RANKING OF APPLICANTS

Applicants will be ranked based on total points achieved from the written test and the physical ability test. Preference points allowed will be awarded.

10) INITIAL ORAL INTERVIEW

Successful applicants will be scheduled for an initial interview with an interview panel appointed by the Agency Administrator.

11) CONDITIONAL OFFER OF EMPLOYMENT

Applicants who successfully completed all preceding phases of the above mentioned procedure shall be provided a Conditional Offer of Employment (COE), and required to complete a Personal History Packet.

12) PERSONAL HISTORY PACKETS

Applicants will be required to provide all information as requested for in the Personal History Packet, including a notarized waiver granting access to any and all documents and information sought by the Agency.

13) BACKGROUND INVESTIGATION

The Agency Administrator will appoint a person from within the Agency to complete a comprehensive background investigation using information provided for in the Personal History Packet and other resources available to the investigator

14) PERSONAL INTERVIEW

The Agency Administrator will appoint a person to conduct an oral interview with the applicants regarding the provided responses contained within the Personal History Packet.

15) EXAMINATIONS

Applicants will be required to have a medical examination to include overall health, including blood work, drug screen, hearing test, and eye exam.

Crow Police Department Policy and Procedural Manual



16) PSYCHOLOGICAL EXAMINATION

Applicants may be required to undergo a psychological examination to be conducted by a licensed psychologist.

17) ORAL INTERVIEW – FINAL INTERVIEW

Applicants will be interviewed by the Agency Administrator or designee, and/or an interview panel appointed by the Agency Administrator.

18) SELECTION

The selection for employment of the best qualified candidates will be based on all of the information accumulated from the preceding procedures. The Agency Administrator will make the final selection for employment as a peace officer.

Crow Police Department Policy and Procedural Manual



30. IMPAIRED PERSONS / LEVEL 1.

{Needs review for CLOC}

1) PURPOSE

The purpose is to provide guidelines on how to assist persons who appear to be intoxicated in public.

2) POLICY

- a) It is the policy of the Crow Police Department to attempt to assist persons who have not committed a criminal offense, but who appear to be intoxicated in public when and only if they appear to be a risk to themselves or others.

3) DEFINITIONS

- a) “Approved Private Treatment Facility” means a private agency that has as its function the treatment, rehabilitation, and prevention of chemical dependency.
- b) “Intoxicated Person” means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

4) PROCEDURES

- a) A person who appears to be intoxicated in public and in need of help does commit a criminal offense solely by reason of being in an intoxicated condition because they are in violation THE CROW LAW AND ORDER CODE.
- b) If a person who appears to be intoxicated in a public place and to be in need of help, an officer may proceed as follows:
 - 1. Assist the intoxicated person to the person’s home and / or release the intoxicated person to a sober adult that is willing to accept responsibility for the intoxicated person
 - 2. Assist the person to an approved private treatment facility; or

Crow Police Department Policy and Procedural Manual



3. Assist the person to another health care facility.
 - c) If none of the above options are available and they are a risk to themselves or others, the person may be detained until the person is no longer a risk to self or others.
 - d) If the person is detained no record or entry may be made to indicate the person was arrested or charged with a crime.
 - e) An officer may take reasonable steps for the officer's own protection during the intervention of these incidents.
 - f) An officer shall make every reasonable effort to protect the person's health and safety.
 - e) An officer who takes any action under this policy will document the action taken in a written report.
 - f) Any intoxicated person, either by drugs or alcohol, who has been arrested, may only be released to a sober adult that is willing to accept responsibility for the intoxicated person. If there is not a sober adult able or willing to accept custody of the intoxicated person then the intoxicated person will be transported to the detention facility.

Crow Police Department Policy and Procedural Manual



31 JUVENILE ARREST AND CUSTODY GUIDELINES

1) PURPOSE

The purpose of this policy is to provide guidance to the Crow Police Department in making arrests and taking juveniles (youths) into custody in a fashion that provides a reasonable level of safety and security for the juveniles, public, and the officer(s).

2) SUPPORT SERVICES AND RESOURCES

In addition to the following guidelines, officer(s) involved in arrest and custody of juveniles should be aware they have access to the following resources:

- a) The appropriate attorney in cases involving offenses that would be felonies if committed by an adult;
- b) The Juvenile Officer for lesser offenses;
- c) The Tribal Social Services of the Crow Tribe in cases involving dependent or neglected youth or a need for youth shelter services.

3) POLICY

Juvenile offenders will be dealt with as prescribed by the Crow Tribal Youth Court Act, except as provided herein. Officers dealing with juvenile offenders shall employ the least coercive alternatives consistent with preserving public safety, order, and individual liberty.

4) COURTS OF JURISDICTION

Juveniles cited for alcoholic beverage violations are subject to the Crow Tribal Youth Court.

Crow Tribal Youth Court has exclusive original jurisdiction over all proceedings established in Title 9, CLOC, over offenses involving use of alcoholic beverages; tobacco by minors, except of

Crow Police Department Policy and Procedural Manual



traditional cultural use of tobacco; habitually disobedience of reasonable and lawful demands of his parents, or guardian or is unforgivable beyond their control; being subject to compulsory school attendance; habitually truant from school; runs away from his home or place of residence; or violates curfew under the Juvenile Code.

5) DEFINITIONS

As used in the Crow Youth Court, unless the context requires otherwise, the following definitions apply as prescribed in the Crow Tribal Juvenile Code:

- a) "Adult" means an individual who is 18 years of age or older.
- b) "Agency" means any entity or local government authorized by law to be responsible for the care or rehabilitation of youth.
- c) "Assessment officer" means a person who is authorized by the court to provide initial intake and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.
- d) "Commit" means to transfer legal custody of a youth to the department or to the youth court.
- e) "Correctional facility" means a public or private, physically secure residential facility under contract with the department and operated solely for the purpose of housing adjudicated delinquent youth.
- f) "Court", when used without further qualification, means the Crow Youth Court of the Crow Tribe.
- g) "Custodian" means a person, other than a natural parent or adoptive parent who has legal custody or lawful physical custody of an Indian youth.
- h) "Delinquent child" means a child who has committed a delinquent act according to the provisions of the Codes of the Crow Tribe.
 - 1. "Delinquent Act" means an act that would, if committed by an adult, be designated a crime under the Crow Tribal Code;
- g) "Detention" means the holding or temporary placement of a youth in the youth's home under home arrest or in a facility other than the youth's own home for:

Crow Police Department Policy and Procedural Manual



1. the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of the youth's case;
 2. contempt of court or violation of a valid court order; or
 3. violation of a youth parole agreement.
- i) "Detention facility" means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.
- j) "Emergency placement" means placement of a youth in a youth care facility for less than fifty- five (45) days to protect the youth when there is no alternative placement available.
- k) "Family" means:
1. any person related by blood or marriage to the child having significant contacts with the child and who is viewed as an extended family member in accordance with the customs of the Crow Tribe;
 2. "Family or household members" means any of the following:
 3. Spouses
 4. Former spouses.
 5. Persons who have a child in common or who are expecting a child in common, regardless
 6. of whether they have been married or have lived together at any time.
 7. Persons thirteen years of age or older who are related by blood or marriage.
 8. Persons thirteen years of age or older who are presently residing together or who have resided together in the past.
 9. Persons thirteen years of age or older who have or have had a dating relationship.
 10. Persons who have a biological or legal parent-child relationship, including stepparents;

Crow Police Department Policy and Procedural Manual



11. and stepchildren and grandparents and grandchildren.
 12. Physically or mentally disabled persons and their caregivers.
 13. Elders sixty years of age or older and their caregivers.
- l) "Final disposition hearing" is described and prescribed under the Juvenile Code.
- m) "Youth court records". A record of all hearing under this Code shall be made and preserved. All Youth Court records shall be confidential and closed to inspection by the general public. For the purposes of this Code , only the following are "authorized persons" and permitted access to the case files for authorized uses:
1. the Youth Court personnel directly involved in handling the case;
 2. the youth and his/her attorney or advocate; or
 3. Ant other person by order or the Youth Court; having a legitimate interest in the particular case or the work of the Youth Court.
- n) "Foster home" means the placement of a child to reside with another family or person for a specified period of time.
- o) "Guardian [**ad litem**]" means a person appointed by the Tribal Court to represent and protect the legal rights and interests of the child in a Tribal Court proceeding.
- p) "Habitual truancy" is a 'STATUS OFFENSE' as defined in the Crow Juvenile Code, Title 9, Part 7, (29)(c) as a youth who commits an offense prohibited by law which if committed by an adult would not constitute a criminal offense, including but not limited to a youth who: being subject to compulsory school attendance, is recorded absences of 10 days or more of unexcused absences in a semester or absences without prior written approval of a parent or a guardian.
- q) "Holdover" means a room, office, building, or other place approved by the board of crime control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility. The term does not include a jail.

Crow Police Department Policy and Procedural Manual



- r) "Informal youth court records" means information or data, either in written or electronic form, maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and supervision records of probationers. The term does not include information provided by the youth court to the department of public health and human services' management information system. All Juvenile proceedings held in pursuant to this Code shall be closed to the Public. }
- s) "Jail". see: *A child alleged to be a child in need of care may be placed, pending a hearing, in the following places: (1) a foster care facility, on the Crow Reservation, approved by the Juvenile Court, or (2) a shelter care facility on the Crow Reservation, approved by the Juvenile Court, or (3) a medical facility. A child in need of care may not be placed in a jail or other detention facility used for the detention of adults.*
- t) "Judge", when used without further qualification, means the judge of the Crow Youth Court.
- u) "Juvenile Officer" means the youth probation officer who shall also serve as the Truancy Officer for the Crow Tribe. The juvenile officer works under the direction of the Tribal Prosecutor. When performing duties related to truancy, the Juvenile Officer shall coordinate and cooperate with the Home School Coordinator or other appropriate official at each school where a substantial percentage of students are children of Crow tribal members. Under appropriate circumstances, upon motion and good cause being shown, the Court may designate the Home School Coordinator, other appropriate official, or his or her named designee, to serve as an Ad Hoc Truancy Officer for the Crow Tribe.
- v) "Law enforcement records" means information or data, either in written or electronic form, maintained by a law enforcement agency.
- w) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:
1. have physical custody of the youth;
 2. determine with whom the youth shall live and for what period;
 3. protect, train, and discipline the youth; and
 4. provide the youth with food, shelter, education, and ordinary medical care.

Crow Police Department Policy and Procedural Manual



5. An individual granted legal custody of a youth shall personally exercise the individual's rights and duties as guardian unless otherwise authorized by the court entering the order.
 - x) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.
 - y) "Out-of-home placement" means placement of a youth in a program, facility, or home, other than a custodial parent's home, for purposes other than pre-adjudicatory detention.
 - z) "Parent" means any biological father or mother of an Indian child or any person who has adopted an Indian child.
 - aa) "Probable cause hearing" means the any circumstances or factors that would lead a reasonable officer to believe, more likely than not, that a crime has ben or is being committed;
 - cc) "Restitution" means monetary payment to the victim or services provided to the victim or the general community, made pursuant to an informal adjustment, consent decree, deferred agreement, or other Youth Court order.
 - dd) "Running away from home" means that a youth has been reported to have run away from home without the consent of a parent or guardian or a custodian having legal custody of the youth.
 - ee) "Secure detention facility" means a facility which:
 1. contains locked cells or rooms;
 2. restricts the movement of those placed in the locked cells or rooms; or
 3. complies with the other requirements of the Juvenile Justice and Delinquency Prevention Act 42 U.S.C. 5601 et seq.
 - ff) "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an offense against property, or an offense involving dangerous drugs.
 - gg) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.
 - hh) "Shelter care facility" means a facility used for the shelter care of youth.

Crow Police Department Policy and Procedural Manual



- ii) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment center, or shelter care facility.
- jj) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the Riverside youth correctional facility in Boulder.
- kk) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardians.
- ll) "Victim" means:
 - 1. a person who suffers property, physical, or emotional injury as a result of an offense committed by a youth that would be a criminal offense if committed by an adult;
 - 2. an adult relative of the victim, if the victim is a minor; and
 - 3. an adult relative of a homicide victim. *see: Domestic Violence: Victim: means a family or household member who has been subjected to domestic violence.*
- mm) "Youth" means any person less than eighteen (18) years of age;
- nn) "Youth assessment" means a multidisciplinary assessment of a youth
- oo) "Youth assessment center" means a staff-secured location that is licensed by the department of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing the youth's behavior.
- qq) "Youth court" means the Court established by the Crow Tribe, to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care and includes the Youth Court, the judge, and juvenile probation officers.
- rr) "Youth facility" means any youth facility (other than school) that cares for youth or may restrict their movement, including secure youth detention facilities, alcohol or substance

Crow Police Department Policy and Procedural Manual



abuse emergency shelter or halfway houses, foster homes, group homes, and shelter homes.

ss) "Youth In Need of Care" means a youth who is dependent, abused or neglected; or any youth defined under section 9-3-103 of this Code.

tt) "Youth in Need of Intervention" means a youth who is adjudicated as a youth and who:

1. commits an offense prohibited by law that if committed by an adult would not constitute a criminal offense, including but not limited to a youth who:
 1. violates any tribal law regarding alcoholic beverages; or
 2. continues to exhibit behavior, including running away from home or habitual truancy, beyond the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or
 3. has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of intervention.

6) RIGHTS, QUESTIONING, AND WAIVERS OF YOUTH TAKEN INTO CUSTODY

a) When a youth is taken into custody for questioning upon a matter that could result in a petition alleging that the youth is either, a delinquent youth or a youth in need of intervention, the following requirements must be met as prescribed Part 11, of the Juvenile Code.

b) The youth must be advised of the youth's right against self-incrimination and the youth's right to counsel.

c) The Youth may not waive these rights, unless done in the presence of an attorney.

d)

1. When the youth is sixteen (16) years of age or older, the youth may make an effective waiver if it is shown that the waiver was knowing, intelligent and voluntary, in the presence of an attorney.

Crow Police Department Policy and Procedural Manual



2. When the youth is under the age of sixteen (16) years and the youth and a parent or guardian agree, they may make an effective waiver if it is shown the waiver was knowing, intelligent, and voluntary.
 3. When the youth is under the age of sixteen (16) years and the youth and his parent or guardian do not agree, the youth may make an effective waiver if it is shown the waiver was knowing, intelligent, and voluntary only with the advice of counsel.
- c) The investigating officer, probation officer, or person assigned to give notice shall immediately notify the parents, guardian, or legal custodian of the youth that the youth has been taken into custody, the reasons for taking the youth into custody, and where the youth is being held. If the parents, guardian, or legal custodian cannot be found through diligent efforts, a close relative or friend chosen by the youth must be notified. To determine the placement, the youth may be questioned to determine the following:
- a. to determine his or her name;
 - b. to determine the name of his/her parent, or legal custodian; or
 - c. to conduct medical assessment and treatment for alcohol or substance abuse when the die youth's health or well-being is in serious jeopardy.

7) INVESTIGATION, FINGERPRINTS, AND PHOTOGRAPHS

- a) A youth may be fingerprinted or photographed, as prescribed in 9-11-103, Crow Constitution, for criminal identification purposes.
- b) if arrested for conduct alleged to be unlawful that would be a felony if committed by an adult;
- c) pursuant to a search warrant, supported by probable cause, used by a Tribal Youth Court Judge; or
- d) Upon the order of the Tribal Youth Court Judge, after a petition alleging delinquency has been filed in which the unlawful act alleged would constitute a felony if the act had been committed by an adult; or
- e) upon order of Tribal Youth Court for minors who are habitual runaways for identification purposes only.
- f) Fingerprint records and photographs may be used by Tribal juvenile probation and Tribal law and order for comparison and identification purposes in any other investigation

Crow Police Department Policy and Procedural Manual



8) RELEASE FROM CUSTODY, DETENTION OR SHELTER CARE

- a) Whenever an officer believes, on reasonable grounds, that a youth can be released to a responsible person, the officer may release the youth to that person upon receiving a written promise from the person to bring the youth before the probation officer at a time and place specified in the written promise, or an officer may release the youth under any other reasonable circumstances as described in Part 12, 9-12-103, of the Juvenile Code.
- b) Whenever the officer believes, on reasonable grounds, that the youth must be detained, the officer shall notify the probation officer immediately and shall, as soon as practicable, provide the probation officer with a written report of the officer's reasons for holding the youth in detention. If it is necessary to hold the youth pending appearance before the youth court, then the youth must be held in a place of detention, as provided in 9-12-106 of the Juvenile Code.
- c) If the officer believes that the youth must be sheltered, the officer shall notify the probation officer immediately and shall provide a written report of the officer's reasons for placing the youth in shelter care. If the youth is then held, the youth must be placed in a shelter care facility approved by the youth court.

9) CUSTODY HEARING FOR PROBABLE CAUSE

- a) When a youth is taken into custody for questioning, a hearing to determine whether there is probable cause to believe the youth is a delinquent youth or a youth in need of intervention must be held within 24 hours, excluding weekends and legal holidays. A hearing is not required if the youth is released prior to the time of the required hearing.
- b) The probable cause hearing required under subsection (2) may be held by the youth court, in the case as provided in 9-13-102 of the Juvenile Code
- c) A probable cause hearing may be conducted by telephone or videoconference if other means of conducting the hearing are impractical.

10) CRITERIA FOR PLACEMENT OF YOUTH IN SECURE DETENTION FACILITY

- a) If the juvenile officer or juvenile official determines that there is a need for continued custody of the youth in accordance with Section 9-12-604, the following criteria shall be used to determine the appropriate youth facility for the youth, as specified in 9-12-106 of the Juvenile Code.
- b) A youth may be placed in a secure detention facility ~~only~~ if:

Crow Police Department Policy and Procedural Manual



1. the youth is a fugitive from another jurisdiction wanted for a felony offense, with a copy of warrant or pick up and hold delivered immediately to the juvenile office; or
 2. the youth is uncontrollable and has committed a serious physical assault on the arresting officer or on other security personnel while resisting arrest or detention; or
 3. the youth is charged with committing a "Serious Crime", which would be an offense if the youth were an adult or equivalent state or federal offenses; or
 4. The youth is already detained or on conditional release for another "youth offense"; or
 5. The youth has demonstrated a recent record of willful failure to appear at Youth Court proceedings;
 6. The youth requests in writing that he be given protection by being confined in a secure youth detention facility and there is a present and immediate threat of serious physical injury to the youth;
 7. the youth violates his formal probation.
- c) A youth from another state may be placed in a secure detention facility according to the IAW the Interstate Compact for Juveniles.

11) CRITERIA FOR PLACEMENT OF YOUTH IN SHELTER CARE FACILITY

- a) A youth may be placed in a shelter care facility ~~only~~ if the youth and the youth's family need shelter care to address their problematic situation and it is not possible for the youth to remain at home.
- b) A youth may be placed in a shelter care facility ~~only~~ if the youth needs to be protected from physical or emotional harm.
- c) A youth may be placed in a shelter care facility if the youth needs to be deterred or prevented from immediate repetition of troubling behavior.
- d) A youth may be placed in a shelter care facility ~~only~~ if shelter care is necessary to assess the youth and the youth's environment.

Crow Police Department Policy and Procedural Manual



- e) A youth may be placed in a shelter care facility ~~only~~ if shelter care is necessary to provide adequate time for case planning and disposition; or shelter care is necessary to intervene in a crisis situation and provide intensive services or attention that might alleviate the problem and reunite the family.

12) CRITERIA FOR PLACEMENT OF YOUTH IN YOUTH ASSESSMENT CENTER

- a) A youth may be placed in a youth assessment center ~~only~~ if the youth meets the requirements for placement in shelter care.
- b) A youth may be placed in a youth assessment center ~~only~~ if the youth has not committed an act that would be a felony offense if committed by an adult.
- c) A youth may be placed in a youth assessment center ~~only~~ if the youth needs an alternative, staff-secured site for evaluation and assessment of the youth's need for services.
- d) A youth may be placed in a youth assessment center ~~only~~ if the youth needs to be held accountable for the youth's actions with structured Programming and the youth meets qualifications as outlined by the placement guidelines that are determined by the department and coordinated with the guidelines used by the youth placement committees.

13) LIMITATION ON PLACEMENT OF YOUTH IN NEED OF CARE

- a) A youth alleged to be a youth in need of care may be placed only by the tribal Social Services Department, and may not be placed in a youth assessment center, youth detention facility, jail, or other facility intended or used for the confinement of adults accused or convicted of criminal offenses.

14) LIMITATION ON PLACEMENT OF YOUTH IN NEED OF INTERVENTION

- a) A youth alleged or found to be a youth in need of intervention may not be placed in a jail, secure detention facility, or correctional facility.

15) YOUTH NOT TO BE DETAINED IN JAIL, EXCEPTIONS AND TIME LIMITATIONS

- a) A youth may not be detained or otherwise placed in a jail or other adult detention facility except as provided in this section.
- b) A youth who has allegedly committed an offense that if committed by an adult would constitute a criminal offense may be temporarily detained in a jail or other adult detention facility for a period not to exceed:

Crow Police Department

Policy and Procedural Manual



1. 6 hours, but in no case overnight, for the purpose of identification, processing, or transfer of the youth to an appropriate detention facility or shelter care facility if the detaining agency is located in an urban county; or
 2. 24 hours, excluding weekends and legal holidays, if the youth is awaiting a probable cause hearing and if the detaining agency is located in a rural county.
- c) This exception provided applies only if the court having jurisdiction over the youth is outside a metropolitan statistical area.
- g) Detention is appropriate only:
1. if alternative facilities are not available or alternative facilities do not provide adequate security; and
 2. the youth is kept in an area that provides physical as well as sight and sound separation from adults accused or convicted of criminal offenses.

17) DETENTION OF YOUTH IN LAW ENFORCEMENT FACILITIES

- a) Detention of a youth in a police station or other law enforcement facility that is attached to or part of a jail is acceptable if the following criteria are met:
1. The area where the youth is held is an unlocked, multipurpose area, such as a lobby, office, interrogation room, or other area that is not designated or used as a secure detention area or that is not part of a secure detention area, or, if part of such an area, that is used only for the purpose of processing, such as a booking room;
 2. The youth is not secured to a cuffing rail or other stationary object during the period of detention;
 3. The use of the area is limited to ensuring custody of the youth for the purpose of identification, processing, or transfer of the youth to an appropriate detention or shelter care facility;
 4. The area is not designed or intended to be used for residential purposes; and
 5. The youth is under continuous visual supervision by a law enforcement officer or by facility staff during the period of time that the youth is held in detention.

YOUTH RIGHTS WAIVER FOR YOUTHS 16 AND 17 YEAR OF AGE

Crow Police Department Policy and Procedural Manual



AS A YOUTH 16 OR 17 YEARS OF AGE, YOUR RIGHTS ARE:

PLACE: _____

DATE: _____ TIME: _____

IN/DR#: _____

PARENTAL NOTIFICATION:

DATE: _____ TIME: _____

PERSON NOTIFIED: _____

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. You have the right to an attorney.
4. If you cannot afford to hire an attorney, one will be appointed to represent you.
5. You can decide at any time to exercise your rights and not answer any questions or make any statements.
6. You have the right to have your parent or guardian or another responsible person notified that you are in custody for questioning. Your parent or guardian will be notified unless you decide that you do not want notice to be given before you answer questions.

YOUTH WAIVER

I have read and understand my rights as shown above. I am willing to answer questions and make a statement. I know what I am doing. I do not want an attorney at this time. No promises or threats have been made to me and no pressure of any kind has been used against me.

SIGNATURE: _____

DATE: _____ TIME: _____

AGE: _____ DATE OF BIRTH: _____

ATTORNEY: _____

[attorney must be present at time of signature of youth, otherwise waiver is invalid].

WAIVER OF RIGHT TO PARENTAL NOTIFICATION

I do not want to have my parent or guardian notified that I am in custody before answering questions.

SIGNATURE: _____

DATE: _____ TIME: _____

ATTORNEY: _____

Crow Police Department Policy and Procedural Manual



[attorney must be present at time of signature of youth, otherwise waiver is invalid].

YOUTH RIGHTS WAIVER FOR YOUTHS UNDER THE AGE OF 16

YOUTH STATEMENT OF RIGHTS

Before Law Enforcement Officers ask you any questions, you must understand your rights.

1. You have the right to remain silent.
2. Anything you say can be used against you in a court of law.
3. You have the right to talk to a lawyer before we ask you any questions and have them with you while you are being questioned.
4. If you or your parents cannot afford a lawyer, one will be appointed for you.
5. You can decide at any time to exercise your rights and stop talking.

I have been advised of my rights and understand what my rights are.

SIGNED BY THE YOUTH: _____

WAIVER OF RIGHTS

_____ YOUTH IS 16 YEARS OF AGE OR OLDER

_____ YOUTH AND PARENT OR GUARDIAN MAKING WAIVER

Youth is under the age of 16 and parent or guardian - agree.

_____ YOUTH MAKING WAIVER UPON ADVICE OF COUNSEL

Youth is under the age of 16 and parent or guardian - disagree.

_____ The undersigned having been advised of the constitutional and statutory rights of the youth hereby waive said rights and agree to make a statement.

DATE: _____ TIME: _____

AGE: _____ DATE OF BIRTH: _____

WITNESS: _____

PARENT: _____

GUARDIAN: _____

Crow Police Department Policy and Procedural Manual



ATTORNEY: _____

Crow Police Department Policy and Procedural Manual



32. LIGHT DUTY

1) PURPOSE

- a) It is the purpose of this policy to establish the authority for temporary light-duty assignments and procedures for granting temporary light duty to eligible employees within the Crow Police Department.

2) POLICY

- b) Temporary light-duty assignments, when available, are for officers and other eligible personnel in this agency who, because of injury or illness are temporarily unable to perform their regular assignments.

3) PROCEDURES

- a) Temporary light-duty positions are limited in number and variety. Therefore,
 - 1. Personnel injured in the line of duty shall be given preference in initial assignment to light duty; and
 - 2. Assignments may be changed at any time, upon the approval of treating physician, if deemed in the best interest of the employee or the employer.
 - 3. Employees on light duty may be assigned any shift or work schedule as necessary to accommodate both the employee and employer needs.
- b) Assignment to temporary light duty shall not affect an employee's classification, pay increases, promotions, retirement benefits or other employee benefits.
- c) No specific position within this agency shall be established for use as a temporary light-duty assignment, nor shall any existing position be designated or utilized exclusively for personnel on temporary light duty.
- d) Light-duty assignments are strictly temporary and normally should not exceed twelve (12) weeks in duration. After twelve (12) weeks, personnel on temporary light duty who are not capable of returning to their original duty assignment:

Crow Police Department

Policy and Procedural Manual



1. Employees injured in the line of duty may request an extension of temporary light duty, with supporting documentation, to the chief of police. If granted, the extension will not exceed twelve (12) weeks.
 2. May pursue other options as provided by federal or state law.
 3. The Crow Tribe may require the employee to submit to an independent medical examination by a health provider of the Department's choosing. In the event the opinion of this second health care provider differs from the foregoing health provider, the employee may request a third opinion at the employer's expense.
 4. The Crow Tribe may place the employee on leave per the Family Medical Leave Act.
- e) Officers on temporary light duty are prohibited from engaging in outside employment in which they may reasonably be expected to perform law enforcement functions for which they have been determined physically unable to perform on behalf of this agency.
- f) Depending upon the nature and extent of the illness or injury, an officer on temporary light duty may be prohibited from wearing the departmental uniform, carrying the service weapon, driving a police department vehicle, or otherwise limited in employing police powers as determined by the chief of police.
- g) Light-duty assignments shall not be made for disciplinary purposes and an officer on disciplinary suspension will not be assigned light duty.
- h) Officers may not refuse temporary light-duty assignments that are consistent with the recommendations of an attending physician or certified health-care provider.

5) TEMPORARY LIGHT-DUTY ASSIGNMENTS

- a) Temporary light-duty assignments may be drawn from a range of technical and administrative areas that include but are not limited to the following:
1. Administrative functions (e.g. report review, supervising community service workers, special projects).
 2. Report taking (e.g. telephone reporting unit).
 3. Clerical functions (e.g. filing, inventory).
 4. When justified, re-assignment to another department

Crow Police Department Policy and Procedural Manual



- b) Decisions on temporary light-duty assignments shall be made based upon the availability of an appropriate assignment given the applicant's knowledge, skills and abilities; availability of light-duty assignments; and the physical limitations imposed on the employee.
- c) Every effort shall be made to assign officers to positions consistent with their rank and pay classification. However, where deemed appropriate, personnel may be assigned to positions designated for personnel of lower rank, pay classification, or job description. The light duty employee thus assigned shall retain the privileges of their rank and title but shall answer to the supervisor of the unit to which they are assigned with regard to work responsibilities and performance.

6) REQUESTS FOR AND ASSIGNMENT TO TEMPORARY LIGHT DUTY

- a) Requests for temporary light-duty assignments shall be submitted to the chief of police. Requests must be accompanied by a statement of medical certification to support a requested reassignment, which must be signed either by the treating physician or other licensed health-care provider. The certificate must include an assessment of the nature and probable duration of the illness or injury, prognosis for recovery, and type of work restrictions.
- b) The Crow Tribe may require the employee to submit to an independent medical examination by a health provider of the agency's choosing. In the event the opinion of this second health provider differs from the foregoing health provider, the employee may request a third opinion at the employer's expense.
- c) The employee and representatives of this agency shall cooperate and act in good faith in selecting a third health-care provider, and both parties shall be bound by that medical decision.
- d) An employee who has not requested temporary light duty may be assigned light duty by the chief of police.
 - 1. Notice shall be provided to the employee of the proposed temporary light-duty assignment together with justification for the recommendation.
 - 2. The employee will submit to an independent medical examination by a health provider, paid for by the employer.
 - 3. The chief of police will submit to the Chairman the evaluation of the employee conducted along with the results of the medical examination.

Crow Police Department Policy and Procedural Manual



4. The employee may challenge the proposed reassignment using established agency grievance procedures but will remain on light duty during the challenge.
 5. The employee may return to full duty pending results of an independent medical examination by a health provider of the agency's choosing. The employee may request a third opinion at the employer's expense. The employee and representatives of this agency shall cooperate and act in good faith in selecting a third health-care provider, and both parties shall be bound by that medical decision.
 6. An employee placed on light duty will automatically receive a twelve (12) week extension if the situation isn't resolved in the first twelve (12) weeks.
- e) As a condition of continued assignment to temporary light duty, officers may be required to submit to monthly assessments of their condition.

7). PREGNANT OFFICERS

- a) Pregnant officers are eligible for temporary light-duty assignments as appropriate to their physical capabilities and well-being.
- b) On a monthly basis, pregnant officers will be required to submit physician's medical certificates that document:
 1. The officer's physical ability to perform the present assigned duties.
 2. The physician's appraisal that the type of work being performed will not injure the officer or her expected child.
 3. Any recommended duty restrictions or modifications including temporary light duty.
- c) Pregnant officers shall be permitted to continue working on regular duty or temporary light-duty assignments as long as they present monthly physician certificates or until such time as a physician recommends that work be curtailed.

Crow Police Department Policy and Procedural Manual



33. MISCELLANEOUS RULES AND REGULATIONS / LEVEL 1

1) ARRESTS IN PERSONAL QUARRELS

- a) Members of the Crow Police Department shall not make arrests in quarrels in which they are personally involved or in which a member of their family is involved, except under grave circumstances, such as those which would justify them using self-defense.

2) AUTHORITY IN CIVIL MATTERS

- a) Members of the Crow Police Department are not authorized to take official action in civil matters. An officer shall evaluate any such situation and act with due discretion. In any case of doubt, he shall immediately notify his supervisor. In all cases he shall take such action necessary to prevent a breach of peace.

3) ADDRESS AND TELEPHONE CHANGES

- a) Employees shall report any changes of their address or telephone number to the department as soon as possible.

4) DEPARTMENT KEYS

- a) Members of the Crow Police Department shall obtain permission of the Chief of Police before having duplicates made of departmental keys. Keys or access cards/fobs will not be lent out to any person not employed by this department.

5) JOB DUTIES

- a) Members of the Crow Police Department shall thoroughly acquaint themselves with their duties of the office, position, or employment for which they hold. They shall perform those duties thereof properly and with care and attention. Members shall direct and coordinate their efforts in such a manner as will tend to establish and maintain the highest standard of efficiency. Members will discharge their duties with coolness and firmness. In times of peril, they shall act together and assist each other in the restoration of peace and order. Members who shirk responsibility, shall be considered unworthy of employment with this department.
- c) The duties set forth in this manual shall not be considered all inclusive. All members of this department shall perform all other such duties that may be assigned to them from time to time by this department.

Crow Police Department Policy and Procedural Manual



34. MUTUAL AID/INTER-AGENCY ASSISTANCE / LEVEL 1

1) PURPOSE

- a) Officers of the Crow Police Department must be cognizant that a priority exists to provide public safety services to the community members within the assigned / designated area of patrol / jurisdiction. It shall be the purpose of this policy to establish specific guidelines in regards to mutual aid/inter-agency assistance which may cause an officer to be removed from his primary responsibilities.

2) ASSISTANCE TO AN OUTSIDE AGENCY

- a) Officers of the Crow Police Department shall give mutual aid assistance to another agency only upon request. If assistance is requested by an outside agency and there are two or more officers on duty, assistance may be given at the direction of the commander on duty or the shift supervisor (senior officer on duty), in a commander's absence. If assistance is requested by an outside agency and only one officer is on duty, command will be contacted prior to leaving the limits of Crow Reservation or designated patrol area. If command is not available, the on-duty officer will evaluate the situation and formulate an appropriate response.
- b) Shift Supervisor shall make notification to Command Staff regarding assistance which is requested from any agency outside the designated area of jurisdiction, which, based upon the distance, would impact the effective operation of the Crow Police Department.
- c) A Shift Supervisor shall make notification to Command Staff regarding any request for assistance, which by the nature of the request and of the anticipated duration, would impact the effective operation of the Crow Police Department.
- d) Upon evaluation of the request for assistance, if no significant distance or significant duration is perceived, such response will be facilitated by the Shift Supervisor. In cases where a Shift Supervisor directs a patrol officer to respond to the request for assistance, the supervisor may at any time direct the return of the officer to the designated area of jurisdiction. In the case where a Shift Supervisor responds to a request for assistance, the supervisor shall have the responsibility of ensuring the effective operation of the Crow Police Department during his absence.

Crow Police Department Policy and Procedural Manual



35. NEWS MEDIA RELATIONS

1) PURPOSE

The purpose is to provide guidelines on establishing an effective means to convey information to the public through the use of television, radio, and newspapers, while minimizing the disruption of service to the public.

2) POLICY

- a) The following guidelines will assist Cow Police Department personnel in providing clear and uniform response to inquiries received.
- b) Members of the Crow Police Department shall be courteous and diplomatic in dealing with the news media.
- c) Members are authorized to release to the media information in the following categories:
- d) Law Enforcement Personnel are encouraged to release public criminal justice information pursuant to the policy, "Criminal Justice Information and Dissemination".
- e) The Chief of Police or his designee will approve, coordinate, and or release information concerning confidential agency investigations, operations, and crisis situations.
- f) Information concerning significant incidents, arrests, investigations or operations shall be submitted to the Agency Administrator for approval prior to release.
- g) The Chief of Police or his designee should consult with the Tribal Attorney, and appropriate advisors when preparing news releases on major cases, special events, catastrophes, or other critical issues.
- h) The Chief of Police or his designee should consult with the Tribal Attorney regarding the release of confidential criminal justice information pursuant to the policy, "Criminal Justice Information and Dissemination".

Crow Police Department Policy and Procedural Manual



3) CONSIDERATIONS AND LIMITATIONS ON RELEASING INFORMATION

- a) Members should not release for publication or in a manner likely to result in publication, any of the following, except when released as part of a record open to public inspection.
1. Information that may jeopardize the successful conclusion of an investigation (address to crime scenes may be restricted for this reason).
 2. The identity of any suspect prior to arrest or the results of any investigative procedures except to the extent necessary to aid the investigation, to assist in the apprehension of the suspect, or to warn the public of danger.
 3. Any opinion as to the guilt or innocence of the accused or as to the merits of the case or evidence of the case.
 4. Prior arrest record, statements, or information regarding the character or reputation of the accused.
 5. The existence or contents of admissions or confessions made by individuals, or the refusal or failure of the accused to make any statement.
 6. The performance of any examination or test or the refusal or failure of the accused to submit to an examination or test.
 7. The identity, testimony or credibility of any prospective witness.
 8. The possibility of a plea of guilty to the offense charged or to a lesser offense.
 9. The construction, content and mechanism of any explosive or incendiary device.
 10. Photographs, except as provided in previous sections.
 11. Information furnished by members of the department to promote publicity for them.
 12. Evidence that may inhibit prosecution of the case.

4) ARREST INFORMATION

Crow Police Department Policy and Procedural Manual



- a) Following an arrest, issuance of an Arrest Warrant, issuance of a Notice to Appear and Complaint, or the filing of information, it is permissible to release the following information:
 - 1. The name, address, age, and date of birth of the accused;
 - 2. The date, time, and place of arrest, whether the arrest was with or without incident, the initial charges, and whether weapons or other contraband was seized;
 - 3. The names of the officers who initiated the arrest, unless the arrest was made by an officer whose primary assignment included covert operations;
 - 4. The amount of bond, scheduled court appearance and location of incarceration.
- b) Following arrest or the filing of formal charges, but prior to adjudication, the following types of information shall not be released:
 - 1. Prior criminal history of the defendant, victim, or witnesses;
 - 2. Prior record of character or reputation of the defendant, victim, or witnesses;
 - 3. Identity, statements, or expected testimony of the defendant, victim, or witnesses;
 - 4. Any opinion about the guilt or innocence of the defendant or merits of the case;
 - 5. Any opinion, knowledge, or criticism in regards to plea-bargains, negotiations with counsel, or other pre-trial activity.

5) SPECIAL CONSIDERATIONS FOR MEDIA

- a) All members of the Agency shall extend reasonable courtesy to the news media representatives at the scenes of crimes or other crisis situations. With approval of the on-scene commander this may include:
 - 1. Closer access of personnel and equipment than would be available to the general public to the degree that it does not interfere with the scope and mission of the department or the investigation;
 - 2. Closer access of personnel and equipment than available to the general public to the degree it does not create unnecessary risk of harm or unsafe circumstances or interfere with movement of traffic;

Crow Police Department

Policy and Procedural Manual



- b). Access shall be denied to all news media representatives at the scenes of a crime or other crisis situations when:
 - 1. There is a risk of injury to the news media representative or any other person as a result of closer access being granted;
 - 2. The possibility is created that evidence could be damaged, altered, or destroyed, or otherwise prejudiced by the broadcast or publication of its existence;
 - 3. Access is sought to enter upon, film, photograph, or videotape upon the premises or property of a private person, without the explicit consent of said person;
 - 4. Requests are made to pose or make special arrangements to photograph, film, videotape, audio record, or interview suspects in custody;
 - 5. The incident or crisis situation includes hostages and/or other dangerous persons or obstacles.
- c). At the scene of significant accidents, man-made or natural catastrophes, the principals of news media cooperation shall be maintained to the degree that they do not interfere with the mission and scope of the emergency operations.
- d). Media access to move within fire lines shall be controlled by the fire service officer in-charge.
- e). The fire service commander and this agency's on-scene commander will establish an observation point from which the news media may observe, photograph, videotape, or broadcast the events of the incident.

6) COMMUNICATION CENTERS AND DISPATCHERS

- a). The following guidelines will be adhered to when answering telephone inquiries from the news media:
 - 1. If the incident involves a police matter, refer the call to a Supervising Officer, if possible.
 - 2. If the incident involves the fire department, refer the call to the fire department public information officer, if possible.
 - 3. In the absence of that above, the on-duty dispatcher may release the following information, if known:

Crow Police Department Policy and Procedural Manual



- a. Either confirm or deny that the incident occurred or is occurring;
 - b. When and where the incident occurred or is occurring.
 - c. Define the type of call to the media;
 - d. Provide the call type, i.e., burglary, robbery, etc;
 - e. The name of the ranking police or fire official at the scene;
 - f. Name of the Supervising Officer or Fire Chief on duty;

 - g. If additional information is requested, the media will be referred to the Supervising Officer or fire department commander.
4. It is understood that on some occasions the dispatchers are too busy to give the requested information. If this occurs, the caller should be advised of the problem and told to call at a later time.

Crow Police Department Policy and Procedural Manual



36. NON DISCRIMINATION POLICY / LEVEL 1

1) POLICY.

- a) It is the policy of the Crow Police Department to afford all people the same rights, dignity and access to law enforcement services.

2) NOTIFICATION OF A DISABILITY

- a) An officer who has been notified by an individual of a disability should make a reasonable effort to accommodate the person's disability.

Crow Police Department Policy and Procedural Manual



37. OFF-DUTY ENFORCEMENT ACTION

1) Purpose

This purpose of this policy is to provide guidance and direction to off-duty officers in regards to taking law enforcement action while in an off-duty capacity.

2) Policy

Off-duty officers are often confronted with situations where they are faced with criminal activity that they are neither equipped nor prepared to handle in the same manner if they were on duty. The decision to become directly involved in a law enforcement action when off-duty can place an officer as well as others at greater risk, and should be done with careful consideration. However, an officer who becomes aware of an incident that poses a threat of serious bodily harm or death to the officer or others shall take reasonable and necessary action to minimize the risks associated with the incident. Action under this provision is fulfilled by immediately reporting the incident to the nearest and most accessible law enforcement agency. Action does not require the officer to place him or herself in a position of peril. The circumstances and risks associated with each incident may dictate the appropriate level of response by the off-duty officer.

3) Definitions

- a) Off-Duty: When a member is not in an on-duty status, such as working a department assigned shift, overtime or paid detail.

Crow Police Department

Policy and Procedural Manual



- b). Personally involved: An officer is deemed personally involved, when in an off-duty capacity the officer, a family member, or a friend becomes engaged in a dispute or incident that would normally require the summoning or intervention of on-duty law enforcement officers. This does not apply to situations where the officer is a victim of the crime.

4) Procedures

- a) The following procedures are intended to define when off-duty, non-uniformed, enforcement action is authorized and how it should be conducted in order to reduce the potential of officer-on-officer conflicts and related injuries.
- b) Off-Duty Responsibilities. While off-duty, it is the responsibility of the officer to immediately report any suspected or observed criminal activities to on-duty authorities. Except as allowed by this policy, off-duty officers should not attempt to initiate any enforcement action when witnessing minor violations such as traffic infractions, harassment, disorderly conduct, or other nuisance type offenses.

An off-duty officer shall take reasonable and necessary action when witnessing an incident that poses a threat of serious bodily harm or death to the officer or others. Action under this provision is fulfilled by immediately reporting the incident to the nearest and most accessible law enforcement agency. Action does not require the officer to place him or herself in a position of peril. The circumstances and risks associated with each incident may dictate the appropriate level of response by the off-duty officer. When public safety requires immediate action, officers should first consider reporting and monitoring the activity and resort to any enforcement action as a last resort.

- c) Decision to Intervene. When officers encounter a situation off-duty that seems to require a law enforcement response, they should consciously evaluate whether involvement is necessary and or desirable, given the circumstances and determine how important and urgent the need for intervention is. An officer's intervention may actually spark an escalation of violence. Sometimes, the officer's best plan of action may be to simply gather accurate intelligence as a good witness until uniformed, on-duty officers arrive. Before deciding to intervene the officer should take the following factors into consideration:
 - 1. Whether the officer is alone, with family members or other non-police personnel;
 - 2. Do they have the necessary and needed equipment, such as handcuffs, chemical agents or baton;

Crow Police Department Policy and Procedural Manual



3. The ability or inability to communicate with responding units;
 4. The fact that there may be multiple or unknown suspects;
 5. Lack of proper cover and or concealment;
 6. The potential increased risk to bystanders;
 7. Unfamiliarity with the location or surroundings;
 8. The potential for the off-duty officer to be misidentified by other law enforcement officers or members of the public.
- d) Intervention Procedure. If direct law enforcement action is reasonably necessary the officer should:
1. Attempt to call or have someone else call 9-1-1 to request immediate assistance. The operator should be provided with the following information:
 - a. That an off-duty officer is at the scene;
 - b. Whether the off-duty officer is armed;
 - c. The off-duty officer's name, employing agency and description including clothing.
 2. Whenever practicable the officer should loudly and repeatedly identify himself /herself as a police officer.
 3. If possible, the off-duty officer's badge and identification should be out, displayed and visible.
 4. If the off-duty officer's weapon is involved in the incident, be cognizant that responding officers will immediately see it as a threat. Minimize exposure to risk with this consideration in mind; if you have a gun in your hand, never turn toward an on-duty officer.
 5. Verbally identify yourself as a peace officer and continue to repeat this until acknowledged. Tell the responding officers where your badge and credentials are in order that they may be viewed and even retrieved by the responding officers.
 6. When commands are issued by the responding officers, follow all orders and commands promptly and completely. This includes surrendering your firearm and assuming surrender positions such as lying prone or kneeling. Be cognizant that until the situation is rendered safe and you have been properly identified as a law

Crow Police Department Policy and Procedural Manual



enforcement officer you will likely be treated a suspect. Be cooperative and patient.

e) Discouraged Off-Duty Arrests: Officers shall avoid making arrests when:

1. The officer is personally involved in the incident underlying the arrest;
2. The officer's ability or judgment to use a firearm or take a person into custody has been impaired by the uses of alcohol, prescription drugs, or other medication or by a physical ailment or injury;
3. The arrest is made solely as enforcement of a minor traffic infraction;
4. A uniformed officer is readily available to deal with the incident;
5. Nothing in this policy is to be interpreted as preventing or prohibiting an officer from defending himself or herself or others from assaults or threats of death or serious bodily harm regardless of the officer's duty status.

f) Reporting. Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, should notify their agency administrator or supervisor as soon as practicable. The off-duty officer should document and report the incident per their agency policy. The officer shall also cooperate fully with the law enforcement agency having jurisdiction by surrendering any items of which may have value as evidence and providing statements or reports as requested.

Crow Police Department Policy and Procedural Manual



38. OFFICER INVOLVED SHOOTING INCIDENT

1) POLICY

This procedure will be followed for all occasions where the use of deadly force was used by an officer, regardless if a death actually occurred.

- a) As soon as practical, the involved officer(s) (officers who fired their weapons or used deadly force) will notify dispatch and request a supervisor and back up. Medical aid will be dispatched.
- b) Officers should hand cuff the suspect(s), even if the suspect is severely wounded. The handcuffs may be removed and the suspect un-arrested if medical transport to a hospital is required. All suspects should be detained separately. If other suspects have fled, responding officers should be informed of the details so a perimeter can be established.
- c) Evidence should only be moved if it presents a hazard or if there is a potential for its destruction. When back up arrives the involved officer(s) should advise the backup of evidence that needs protection and any possible witnesses.
- d) Due to the heightened state of emotions officers may not realize they are injured. All officers involved in the event will be carefully checked to see if they need medical care.

Crow Police Department

Policy and Procedural Manual



- e) When a supervisor arrives on scene, the involved officer(s) should briefly describe what took place in an oral, non-recorded statement. This statement should be brief but detailed enough to convey the nature of what happened.
- f) After the involved officer(s) make the brief statement, they should not discuss the details of the shooting with anyone else until they've had the opportunity to discuss it with an attorney and have given their statement to investigators. All of the officer's rights as an officer or citizen will be enforced.
- g) An outside agency will be contacted to conduct the investigation surrounding the incident.
- h) As soon as practical, the weapons of all officers at the scene should be examined, whether or not they think they fired rounds. If the deadly force involved the use of a firearm, and the officer's weapon is confiscated, the officer will immediately be given an exact replacement weapon.
- i) As soon as practical, non- involved officers (officers that didn't fire their weapons) will give detailed statements of what they observed and will write their reports. The non-involved officer(s) should be observed for signs of emotional distress and given assistance as needed. The on duty dispatcher will also be observed for signs of emotional distress and be given assistance as needed.
- j) Involved officers should have their basic needs met. They should be asked if they need water, food, or a rest room.
- k) Involved officer(s) should not drive to their next destination when they leave the scene. As soon as practical, they will be given the opportunity to contact family members and/or clergy after clearing the scene.
- l) It is recommended the involved officer(s) be checked out by medical personnel to detect unnoticed injuries or other health problems caused by stress, such as dangerously high blood pressure.
- m) As soon as practical, involved officer(s) will be placed on two weeks of administrative leave. They will be allowed to return to duty after being cleared by the department's mental health professional. Officers may voluntarily return early to duty any time after being cleared by the department's mental health professional.

Crow Police Department Policy and Procedural Manual



- n) Involved officer(s) should go home and get rest. There will be waiting period of no less than 24 hours, up to 48 hours after the incident before the involved officer(s) will give their recorded statement. The officer(s) will have access to any recordings or videos to refresh their memories before giving their recorded statement to investigators.
- o) Depending on the results of the investigation, the Garrity Warning or Miranda Warning should be read to the involved officer prior to the interview.

2) TYPE OF WARNING TO BE GIVEN

- a) Crow Police Officers and civilian public employees who are interviewed in an investigatory or adversarial setting should be advised of the nature of the inquiry.
- b) If the inquiry is investigatory, administrative or disciplinary, the **Garrity Warning** should be given. Police officers who are interviewed in a disciplinary setting should be warned that they are under investigation for possible violations of departmental rules, that they are obligated to give statements for internal purposes, and these answers may not be used against them in a criminal proceeding. Garrity v. New Jersey, 385 U.S. 493, 87 S.Ct. 616 (1967).
- c) Refusal to answer questions after being read the Garrity Warning will result in termination of the employee.
- d) If the inquiry is criminal and/or the officer is under arrest or in custody, the **Miranda Warning** should be given.

3) GARRITY WARNING

INTERVIEW ADVICE OF RIGHTS (GARRITY WARNING)

I wish to advise you that you are being questioned as part of an official investigation of the Crow Police Department. You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for office.

You are entitled to all the rights and privileges guaranteed by the laws and the constitution of this state and the Constitution of the United States, including the right not to be compelled to incriminate yourself.

Crow Police Department

Policy and Procedural Manual



I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges which would result in your dismissal from the Crow Police Department.

If you do answer, neither your statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent departmental charges.

4) SHOOTING REVIEW BOARD

- a) After an officer involved shooting, a review board will be convened. All reports will be made available to a Shooting Review Board. The Board may consist of:
 1. Chief of Police or his designee.
 2. A member of the command staff.
 3. A Crow Police Department Officer
 4. A supervisor from another department.
 5. Another department's officer or deputy of the same rank as the officer involved in the incident.
- b) The Review Board will evaluate, in explicit and fact-finding fashion, each aspect of the incident. Such evaluation should include:
 1. A thorough review of the officer's report and any audio or video.
 2. A thorough review of any additional reports, policies, or documents.
 3. Hearing of direct statements, if necessary, from officers and witnesses.
- c) The Review Board shall develop findings and the chairman shall prepare a report making recommendations to the Chief of Police in the following areas:
 1. Whether the incident was within policy.
 2. Tactical considerations that could be improved.

Crow Police Department Policy and Procedural Manual



3. Training considerations.
 4. The quality of the post incident investigative processes.
- d) The officer who is the subject of the Review Board may be present during all phases of the board's action with the exception of deliberation. They shall have the right to listen to the presentation of all information and evidence and shall be allowed to speak in their own behalf, if they so choose.
 - e) The Review Board's report will be submitted to the Chief of Police as soon as reasonably possible. The Chief will consult with the Chairman and the Tribe's attorney to decide on any discipline that may be needed.

39. OLEORESIN CAPSICUM (OC) / LEVEL 1

1) USE OF O.C.

- a) The use of an approved oleoresin capsicum is authorized when the situation appears to be escalating to a more violent confrontation.
- b) The use of OC must always be protective and never punitive.
- c) Law enforcement officers experience incidents where they are confronted by individuals who display violent and aggressive behaviors. OC has the ability to prevent the situation from escalating further by temporarily incapacitating an aggressor long enough for that person to be physically subdued and taken into custody. OC may be utilized in those situations where further confrontation could result in the possibility of injuries to the officer, the suspect, or others. The use of OC also allows officers the opportunity to

Crow Police Department Policy and Procedural Manual



temporarily neutralize aggressive or vicious animals without risking the safety of innocent bystanders by the discharge of a firearm.

- d) The use of O.C. is considered use of force. In assessing the potential risk the following characteristics may include but are not limited to:
 - 1. Definable aggressive behavior such as posturing, boxing motions, clenched fists, etc,
 - 2. Verbal statement(s) made by the suspect.
 - 3. Passive resistive behavior such as failure to listen to verbal commands of the officer.
 - 4. Evidence of alcohol or drug use.
 - 5. Prior history of violence.
 - 6. Situations where if the suspect's behavior isn't stopped, may result in injury to the suspect.
- e) OC should be applied in short bursts. When practical, verbal commands such as "Stop or I will spray you" or "Stop resisting", will be used. Use only the amount of OC needed to bring the subject under control. When resistance ceases stop spraying.

2) TRAINING

- a) Prior to carrying an approved chemical agent the officer must be trained in the proper use of the agent. Officers will carry only those OC sprays approved by the Department.

3) FIRST AID

- a) When a subject is subdued and placed into physical custody and not immediately transported to the Detention Facility, the following steps should be taken at the earliest opportunity:
 - 1. Get the subject to fresh air Apply water
 - 2. Use water and soap (non oil base) if necessary

Crow Police Department Policy and Procedural Manual



3. If the subject is wearing contact lenses, allow removal at the earliest opportunity and provide the ability to rinse the lenses in cool water.
4. The symptoms of OC leave depending on the amount of chemical used and the amount of fresh air and water available.

4) DOCUMENTATION

- a) When OC is used a verbal report shall be given to the immediate supervisor, and a written report documenting it's use completed prior to the end of the shift regarding the incident.

Crow Police Department Policy and Procedural Manual



40 PARTNER FAMILY MEMBER ASSAULT / Level 1

1) PURPOSE

The purpose is to provide guidance to officers and support personnel with definitions and direction for providing and promoting a consistent, effective response to partner family member assault.

2) DEFINITIONS

- a) “Partner or Family Member Assault” is defined as:
1. purposely or knowingly causes bodily injury to a partner or family member;
 2. negligently causes bodily injury to a partner or family member with a weapon; or
 3. purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member.
- b) “Family Member” is defined as:
1. mothers;
 2. fathers;
 3. children;
 4. brothers;
 5. sisters;
 6. other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships

Crow Police Department

Policy and Procedural Manual



continue regardless of the ages of the parties and whether the parties reside in the same household.

- c) “Partners” are defined as:
 - a. spouses;
 - b. former spouses.
 - c. persons who have a child in common; and
 - d. persons who have been or are currently in a dating or ongoing intimate relationship.
- e) “Peace Officer” is defined as any person who by virtue of the person’s office or public employment is vested by law with a duty to maintain public order, and make arrests for offenses while acting within the scope of the person’s authority.
- e) “Employee” is defined as any person currently employed with this agency.

3) POLICY

- a) Officer(s) will respond to and investigate all reports of partner family member assault.
- b) Officer(s) should make an arrest where probable cause exists that a person has:
 - 1. purposely or knowingly causes bodily injury to a partner or family member;
 - 2. negligently causes bodily injury to a partner or family member with a weapon;
 - 3. purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member; or
 - 4. violated an order of protection or a no-contact order.
- c) Officers are discouraged from making dual arrests in partner family member assault incidents by determining and arresting the predominate aggressor.

4) PROCEDURE

- a) The objectives for intervention by law enforcement in partner family member assault incidents are to:

Crow Police Department Policy and Procedural Manual



1. Restore and maintain order.
 2. Render emergency assistance and/or aid.
 3. Make an arrest for the applicable criminal offenses.
 4. Reduce the incidents and severity of partner/family member assaults.
 5. Afford maximum protection and support to adult and child victims of domestic violence through coordinated services of law enforcement and victim assistance.
- b) To accomplish these objectives, every law enforcement officer shall make an arrest as the preferred response to the incident, when authorized by state law, instead of using mediation, separation or other intervention techniques.
- c) Criteria for determining the predominant aggressor are:
1. Prior history/complaints of partner/family member assault;
 2. Relative severity of injuries to involved parties;
 3. Did one party act in self-defense;
 4. Apparent fear or lack of fear;
 5. Relative size and or apparent strength of parties; and
 6. Statements of witnesses.
- d) Officer(s) shall treat all acts of partner family member assault as criminal conduct.
- f) Officer(s) must Immediately report all known or suspected cases of partner family member assault and abuse, elder abuse or child abuse to the Department of Public Health and Human Services (DPHHS) as required by state law;
- g) Document the facts of the incident and the subsequent investigation (arrest or non-arrest). If no arrest is made, the officer shall document the reason(s) for no arrest in a report to the Agency Administrator.

Crow Police Department Policy and Procedural Manual



- h) Officers are required by law to distribute to victims of partner family member assault, the “Notice of Rights to Victim in Partner or Family Member Assault”.
- i) When possible, it is the preferred response to incidents of partner family member assault that the dispatched officer will respond with back up.
- j) Officers shall seize any weapon used or threatened with use in the alleged assault. Any weapon seized in relation to a partner or family member assault may not be returned to the offender until acquittal or upon issuance of a court order.
 - 1. A weapon is any object used or threatened to be used to harm another.
- k) Officers should assist or allow (stand by) while a victim and any other member of the household remove necessary personal items and, if practical, transport them to a safe location.
- l) Officers will investigate and prepare the appropriate reports pertaining to any and all incidents of partner family member assault.

5) ENFORCING FOREIGN PROTECTION ORDERS

- a) Only the Respondent under an Order of Protection may be cited for violation of that order.
- b) The Petitioner may not be cited for violating the order.
- c) All foreign protection orders from any other jurisdiction to include Tribal, Territories, and States will be enforced as written including provisions, which grant relief not available in the Crow Tribe.
- d) All foreign protection orders are presumed valid upon presentation to law enforcement. Foreign protection orders do not have to be entered into the CJIN/NCIC system to be considered valid and enforceable.
- e) If the victim does not present a copy of the foreign order, but claims it is valid, there is a presumption of validity of the order until proven otherwise. Immunity from civil action in the matter concerning a foreign protection order is provided under Federal Law.

Crow Police Department Policy and Procedural Manual



41 PARTNER FAMILY MEMBER ASSAULT, EMPLOYEE INVOLVED / LEVEL 2

1) PURPOSE

The purpose of this policy is to provide guidelines for investigating, reporting and responding to partner family member assault incidents involving Crow Police Department employees.

2) POLICY

- a) Public confidence in law enforcement is important to our ability to maintain public safety. The public must trust that law enforcement employees are held to the standards of the law regarding partner family member assaults.
- b) Therefore, within the Limits of the Crow Reservation, the Crow Police Department shall:
 1. Promptly respond to all allegations of partner family member assault by an employee according to this policy and all applicable laws;
 2. Give primary consideration to protection of the victim of partner family member assault and enforcement of the laws;
 3. Respect the due process rights of all employees; and expeditiously report and conduct thorough investigations into any allegation of an agency employee involved in partner family member assault.
- c) Incidents of alleged partner or family member assault that involve a paid employee of the Crow Police Department, will be referred to another agency for investigation and prosecution. If another agency isn't able or willing to assist, the responding officer will

Crow Police Department Policy and Procedural Manual



conduct the investigation. All other reports of partner or family member assault will be investigated by the officer(s) on duty.

- d) "Employee" is defined as any person currently a paid employee of the Crow Police Department.
- e) The Crow Police Department shall provide victims of partner family member assault committed by agency employees, a Crow Police Department contact to assist the victim through the investigative process. Consideration should be given to selecting a point of contact at least one rank higher than the perpetrator and ideally someone other than the investigator. The primary point of contact will be the Chief of Police.
- f) The Crow Police Department shall ensure victims of partner family member assault, committed by Crow Police Department employees, are referred to Tribal Victim's Services program.
- g) On all cases where the sworn officer is charged with Partner or Family Member Assault, the Crow Police Department shall relieve the sworn employee of the Department-issued weapon, and identification.
- h) The Crow Police Department shall provide for an impartial and appropriate criminal investigation of all acts of partner family member assault allegedly committed by a sworn employee.

2) EMPLOYEE RESPONSIBILITIES

- a) Employees with knowledge or information about any employee in violation of this policy must immediately report in writing to their supervisor that information and knowledge.
- b) Failure to report may subject the employee to disciplinary action.
- c) Employees are expected to fully cooperate with the investigation of allegations under this policy as requested by a supervisor, investigator or by Court Subpoena.

3) SUPERVISOR RESPONSIBILITIES

- a) Supervisors shall strive to be aware of behaviors in their subordinates that could be indicative of partner family member assault and properly process and act upon their observations regarding such behavior.

Crow Police Department Policy and Procedural Manual



- b) All Crow Police Department supervisors shall ensure that partner family member assault incidents are properly recorded and processed according to this policy and state law.

4) INCIDENT RESPONSE

- a) Notification of an incident of partner family member assault involving any employee requires by the Crow Police Department.
 - 1. Prompt response;
 - 2. A full investigation; and
 - 3. A written report.
- b) Patrol responses to the scene of partner family member assault involving employees require on-scene supervisory presence, if available.
- c) All incidents of partner family member assault by Crow Police Department employees require notification through the chain of command to the Chief of Police.
- d) The Chief of Police may delegate responsibility for receiving such reports to a specialized person. Anyone so designated should have specialized training regarding the dynamics of violent relationships, victim safety and the role of advocacy. The assignment should be reviewed each time for potential conflicts of interest.
- e) In the event of a report of partner family member assault alleged to have been committed by the Chief of Police, prompt notification shall be made to the Chairman of the Crow Tribe.

5) COMMUNICATIONS AND CALL TAKING

- a) Communication Center employees receiving partner family member assault calls involving employees of the Crow Police Department shall start a case report and immediately attempt to notify a command officer.
- b) If no supervisor is on duty to respond to the scene, communications center employees should notify an off duty command officer as soon as practical.
- c) Communication Center employee should also prepare and preserve documentation of the facts relating to the call including any and all recordings such as the 911 recording.

6) PATROL RESPONSE

Crow Police Department Policy and Procedural Manual



- a) An officer responding to an incident described as partner family member assault involving an employee, whenever possible, shall request supervisory response to the scene.
- b) If an outside agency is unable or unwilling to respond, the primary officer should conduct an investigation including but not limited to:
 - 1. Photographing of the crime scene and any injuries identified;
 - 2. Taking statements from all witnesses including children;
 - 3. Seizing of any weapons used or referred to in the crime;
 - 4. Copying of dispatch records;
 - 5. Preservation of the 911 call recording;
 - 6. Taking statement of the victim; and
 - 7. Taking statement of the suspect(s) if possible.
- c) The primary officer shall inquire if the victim requests any guns or specific weapons be removed for safekeeping and the officer shall accommodate the removal.
- d) The primary officer shall complete the report as soon as possible prior to the completion of their shift.
- e) Access to the report shall be restricted except as mandated by law.
- f) Patrol officers responding to incidents having suspicious circumstances; or incidents involving compelling third-party accounts regarding an incident; or incidents having unexplained property damage; or other troubling events involving Crow Police Department employees, should complete written reports regarding the incidents.

7) SUPERVISOR RESPONSE

- a) A supervisor is defined as a Crow Police Department command officer having the rank of sergeant or above. A supervisor may also be defined as a specific officer put in charge for short periods of time when no command officers are available.

Crow Police Department

Policy and Procedural Manual



- b) A supervisor should respond, whenever practical, to the scene of any partner family member assault incident involving a Crow Police Department employee.
- c) The supervisor shall coordinate the investigation and ensure prompt notification of the Chief of Police.
- d) The supervisor shall write a report and route the report through the chain of command regardless whether or not the investigation is deemed criminal.
- e) If a Crow Police Department employee is arrested, the supervisor shall order the surrender of Department issued weapon and identification. Inquiries should be made about voluntary surrender of personal weapons that may be secured for safekeeping.
- f) The supervisor shall endeavor to provide a good-faith-effort to locate the suspect if there is probable cause for an arrest.
- g) The supervisor shall explain the process to the victim including the "Notification of Rights of a Victim", and inform the victim that a Crime Victim's advocate will be notified of the situation and will be contacting the victim if available.
- h) The supervisor shall act as the Crow Police Department contact until another contact is assigned.

8) COMMAND — ADMINISTRATIVE RESPONSE.

- a) When practical, The Chief of Police shall respond to the scene if the involved employee is a Sergeant or above, or if the situation demands a command presence.
- b) The Chief of Police should make a decision regarding removal of the involved employee's law enforcement powers, duty weapon and other department-owned equipment, pending the outcome of the investigation and possible prosecutorial charging decision.
- c) The Chief of Police should issue an Administrative Order prohibiting contact with the victim if appropriate

Crow Police Department Policy and Procedural Manual



42. PERFORMANCE EVALUATION PROCESS

1) PURPOSE AND INTENT

- a) The purpose of this policy is to establish a performance evaluation process within the Crow Police Department. This policy shall set forth criteria and guidelines for the proper evaluation of sworn and unsworn police personnel.
- b) The intent of this policy shall be to fairly evaluate and increase the level of performance within the sworn and unsworn personnel of the Crow Police Department.

2) EVALUATION PROCESS

- a) It shall be the responsibility of the Chief of Police or his designee to conduct performance evaluations on all police employees. The evaluations shall be conducted on all employees, on an annual basis, on or around the employee's anniversary date and retained as permanent record reflecting such performance appraisal.
- b) It shall be the responsibility of the Chief of Police or his designee to personally meet with, explain, and provide a copy of the performance evaluation to the employee at the time of the performance evaluation.
- c) The employee will fill out a "brag" sheet two weeks prior to the employee's anniversary date. This sheet is used to inform the supervisor of how the employee sees themselves and the supervisor gets a chance to learn something about the employee that may not

Crow Police Department Policy and Procedural Manual



have been known before. The supervisor will fill out the evaluation using the following criteria. When the employee and the supervisor meet to discuss and explain the evaluation the employee will sign the evaluation. At this time the employee will have the opportunity to state whether they wish to make a statement or not. The complete evaluation will include the “brag” sheet, the evaluation, and the employee statement.

- d) To evaluate an employee, the supervisor will match the employee’s work habits to the descriptions. If an employee demonstrates qualities that are both in the (1) and the (4) then the employee is graded as a (2) or (3). If the employee exhibits more of the qualities described in (1) then the employee is graded a (2). If the employee exhibits more of the qualities described in (4), then the employee is graded a (3). The same standard applies for qualities exhibited between grades (4) and (7). If the employee exhibits all the qualities in a particular grade, such as (1), (4), or (7); then the employee will receive a (1), (4),

or (7). All grades received in the (1) and (7) categories will be explained in the comments section of the evaluation.

3) EVALUATION CRITERIA

- a) The criteria and acceptable level of performance shall be outlined for specific job tasks and classifications.

Crow Police Department Policy and Procedural Manual



43. PERSONS WITH MENTAL DISORDERS / LEVEL 1

1) POLICY

- a) It is the policy of the Crow Police Department to strive to interact with persons who appear to have a mental disorder in a compassionate and safe manner in order to protect the individual, the public, family members and officers.

2) DEFINITIONS

- a) "Mental Disorder" — Any organic, mental or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. [Defined medically or by a court of competent jurisdiction.]
- b) "Emergency Situation" — means any situation in which any person is in imminent danger of death or bodily harm from the activity of a person who appears to be suffering from a mental disorder and appears to require commitment.
- c) "Professional Person" — means a Medical doctor, an advanced practice registered nurse with a clinical specialty in psychiatric mental health nursing or a person who has been certified by the Department of Public Health and Human Services, or a licensed psychologist.

Crow Police Department Policy and Procedural Manual



3) PROCEDURES

- a) Recognition - Officers should recognize behaviors that are potentially destructive and or dangerous to self or others. These behaviors may indicate the presence of a mental disorder. Officers should evaluate the behaviors in the total context of the situation.
- b) Signs and symptoms — Persons with mental disorders may exhibit some or all of the followings signs or symptoms:
 1. unrelenting fear;
 - 2) extremely inappropriate behavior given the situation;
 - 3) extremely rigid or inflexible behavior;
 - 4) abnormal memory loss;
 - 5) delusions;
 - 6) hallucinations of any of the five senses;
 - 7) extreme fright or depression;
 - 8) extreme paranoia; manic behavior;
 - 9) disorganized speech;
 - 10) nonsensical speech; disorientation.

4) RESPONSE

- a) When responding to incidents involving persons with a suspected mental disorder, officers should assess the scene and situation. Upon contact with the person or witnesses, officers should attempt to determine if the person presents a danger of death or bodily harm to self or others.
- b) Factor to consider in making a determination of danger of death or bodily harm to self or others may include some or all of the following:
 1. threats made by the person;
 2. access to weapons;

Crow Police Department Policy and Procedural Manual



3. witness statements;
 4. knowledge of the person's history;
 5. lack of emotional control;
 6. likelihood of harm to someone if officer is not present;
 7. prior suicide attempts;
 8. violent behavior; substance abuse;
 9. intoxication;
 10. physical condition.
- c) Suggestions for interacting with persons with a suspected mental illness include the following;
1. manage your own emotions;
 2. be respectful of the person;
 3. take steps to calm the situation;
 4. move slowly;
 5. communicate with the person by talking slowly, listening, repeating information and explain what you are going to do before you do it;
 6. be understanding about their present condition;
 7. don't try to change the person's beliefs;
 8. stay positive; be aware of your body language;
 9. do not threaten the person with arrest;
 10. ask about medications and current care.

5) PROTECTIVE CUSTODY

Crow Police Department Policy and Procedural Manual



- a) If an officer believes the person is in imminent danger of death or bodily harm to self or others take the person into protective custody in the least restrictive environment available, pending an evaluation by a professional person. Least restrictive environment does not include a jail or correctional facility.
- b) The person shall remain in protective custody until evaluated by a professional person or transported to a Medical Facility or Mental Health Facility.

6) PERSONS WITH MENTAL DISORDERS WHO ARE ARRESTED

- a) Persons with a suspected mental disorder may be arrested for a criminal offense when probable cause has been established.
- b) When a person with a suspected mental disorder is arrested, the arresting officer will brief the booking officer as to the charges, and advise the booking officer about the suspected mental disorder and whether the person is in imminent danger of death or bodily harm to self or others.

7) PERSONS NOT TAKEN INTO PROTECTIVE CUSTODY

- a) Officers who encounter persons with suspected mental disorders and deem them to not be at risk of imminent danger of death or bodily harm to self or others should assist the person in obtaining medical or mental health care. This may include attempting to contact the person's mental health provider and or contacting relatives or friends who can assist the person.

Crow Police Department Policy and Procedural Manual



44. PHOTOGRAPHIC LINEUPS / SHOW-UPS

1) PURPOSE

The purpose of this policy is to establish procedures for eyewitness identification of suspects in photographic lineups and show ups.

2) POLICY

Eyewitness identifications are a significant component in some criminal investigations. Photographic lineups and show-ups must be carefully administered to minimize the likelihood of misidentifications. Officers must strictly adhere to the procedures set forth below in order to maximize the reliability of identifications, protect innocent persons, and to establish evidence that is reliable and conforms to established legal requirements.

Properly prepared and properly presented photographic lineups are the preferred method of obtaining identification over a show-up. Sequential and simultaneous presentation of photographs both are accepted methods of photographic lineups. Sequential photographic lineups shall be used instead of a simultaneous photographic lineup when the investigating officer conducts the procedure instead of an Independent Administrator. Some departments also prefer sequential lineup, because many studies have found they help to reduce

Crow Police Department Policy and Procedural Manual



misidentification by eyewitnesses. Sequential photographic lineups may also be conducted by an Independent Administrator.

3) DEFINITIONS

- a) Simultaneous Photographic Lineup: An identification procedure in which a group of photographs are displayed all at once to the victim or witness rather than one -at- a-time (sequential).
- b) Sequential Photographic Lineup: An identification procedure in which photographs in the photo group are displayed one-at-a-time to the victim or witness.
- c) Independent Administrator: A person administering the photo lineup, who has no knowledge of the suspect's identity.
- d) Functional Equivalent Procedures (FEP): Procedures utilized when an Independent Administrator is not utilized, permitting the investigator to conduct a sequential photo lineup in a manner that precludes him or her from knowing when the suspect is presented to the witness.
- e) Filler Photos: Photographs of persons other than the suspect, used to complete a photo lineup.
- f) Blank photo: A sheet of paper the same size as the photos utilized in the photo lineup that is blank, with no photo showing. (Blank photos are utilized in sequential photo lineups.)
- g) Photo Array: The group of photographs utilized in a photo lineup. A photo array may be presented to the witness simultaneously or sequentially.
- h) Show-up: An identification procedure in which a single suspect is shown to a victim or witness soon after the commission of a crime for the purpose of identifying or eliminating the suspect as the perpetrator.

4) PHOTO LINEUPS

- a) A Simultaneous Photo Lineup will consist of six individual photographs in a photo array that is shown to the witness at once or simultaneous.

Crow Police Department Policy and Procedural Manual



- b) If a simultaneous photo lineup is used, it should be conducted by another officer, investigator, or employee (Independent Administrator), who is not directly involved in the investigation, and is not aware of which photograph is the suspect.
- c) By utilizing this practice the Independent Administrator would not be aware of which member of the photo lineup is the suspect, and would eliminate the possibility of influencing the witness' selection.
- d) If it is not feasible to have an Independent Administrator, the officer shall use the sequential photographic lineup method with Functional Equivalent Procedure (FEP). The sequential photo lineup is a good alternative to the simultaneous lineup and can be conducted by either the investigating officer or an Independent Administrator.
- e) A Sequential Photo Lineup will consist of ten folders identical in appearance, size and color. Six folders will contain one photograph each of either the suspect photo or the five filler photos. Four folders will be empty. Each folder will be shown to the witness one at a time or sequentially.

5) COMPOSING THE LINEUP

- a) The following procedures will result in the composition of a photo lineup in which a suspect does not unduly stand out. An identification obtained through a lineup composed in this manner should minimize any risk of misidentification and have stronger evidentiary value than one obtained without these procedures.
- b) In composing either a simultaneous or sequential photo lineup, the investigator should:
- c) Include only one suspect in each identification procedure;
- d) Select fillers (non-suspects) who generally fit the witness' description of the perpetrator. When there is limited or inadequate description of the perpetrator provided by the witness, or when the description of the perpetrator differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features;
- e) Select a photo that resembles the suspect's description or appearance at the time of the incident if multiple photos of the subject are available to the investigator;
- f) Include a minimum of five fillers (non-suspects) for both the simultaneous photo lineup and sequential photo lineup;

Crow Police Department Policy and Procedural Manual



- g) Use photos that are the same size, comparable background, and profile. Do not mix color and black/white photos;
- h) Create a consistent appearance between the suspect and fillers with respect to any unique or unusual feature (e.g., scars, tattoos) used to describe the perpetrator by concealing that feature;
- i) A filler photo will be used as the lead photo position in either simultaneous photo lineup and the sequential lineup;
- j) Place suspects in different positions in each lineup when conducting more than one lineup due to multiple witnesses in the same case. Position the suspect randomly in the lineup;
- k) Never use an officer or employee photograph for the sole purpose of providing a filler photograph;
- l) Ensure that no writings or information concerning previous arrest(s) will be visible to the witness;
- m) View the array, once completed to ensure that the suspect does not unduly stand out;
- n) Preserve the presentation order of the photo lineup. In addition, the photos themselves should be preserved in their original condition.
- o) The following additional procedures should be used when composing a Sequential Photo Lineup:
 - 1. Select ten folders identical in appearance size and color. Obtain one suspect photo and five filler photographs that closely match the description of the perpetrator. The remaining four folders will not contain any photos and will serve as 'dummy folders.'
 - 2. Place one each of the five filler photos and the one suspect photo in their own folder (total six folders.)
 - 3. Make one of the filler photos your lead position folder;
 - 4. Take the remaining five folders (containing four filler photos and the suspect photo) and shuffle them, so the position of the suspect photo is not known to the person administering the lineup. (Functional Equivalent Procedure);

Crow Police Department Policy and Procedural Manual



5. Place the lead position folder with known filler on top of the shuffled group of five folders;
6. Each of your four remaining folders will remain empty or you can place a blank piece of paper in the folder. Place the empty folders underneath the shuffled folders. This is done so the witness does not anticipate viewing the last photo in the sequence.
7. The folders should not be numbered until after the sequence has been presented to the witness.

6. INSTRUCTIONS TO THE WITNESS PRIOR TO VIEWING A LINEUP

- a) Prior to presenting the lineup, the investigator shall provide the following instructions to ensure the witness understands the purpose of the identification procedure is to exculpate the innocent as well as identify the actual perpetrator:
 1. Instruct the witness that he/she will be asked to view a set of photographs;
 2. Instruct the witness that it is just as important to clear the innocent persons from suspicion as to identify guilty parties;
 3. Instruct the witness that individuals present in the lineup may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change;
 4. Instruct the witness that the person who committed the crime may or may not be present in the set of photographs being presented, and therefore, they should not feel compelled to make an identification;
 5. Assure the witness that regardless of whether an identification is made; the police will continue to investigate the incident;
 6. Instruct the witness that the procedure requires the investigator to ask the witness, to state in his/her own words, how certain he/she is of any identification.

7) CONDUCTING THE PHOTO LINEUP

- a) The investigator shall conduct the lineup in a manner conducive to obtaining accurate identification and non-identification decisions.

Crow Police Department Policy and Procedural Manual



- b) Simultaneous Photo Lineup: When conducting a simultaneous photo lineup, the Independent Administrator should:
1. Provide instructions to the witness as outline in section 25.5.0 “Instructions to the Witness Prior to Viewing a Lineup”.
 2. Confirm the witness understands the nature of the lineup procedure;
 3. Instruct the witness that they do not know whether the person being investigated is included in the photo lineup that is to be viewed.
 4. Instruct the witness that photos shown to them are simultaneous and not in any particular order. They should take as much time as needed to examine them;
 5. Avoid any verbal or nonverbal feedback to the witness that may influence the witness’ selection;
 6. If an identification is made, avoid reporting to the witness any information regarding the individual he/she has selected prior to obtaining the witness’ statement of certainty.
 7. Record any identification results and witness’ statement of certainty as outlined in 25.7.0 “Documenting the Lineup.”
 8. Instruct the witness not to discuss the identification procedure or its results with other witness involved in the case, and discourage contact with the media.
- c) Sequential Photo Lineup: When presenting the sequential photo lineup, the investigator or independent administrator should:
1. Provide instructions to the witness as outline in section 25.5.0 “Instructions to the Witness Prior to Viewing a Lineup”.
 2. Position themselves away from the witness, so they cannot see the inside of the folders as they are being viewed by the witness.
 3. Provide the following additional viewing instructions to the witness:
 - a. Individual photographs will be viewed one at a time;
 - b. The photos are not in any particular order;

Crow Police Department Policy and Procedural Manual



- c. Take as much time as needed to examine each photo;
 - d. There are some blank photos in the series. This is part of the normal process;
 - e. If you make an identification, I will continue to show you the remaining photos in the series
 - f. If you do identify someone, I will have you designate the photo of the person you identified;
 - g. If an Independent Administrator, instruct the witness that they do not know whether the person being investigated is included in the photo lineup that is to be viewed.
 - h. If an Investigator, instruct the witness that they do not know the order of the photos.
4. Confirm the witness understands the nature of the lineup procedure;
 5. Avoid any verbal or nonverbal feedback to the witness that may influence the witness' selection;
 6. If an identification is made, avoid reporting to the witness any information regarding the individual he/she has selected prior to obtaining the witness' statement of certainty;
 7. Only if the witness makes the request, the entire photo lineup may be repeated once but must be in the same sequence as originally presented. The entire sequence will be presented even if the witness only requests to see one or a few photos;
 8. Record any identification results and witness' statement of certainty as outlined in 25.7.0 "Documenting the Lineup";
 9. Instruct the witness not to discuss the identification procedure or its results with other witness involved in the case, and discourage contact with the media.

8. DOCUMENTING THE LINEUP

- a) The investigator shall document in writing the lineup procedure used including:

Crow Police Department Policy and Procedural Manual



1. Identification information and sources of all photos used;
 2. The date and time the lineup was conducted;
 3. Names of persons present at the photo lineup;
- b) The investigator shall document in the witness's own words the level of certainty expressed by the witness and any comment made by the witness during the entire lineup process.
- c) The investigator should note any non-verbal communications (e.g. crying upon viewing of a photo) of the witness;
- d) All results of presentations of photo lineups shall be documented in a written report. The photo array used must be preserved regardless of whether identification was made.
- e) Whenever practicable, the presentation of the photo lineup shall be recorded by audio or audio/ video recording.
- 9)
- a) Many courts have suppressed identification evidence based on the use of show-ups or field identifications because of the inherent suggestiveness of the practice. Therefore, the use of show-ups should be avoided whenever possible in preference of the photo lineup. However, a show-up may be used when the following circumstances exist:
1. The suspect is detained within a reasonably short time frame following the offense and in close proximity to where the offense occurred. Although this is dependent on the individual circumstances of each case, courts have generally held that two hours is a reasonable amount of time to conduct the show-up.
 2. The victim or witness had an opportunity to view the suspect during the crime.
 3. A photographic lineup cannot be promptly arranged.
 4. There is an immediate need to arrest the suspect and there is insufficient independent probable cause.
- b) When the above circumstances require the prompt display of a single suspect to the witness, challenges to the inherent suggestiveness of the encounter can be minimized through the use of the following procedures:

Crow Police Department Policy and Procedural Manual



1. Whenever practicable, the show-up will be recorded by audio and/or video recording.
 2. A complete description of the suspect should be obtained from the witness prior to conducting the show-up.
 3. Whenever possible, the witness should be transported to the location of the suspect rather than bringing the suspect to the witness.
- c) Officers should take the following steps to avoid any suggestiveness of the show-up:
1. Ensure the suspect is removed from any patrol car, prior to being seen by the victim or witness.
 2. If safe to do so, remove handcuffs from the suspect.
 3. Do not require the suspect to put on any discarded clothing worn during the commission of the crime.
 4. Do not require the suspect to make any statements made in the commission of the crime.
 5. Do not require the suspect to perform any actions or movements done in the commission of the crime.
- d) Before having the witness view the suspect, they should be advised that:
1. It is just as important to clear innocent persons from suspicion as to identify guilty parties.
 2. The person you're viewing may not be the offender.
 3. You do not have to identify anyone.
 4. Regardless of whether you identify the offender we will continue to investigate the incident.
 5. If there are multiple suspects, they should be separated and subjected to separate field identifications.

Crow Police Department Policy and Procedural Manual



- e) If there are multiple witnesses to the offense, only one should participate in the field identification process. If a positive ID is made, the other witnesses should be shown a photo lineup.
- f) Officers must avoid making any actions or comments that could possibly influence victims or witnesses as they view the suspect.

10) Documenting the Show-up

- a) When conducting a show-up, the officer should preserve the outcome of the procedure by:
 1. Documenting the time and location of the procedure;
 2. Record any identification or non-identification obtained from the witness.
 3. Record in the witness' own words their certainty if a positive identification is made.

45. PRESERVATION OF BIOLOGICAL EVIDENCE

1) PURPOSE

The purpose is to provide guidelines for the preservation of biological evidence. Biological evidence for human identification by DNA analysis has played an increasing role in proving the guilt or innocence of individuals in the past decade.

2) POLICY

Biological evidence including DNA constitutes highly valuable evidence in criminal

Crow Police Department Policy and Procedural Manual



investigations and prosecutions, and should be preserved in accordance with state law.

3) PROCEDURES

- a) The Crow Police Department shall preserve biological evidence that the agency has reason to believe contains DNA material and that is obtained in connection with a felony for which a conviction is obtained.
- b) “A law enforcement agency shall preserve biological evidence that the agency has reason to believe contains DNA material and that is obtained in connection with a felony for which a conviction is obtained for a minimum of 3 years after the conviction in the case becomes final, or for any period beyond 3 years that is required by a court order issued within 3 years after the conviction in the case becomes final.

For purposes of Title 8, Crow Constitution, a conviction becomes final when:

1. The time for appeal to the Crow Court of Appeals expires;
2. If review is sought in the United States Supreme Court, on the date that that court issues its final order in the case.

In addition, evidence that could contain DNA material may qualify as part of “case files” as described in the Tribal Records Schedule which sets forth specific retention periods for evidence in some crimes.

Evidence that could contain DNA material may also qualify as “case files” and/or “criminal investigative records” as described in the Tribal Government Records Schedules.

In addition we recommend consulting with legal counsel to determine if evidence that could contain DNA material is covered under the Records Schedules mentioned above. In capital or life imprisonment cases, the evidence will be kept until the person becomes deceased.

- C An agency should develop a system for tracking the disposition of cases to help determine how long to preserve evidence, and when to dispose of evidence in accordance with state law.
- D An agency may propose to dispose of biological evidence before the 3-year requirement has been met. To do so, they should consult with the tribal attorney to comply with the following statutory requirements:

Crow Police Department Policy and Procedural Manual



- a. Notify the convicted person, the attorney of record for the convicted person, and the public defender;
- b. The notification must include a description of the biological evidence, a statement that the agency will dispose of the evidence unless a party files an objection in writing within 120 days from the date of service of the notification in the court that entered the judgment, and the name and mailing address of the court where an objection may be filed;
- c. If an objection to the disposition of the evidence is not filed within the 120-day period, the agency may dispose of the evidence;
- d. If a written objection is filed, the court shall consider the reasons for and against disposition of the evidence, may hold a hearing on the proposed disposition of the evidence, and shall issue an order ruling on the matter as required by the interests of justice and the integrity of the criminal justice system;
- e. If a party objects to the disposition of the biological evidence, the agency has the burden of proving by a preponderance of the evidence that the evidence should be disposed of.

4. DEFINITIONS

- A **BIOLOGICAL EVIDENCE:** Any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or other identifiable biological material, including the contents of a sexual assault examination kit, that is collected as part of a criminal investigation or that may reasonably be used to incriminate or exculpate any person of an offense.
- B **DNA:** "DNA" means deoxyribonucleic acid as referenced.

Crow Police Department Policy and Procedural Manual



46. RADIO EQUIPMENT / LEVEL 1

1) RADIO USE

- a) Members of the Crow Police Department shall familiarize themselves with the use of the radio equipment provided.
- b) Members of this department shall not take a vehicle with defective radio equipment into service without first clearing with the immediate supervisor.
- c) During their shift, officers will apprise dispatch whenever they leave their vehicle and insure that dispatch can reach them immediately via portable radio or telephone. The exception to this is clandestine operations in which plans have already been laid and dispatch previously briefed regarding the officer's whereabouts.

Crow Police Department Policy and Procedural Manual



- d) To ensure availability for call, uniformed officers will carry a portable radio which they will activate at any time they are out of hearing range of their vehicle's mobile radio. Officers not in uniform will have a cell phone, or similar device, in their immediate possession.
- e) Members of this department shall not make unnecessary radio transmissions on radio equipment.
- f) No Crow Police Department employee will violate any FCC law or regulation, transmit useless signals, use profane or obscene language on the radio, or willfully or maliciously interfere with radio communications.
- g) Communications Officers will give full and complete information on dispatched calls. Likewise, Officers will give full information to communications officers concerning activities in the field. Communications between officers and communications officers shall be maintained at all times. The importance of being able to contact the officers in the case of an emergency or the officer being able to contact the communications officer in emergency situations cannot be stressed enough.

47. RELATIONS WITH SUPERIOR OFFICERS / LEVEL 1

1) OBEDIENCE TO ORDERS AND RULES

- a) Members of the Crow Police Department shall promptly obey all lawful orders and conform to the policies and procedures of the Crow Police Department.

2) DUTY ON COUNTERMAND OF ORDERS

- b) When an order of a superior officer countermands or changes any previous order, members of the department shall, when practicable, call the attention of the superior officer to such conflict before complying with the new order. If the superior officer giving such order does not change the order to eliminate the conflict, the order shall stand and the responsibility shall be his.

3) COMPLAINTS AGAINST SUPERIOR OFFICERS AND FELLOW EMPLOYEES

- a) When a problem or disagreement occurs, the Crow Police Department member should approach the other party and try to work it out in a calm, professional manner. If this isn't possible or the Crow Police Department member isn't comfortable with

Crow Police Department Policy and Procedural Manual



approaching the other party, then the member should consult with and follow the chain of command.

- b) If a problem requires immediate attention, the Crow Police Department member should follow the chain of command of the officers present. If the member still isn't satisfied the member may call further officers in the chain of command, if necessary.
- c) If a problem occurs between two Crow Police Department employees and the offended member doesn't want to approach the other party, the offended member will make an official complaint to the immediate supervisor. The supervisor will investigate the complaint and take any corrective action needed. If either party isn't satisfied, the member may appeal the decision through the chain of command.
- d) If the complaint is of a personal nature and not covered under state law, city ordinance, city policy, or department policy, then the supervisor will sit down with all of the parties. The supervisor will attempt to mediate while they work out the dispute. If it appears to the supervisor that the issue or problem cannot be worked out by the parties then the supervisor will resolve the dispute. If either party isn't satisfied, the member may appeal the decision through the chain of command. If the problem is between the offended member and his/her immediate supervisor, the offended member will go to the next highest officer in his/her chain of command and if not satisfied continue through the chain of command.
- e) No Crow Police Department member shall present any inter-departmental question or complaint to any city official outside the department, until the member has exhausted all attempts to resolve the issue through the chain of command. The Chief of Police will be notified by the member of the member's intent to take the issue to the next level of the chain of command. This directive shall not govern or affect the filing or processing of official grievances, as may be allowed by the operating agreement.

48. RETIRED OFFICERS

1) POLICY

- a) Officers are considered to be retired from the Crow Police Department when:
 - 1. When the officer has served as a Crow Police Officer for at least ten (10) years of continuous employment and has left employment being immediately eligible to draw retirement pay from M.P.O.R.S. The officer must have left employment with the department in good standing.

Crow Police Department Policy and Procedural Manual



2. When the officer, after completing the applicable probationary period, was retired due to a service-connected disability and is immediately eligible to draw retirement pay from M.P.O.R.S. The officer must have left employment with the department in good standing.
 - b) The definition of “good standing” is an officer that was not the subject of any disciplinary action at the time of departure, the officer must not have left due to termination/dismissal by the Crow Police Department, and the officer must not have left employment due to reasons of mental instability.
 - c) Retired officers will receive an identification card that identifies the officer as a retired Crow Police Officer.
 - d) Retired officers may receive yearly firearms certification for the purpose of carrying concealed weapons, per Federal guide lines. Retired officers will be given a card showing the date of the recertification. Retired officers will have to bring their own ammunition.

49. RIDE ALONG

1) POLICY FOR POLICE OFFICERS

- a) “Ride Along” is a privilege and may be refused by a command officer (Sergeant or above) with no explanation given. Before anyone is allowed to “Ride Along”, a criminal history and records check will be run on the subject.
- b) At a minimum, any officer may refuse a “Ride Along” for anyone with a felony conviction, a misdemeanor conviction within 5 years, is the respondent of a current order of protection, or anyone that is a suspect in a felony crime.

Crow Police Department Policy and Procedural Manual



Anyone having an officer caution for violence or threatened use of violence may also be refused the “Ride Along” privilege.

- c) A “Ride Along” may not possess a firearm unless the subject is currently employed as a sworn peace officer with powers of arrest within the exterior boundaries of the reservation, and receives permission from the Chief of Police.
- d) An officer will not allow the ride along to be actively involved in any case, law enforcement action, or situation unless assistance is required due to an extreme circumstance.
- e) “Ride Along” persons must sign the confidentiality clause and understand that nothing seen or heard while on the “Ride Along” may be repeated or disseminated.
- f) A person may not do a “Ride Along” any more often than one time per calendar quarter. The “Ride Along” may not be longer than eight (8) hours. This restriction will not apply to those subjects in the intern program.
- h) Crow Police Department employees need only sign one waiver. This waiver will be good for as long as the employee is in continuous employment at the police department and will be kept on file. Crow Police Department employees need only command approval to be allowed to ride along.

2) POLICY FOR SUBJECTS ON A “RIDE ALONG”

- a) Every person wishing to “Ride Along” will sign the waiver and understand that nothing seen or heard may be repeated or disseminated under tribal law.
- b) Persons of the media who are doing a “Ride Along” may report on criminal justice information that may be disseminated as permitted/limited by tribal law.
- c) Any person on a “Ride Along” may not be actively involved in any case, law enforcement action, or situation unless at the specific instruction of Crow Police Officer. The “Ride Along” may not speak to or interact with any prisoner, suspect, witness, or person of interest other than to tell them that they aren’t allowed to get involved. The “Ride Along” will follow all reasonable instructions given to them by the officer.
- d) Any person on a “Ride Along” will be clean, neat, well-groomed and suitably dressed. Undergarments and shoes are required. However, undergarments should be fully covered including bra straps and waistbands of underwear. At no time,

Crow Police Department Policy and Procedural Manual



should undergarments be visible through or below the outer garments. Slippers and pajama pants are not allowed. Bare midriff, low cut tops, see-through, and backless garments are not appropriate. Tops tied together by strings across the back or around the neck (such as the bandana or halter tied tops), spaghetti strap and tank top style shirts or tops are not acceptable as a style of dress. Shorts/skirts should not be shorter than three inches above the top of the knee cap.

Crow Police Department Policy and Procedural Manual



50. SEARCH AND SEIZURE / LEVEL 1

1) PURPOSE

The purpose is to provide guidelines to officers regarding searches and seizures.

2) POLICY

The Crow Police Department shall conduct searches and seizures in accordance with law contained within Federal Law, and the Crow Law and Order Code;

This Crow Police Department recognizes that the basic concept of the United States and the Crow Constitution is to prohibit searches that are conducted without a warrant, unless certain conditions prevail.

The Crow Law and Order Code and relevant federal common law may limit these procedures; however Crow Law Enforcement may continue to use the following procedures until otherwise halted or modified by the Crow Courts.

Any policies and procedures, which are inconsistent with tribal law, will be invalid and unenforceable and should not be used.

3) STOP AND FRISK –

“Investigative Stop” - In order to obtain or verify an account of the person's presence or conduct or to determine whether to arrest the person, a peace officer may stop any person or vehicle that is observed in circumstances that create a particularized suspicion that the person or occupant of the vehicle has committed, is committing, or is about to commit an offense, under tribal law.

“Stop and Frisk - A peace officer who has lawfully stopped a person under “Investigative Stop”, or this section:

- a. may frisk the person and take other reasonably necessary steps for protection if the officer has reasonable cause to suspect that the person is armed and presently dangerous to the officer or another person present;
- b. may take possession of any object that is discovered during the course of the frisk if the officer has probable cause to believe the object is a deadly weapon;
- c. may request the name and present address of the person and an explanation of the persons actions;
- d. if the person is the driver of a vehicle, demand the person’s drivers license, vehicle registration and proof of insurance; and

Crow Police Department Policy and Procedural Manual



- e. shall inform the person, as promptly as possible under the circumstances and in any case before questioning the person, that the officer is a peace officer, that the stop is not an arrest but rather a temporary detention for an investigation, and that upon completion of the investigation, the person will be released if not arrested. “Duration of Stop” - A stop authorized by an “Investigative Stop”, or “Assisting an Officer of Another State”, may not last longer than is necessary to effectuate the purpose of the stop.

4) SEARCH INCIDENT TO AN ARREST

When officers make a lawful custodial arrest, they may search the person, and the area within the person’s immediate control, for the purpose of:

- a. protecting the officer from attack;
- b. preventing the person from escaping;
- c. discovering and seizing the fruits of the crime;
- d. seizing any person, instruments or articles which may have been used in the commission of or which may constitute evidence of the offense if exigent circumstances exist. The search should be made as soon as reasonably possible after the arrest has been made.

A search incident to a lawful arrest is not rendered illegal simply because it precedes rather than follows the arrest. This rule is subject to three limitations:

- a. the officer must have been able to effect a lawful arrest at the time of making the search;
- b. the actual arrest must be substantially contemporaneously with the search; and
- c. the search must satisfy the permissible scope and purposes of a search incident to a lawful arrest.

Articles found during this search that are generally admissible include weapons, fruits of the crime and instruments of the crime. In the event that contraband or fruits of another crime are discovered that do not relate directly to the crime for which the arrest was made, that discovery must be inadvertent in nature.

The arresting officer may use only the amount of force necessary to reach the objectives of the search.

Crow Police Department Policy and Procedural Manual



5) CONSENT SEARCHES

A person may consent to a search of their person, premises, vehicle or other item within the person's control. This consent to search must be voluntary and officers must advise the person of their right to refuse the search. The consent to search must be free of coercion, duress, and misleading statements. The Miranda Warning is not required as part of the voluntary consent to search notification. Officers should obtain a written consent to search.

Officers will read the Consent to Search form approved for use within its jurisdiction in its entirety and have the person who has the legal right to give permission for the search sign and date the form to attest to their knowledge of their right to refuse permission to search. Officers must provide the individual a list of items seized pursuant to the consent to search.

6) SEARCH WARRANTS

- a) “Authority to Issue Search Warrant”. A Judge shall issue a search warrant upon application by a law enforcement officer of the Crow Tribal Prosecutor, in writing or by telephone, made under oath or affirmation, that:
 1. states facts sufficient to support probable cause to believe that an offense has been committed;
 2. states facts sufficient to support probable cause to believe that evidence contraband, persons connected with the offense may be found;
 3. particularly describes the premises, property, place, object, or person to be searched and particularly describes who or what is to be seized.
- b) Search warrants should be obtained in cooperation with the tribal prosecutor. A search conducted under the authority of a warrant has undergone prior review by the court. The court of issuance has established through the review that the standards for probable cause have been met.
- c) Advice concerning the technical aspects of issuing, executing and returning a search warrant may be obtained from the tribal prosecutor.
- d) “To Whom Search Warrant Directed”. A search warrant shall be directed to a specific law enforcement officer which commands that officer to search for and seize the person or property designated in the warrant and bring the person or property before a Judge.
- e) “What May be Seized with Search Warrant”. A search warrant. Before entering the premises named in a search warrant, the law enforcement officer shall give appropriate notice of his/her identity, authority, and purpose to the person to be searched, or to the

Crow Police Department Policy and Procedural Manual



person in apparent control of the premises to be searched; particular in describing the premises, property, place, object, or person to be searched and the instruments, articles, or items to be seized; and

- h) “When Warrant May be Served”. Unless the issuing Crow Tribal Judge authorizes the warrant to be served any time, day or night, warrants shall only be served between the hours of 6:00 A.M. and 9:00 P.M.
- i) “Service of Search Warrant”. Before entering the premises named in a search warrant, the law enforcement officer shall give appropriate notice of his/her identity, authority, and purpose to the person to be searched, or to the person in apparent control of the premises to be searched. Before undertaking any search or seizure pursuant to the warrant, the executive law enforcement officer shall read and give a copy of the original or duplicate original warrant to the person to be searched, or the person in apparent control of the premises to be searched. If the premises are unoccupied or there is no one in apparent control, the law enforcement officer shall leave a copy of the warrant prominently affixed to the premises.
- j) “Service and Return of search warrant”. If the warrant is executed and property is seized, a duplicate copy of the inventory and a receipt for all items taken shall be left with the person in apparent control of the premises. The inventory shall be made in the presence of the person in apparent control of the premises, or in the presence of at least one credible person other than the applicant for the warrant if the place is unoccupied. In the case of an unoccupied premises, a copy of the inventory shall be left at the premises. The executing officer shall return the warrant to Crow Tribal Court within the time limit shown on the face of the warrant. No warrant is effective ten (10) days past the date of issuance. Warrants not returned within such time limits are void.
- k) “Procedures Assisting in Execution of Service of Search Warrant”. Only reasonable and necessary force may be used to execute a search warrant.
- l) “Return”. A return of the warrant must be made promptly to the Crow Tribal Court and must be accompanied by a written inventory of any evidence or contraband seized, verified by the person serving the warrant. The Crow Tribal Judge shall enter an order providing for the custody or appropriate disposition of the evidence or contraband seized pending further proceedings. The Crow Tribal Judge before whom the warrant is returned shall attach to the warrant a copy of the return, the inventory, and all other papers in connection with the warrant and shall file them with the Crow Tribal Court. At the request of any owners of seized property, a hearing shall be held by the Crow Tribal Court to determine the disposition of all property seized by law enforcement. Upon satisfactory proof of ownership, the property shall be delivered immediately to the owner, unless the property is contraband or is to be used as evidence in a pending case. Unless

Crow Police Department Policy and Procedural Manual



contraband, property seized as evidence shall be returned to the owner after final judgment. Confiscated contraband shall be destroyed or otherwise lawfully disposed of as ordered by the Crow Tribal Court.

7) PLAIN VIEW SEARCH

- a) Officers may seize evidence, contraband, and persons pursuant to the plain-view doctrine without a warrant under the following circumstances.
- b) In order for plain search to occur the officer must be in a lawful position to observe the article and or persons. The article and or persons must be in plain view.
- c) The incriminating nature of the article and or persons must be immediately apparent.
- d) Evidence seized in a plain view search may provide probable cause for a warrantless vehicle search .
- e) Evidence seized in a plain view search may provide probable cause in support of an application for a search warrant vehicle search.

8) EXIGENT CIRCUMSTANCE SEARCHES

Warrantless entry into private property, including a residence or its land may be made under exigent circumstances. Exigent circumstances exist only when it is not practical to obtain a warrant and when officers must take immediate action to:

- a) preserve evidence that may be damaged or destroyed;
- b) prevent escape of a criminal;
- c) prevent a criminal from committing further criminal acts;
- d) prevent imminent injury or death; or
- e) Render and/or determine the need for emergency medical aid

9) DAMAGE TO DOORS AND WINDOWS

Crow Police Department Policy and Procedural Manual



- a) The Crow Police Department is not responsible for any damage to any doors or windows during the performance of their duties while performing warranted entries or warrantless entries under exigent circumstances.

10) OPEN FIELD SEARCHES

- a) Officers should carefully consider the circumstances surrounding warrantless entry and searches of open fields. When conditions permit, these decisions should be reviewed in advance with legal counsel.
- b) A person may have an expectation of privacy in an area of land beyond the curtilage. When that expectation is evidenced by fencing, signs, or by other means which indicate entry is not permitted. When there is a reasonable expectation of privacy, entry by law enforcement should be by warrant or consent.
- c) Curtilage is defined in common law as the term used to describe the area around a dwelling house where the resident or occupants have some expectation of privacy. In considering the proximity of the area claimed to be curtilage to the home, the courts examine:
 - 1. Whether the area is included within an enclosure surrounding the home;
 - 2. The nature of the uses to which the area is put;
 - 3. The steps taken by the resident to protect the area from observation by people passing by.
- d) Officers are not precluded from making observations of private land from public property.

11) ADMINISTRATIVE INVENTORY

- a) Occasionally it becomes necessary for officers to remove motor vehicles from the scene to a location of greater security. This is necessary in cases of abandonment, vehicles involved in traffic accidents (hit and run, etc.) or when certain arrest actions are executed.
- b) Any vehicle that is being secured on Crow Tribal property and considered to be “impounded” should be inventoried if the vehicle isn’t suspected of containing evidence of a crime. An administrative inventory sheet will be filled out and added to the case jacket.

Crow Police Department Policy and Procedural Manual



- c) If evidence of a crime is believed to be within the vehicle, then a search warrant should be obtained and an administrative inventory should not be conducted.
- d) During instances when an arrested person is in the Crow Police Department that person should have all of their property removed from them, especially if they are not going to be within the direct vision of an officer. An administrative inventory sheet will be filled out and added to the case jacket. Any paper money on the arrested person may be returned to the arrested person to hold on to or included in the administrative inventory.
- e) All purses, bags, wallets, and containers taken into the custody of the Crow Police Department should be inventoried. This applies to all arrested person's property or any property turned in to the Crow Police Department for any reason. An administrative inventory sheet will be completed and added to the case jacket.
- f) The justification for an inventory, which is to be considered an administrative function, is:
 - 1. To protect the owner's property when the owner is unable to do so.
 - 2. To protect the officer and the police department against potential civil liability.
 - 3. To protect employees from any harmful or destructive item(s) that may be concealed.
- g) During the course of an Administrative inventory of a vehicle, purse, bag, wallet or container; when contraband, fruits or instruments of a crime or evidence of a crime are discovered, the officer should halt the inventory. The items should be left in their original location and used as probable cause for a search warrant.
- h) Exigent circumstance may arise when the item discovered is of such a nature that its immediate seizure is required to prevent injury, the item from being destroyed, or the evidence dissipating before a search warrant can be obtained.

Crow Police Department Policy and Procedural Manual



51. SOCIAL MEDIA POLICY

1) PURPOSE

- a) The purpose of this policy is to manage the social media outlets of the Crow Police Department and its members. Social media is defined as a category of Internet-based resources that integrate user-generated content and user participation. This includes, but is not limited to:
 - 1. Social networking sites I.E. Facebook or InstaGram, SnapChat;
 - 2. Micro-blogging sites I.E. Twitter, or blogs;
 - 3. Photo and video-sharing sites I.E. Flickr, YouTube;
 - 4. News sites I.E. Digg, Reddit.
- b) This policy establishes this department's position on the use and management of social media. This policy is meant to address social media in general, understanding that as advances in technology occur, new sites, uses, and issues will arise.

2) DEFINITIONS

- a) Blog: A self-published diary or commentary on a particular topic that may allow visitors to post responses, reactions, or comments. The term is short for "Web log."
- b) Page: The specific portion of a social media website where content is displayed, and managed by an individual or individuals with administrator rights.
- c) Post: Content an individual shares on a social media site or the act of publishing content on a site.
- d) Profile: Information that a user provides about himself or herself on a social networking site.
- e) Speech: Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication.

Crow Police Department Policy and Procedural Manual



- f) Web: The World Wide Web

3) POLICY

Personnel shall not use any form of social media or social networking in any way while on duty or at work. Personnel within the Police Department may have social media or social network but not during An officer's ability to perform his or her duties is dependent upon the respect and confidence communities have for the officer and law enforcement in general. Officers must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public. Any online activity that has the effect of diminishing the public's trust and/or confidence in this department will hinder the efforts of the department to fulfill its mission. Law enforcement officers, by virtue of their position, are held to a higher standard than the general members of the public, and their online activities should reflect such professional expectations and standards. As such, this policy provides information of a precautionary nature as well as prohibitions on the use of social media by department personnel.

4) OFF DUTY PERSONAL USE

- a) Department personnel are free to express themselves as private citizens on social media sites.
- b) Employees may not express themselves in ways that their speech impairs working relationships of this department, impedes the performance of duties, impairs discipline and harmony among coworkers, or negatively affects the public perception of the department.
- c) As public employees, department personnel are cautioned that speech on or off-duty, disseminated in any way, made pursuant to their official duties—that is, that owes its existence to the employee's professional duties a responsibilities—is not protected speech under the First Amendment. Department personnel should assume that their speech and related activity on social media sites will reflect upon their office and this department.
- d) Department personnel shall not post, transmit, or otherwise disseminate any confidential criminal justice information or personal/private information to which they have access to as a result of their employment without written permission from the chief of police or his/her designee.
- e) For safety and security reasons, department personnel are cautioned not to disclose their employment with this department nor shall they post information pertaining to any other

Crow Police Department Policy and Procedural Manual



member of the department without their permission. No under-cover personnel will be mentioned or their pictures posted.

- f) When using social media, department personnel should be mindful that their speech becomes part of the worldwide electronic domain. In particular, department personnel shall not bring undue attention and/or discredit to the Crow Police Department.
- g) Engaging in offensive speech may provide grounds for undermining or impeaching an officer's testimony in criminal proceedings. Department personnel thus sanctioned are subject to discipline up to and including termination of office.
- h) Department personnel may not publish materials that could reasonably be considered to represent the views or positions of the Crow Police Department without express authorization.
- i) Department personnel should be aware that they may be subject to civil litigation for publishing or posting false information that harms the reputation of another person, group, or organization (defamation);
- j) Publishing, posting, or disseminating in any way the private facts and personal information about someone without their permission that has not been previously revealed to the public, is not of legitimate public concern, and would be offensive to a reasonable person is not permitted;
- k) Department personnel should be aware that privacy settings and social media sites are constantly in flux, and they should never assume that personal information posted on such sites is protected.

52. SPECIAL DUTY AND ADVANCEMENT

1) PURPOSE

- a) The Crow Police Department will give advancement and special duty assignments based on the following parts:

Testing

Crow Police Department Policy and Procedural Manual



Evaluations
Seniority
Interview

- b) The total final score will consist of the test results, the “overall evaluation score” from the last three yearly evaluations, a point for each completed year of employment at the Crow Police Department (at the date of testing), and the score from each member of the interview panel.
- c) Each of the above scores will be added together, never averaged, to give the total final score.
- d) If for some reason, one of the parts isn’t available, then the remaining parts will be used to complete the process.
- e) The interview will be conducted at the discretion of the Chief and will consist of a panel of his/her choosing.
- f) During promotional testing, the lead candidate’s name will be submitted to the Chairman for final approval.

53. SPECIAL TACTICAL SITUATIONS / LEVEL 1

1) PURPOSE.

- a) The purpose of this policy is to provide guidelines that establish general procedures for handling special tactical situations that may be comprised of unusual operational

Crow Police Department

Policy and Procedural Manual



activities and problems including, hostage incidents, armed barricaded persons, sniper incidents, aggravated suicide attempts and other tactical problems.

2) POLICY

- a) It is the policy of the Crow Police Department to respond to special tactical situation incidents in a manner that will promote resolution of the particular situation that includes the minimization of injuries and the preservation of life of all persons involved and to apprehend those persons responsible for criminal conduct.

3) DEFINITIONS.

- a) "Inner Perimeter" means a containment area immediately surrounding the situation location that minimizes and controls movement of a suspect within that area. The inner perimeter should be sufficiently large to present no immediate danger to persons within the area but should be as small as possible to ensure that control and management can be maintained.
- b) "Outer perimeter" means a large containment area that completely surrounds the inner perimeter and prohibits unauthorized vehicular and pedestrian traffic from reaching the inner perimeter. The outer perimeter should be positioned in a manner to afford protection and safety to anyone outside the outer perimeter boundaries.
- c) "Control Zone" means the space between the outer perimeter and the inner perimeter. Officers manning the outer perimeter will allow authorized persons into the control zone for restricted purposes as designated by the officer in charge. Depending upon the specific geographic circumstances, unauthorized persons should be evacuated from or secured within the control zone including, bystanders, residents, merchants and others.
- d) "Traffic Control Points" means key intersections or other locations that restrict all unauthorized vehicular traffic from reaching the boundaries of the outer perimeter.
- e) "Field Command Post" — means a temporary location used as the on-scene command center to coordinate the activities of all operational personnel. The field command post will be placed outside the inner perimeter, preferably inside the control zone, and will include the actual command post facility and controlled area utilized for assembly and parking. Either a vehicle or another suitable structure may be used as a field command post. Telephone service is mandatory except in very unusual circumstances.
- d) "Administrative Command Post" — means a temporary location used as an assembly point for the on-scene commander and others designated by the on-scene commander for the purpose of administrative control of the situation. Telephone service is mandatory.

Crow Police Department Policy and Procedural Manual



4) RESPONSE TO TACTICAL SITUATIONS.

- a) Procedural guidelines are designed to prevent or minimize confusion in assuming command and initiating control procedures.
- b) When possible these variables should be considered when confronted with a complex tactical and/or life-threatening situation such as a hostage or barricaded suspect incident, including:
 - 1. The mental state of the suspect;
 - 2. The physical condition of the hostage;
 - 3. The suspects stated objectives and motivations;
 - 4. The involvement and proximity of bystanders;
 - 5. The location.
- c) The Crow Police Department will not grant immunity or pay ransom to neutralize a hostage situation.
- d) When a suspect has barricaded himself and does not hold a hostage, the Crow Police Department should attempt all reasonable measures to affect capture by use of non-lethal means consistent with the offense and the safety of Crow Police Department personnel and by-standers.

5) DEPLOYMENT OF FORCE. / LEVEL 2

- a) Time is a benefit and shall be made to work to the advantage of the Crow Police Department. Thoughtful coordinated response is essential.
- b) Officers should adhere to the Crow Police Department's policy regarding the Use of Force.
- c) Personnel should maintain strict firearm discipline. Should an individual officer come under attack by the suspect, or if the suspect attacks or attempts to attack the hostage with force, it is not required that an officer wait for instruction to protect themselves or the hostage.
- d) Only those specifically qualified should employ specialized weapons and equipment.

Crow Police Department Policy and Procedural Manual



6) OFFICER RESPONSIBILITY.

- a) For the effective coordination of responding forces, it is essential that our personnel not engage in individual action unless forced to do so.
- b) Strict compliance with the directions of the on-scene commander regarding reporting locations, deployment, response routes, traffic and pedestrian controls, and other appropriate instructions must be adhered to by all person involved with these situations.

7) COMMAND AND CONTROL.

- a) The senior officer in the first unit on the scene will have command and control of the situation until relieved by an officer of higher rank.
- b) The on-duty supervisor should deploy arriving officers promptly and efficiently to effect containment as soon as possible.
- c) Command and control should not automatically be relinquished to a superior, nor should the superior assume control until each is certain that all available information relating to the incident is thoroughly explained and understood, and to the maximum extent possible, all personnel understand that command and control is being transferred and to whom.

8) FIELD COMMAND OPERATIONS.

- a) The officer with command and control should implement the following steps:
 - 1. Establish an inner perimeter to contain the suspect. This may be accomplished by making certain the units at the scene are in the best positions possible to effectively contain the site. These officers may serve as an arrest team should the suspect surrender or exit unexpectedly;
 - 2. Establish an outer perimeter and traffic control points to control vehicular and pedestrian traffic;
 - 3. Locate and establish, or determine a location for a Command Post away from the objective structure;
 - 4. Locate and establish a staging area for responding personnel and supporting agencies away from the command post but within the outer perimeter;

Crow Police Department Policy and Procedural Manual



5. Establish a communications network and request frequency restriction for continuous communication with deployed personnel;
6. Attempt to secure maps, aerial photos, assignment sheets and related materials. This material should be brought to the Command Post for strategic planning.

9) NOTIFICATIONS.

- a) When any officer of the Crow Police Department becomes aware of the existence of a special tactical situation the officer should:
 1. Request sufficient personnel to contain the effected area;
 2. Notify the on-duty supervisor at the earliest possible opportunity;
 3. Periodically update the supervisor.
- b) The on-duty supervisor should ensure notification of the Chief of Police.
- c) The Chief of Police, his designee, or senior officer in charge should determine agency assist requests and the call-out of further officers and reserve officers.

10) COMMUNICATIONS WITH SUSPECTS.

- a) The on-duty supervisor or his/ her designee should attempt to establish communication with any and all suspects until negotiators arrive, whereupon they may delegate the task.

11) EVACUATIONS.

- a) Outer containment personnel should be assigned to evacuate affected residences or bystanders.
- b) A log should be kept of the residences evacuated as well as those who refuse to evacuate. Evacuations should be encouraged but not forced.
- c) Injured victims should be evacuated when appropriate protective measures can be taken to protect the rescuers should they come under further attack.

54. TRANSPORTING SUSPECTS IN CUSTODY / LEVEL 1

1) PURPOSE

Crow Police Department Policy and Procedural Manual



The purpose is to establish guidelines for the transporting of suspects (prisoners) in custody.

2) POLICY

- a) An officer transporting a suspect should always protect the safety and well being of the officer, the suspect, and the public.

3) RESTRAINT EQUIPMENT

- a) The use of handcuffs should be the preferred method while transporting suspects. Handcuffs should be applied immediately prior to and during transport, except in circumstances where the arresting officer determines the use of handcuffs would not be appropriate.
- b) Officers should exercise caution in the application of handcuffs to ensure that they are applied correctly, and do not cause injury or unnecessary discomfort, when applying handcuffs, the following method of use should be employed:
 1. The suspect's wrists should be secured behind the back with the preferred application of the back of the hands together.
- c) If the above method is not attainable for suspects whose physical size or limitations prevents their arms from being joined behind their back, then persons may be handcuffed as described:
 1. The suspect's hands may be secured in front of them with the back of the hands together. The handcuffs should be secured through the suspect's belt and the belt laced through the pants so that the belt buckle is exposed to their backside.
 2. Alternate restraint devices or two sets of handcuffs may be employed to secure the suspect's wrists behind them .
 3. Suspects whose hands and or wrists are too small for regular handcuffs may be secured with alternative restraint devices.
- d) Handcuffs should be double locked to prevent injury to the suspect's hands or wrists.
- e) Officer should make a visual inspection of the suspect's wrists, looking to see that the handcuffs are not applied too tightly.

Crow Police Department Policy and Procedural Manual



- f) Supplemental restraints may be used when the arresting officer has cause to believe that the suspect presents a substantial risk of escape, violent resistance, or injury to themselves or others.
- g) Officers will not attach handcuffs to leg restraints behind the back.

4) TRANSPORT VEHICLE

- a) Vehicles used in transporting suspects should have a barrier separating the driver from the suspect.
- b) The transport vehicle should be so equipped and or modified to minimize opportunities for the suspect to exit from the rear compartment of the vehicle without the aid of the transporting officer.
- c) While transporting suspects, officers should closely monitor the suspect to ensure they have an unobstructed airway and are breathing properly. Officers should be aware of positions which might restrict a person's ability to breathe, or of other medical or physical conditions which might affect the person's well being.
- d) The officer should check the transport vehicle for weapons or contraband prior to and after transporting a suspect.

5) PROCEDURE

- a) To maximize the safety of officer(s), the suspect(s) and the public, the following procedures should be used in transporting suspects in custody.
 - 1. All suspects in custody should be searched prior to being placed in a law enforcement vehicle.
 - 2. Suspects should be placed in the rear seat of the vehicle on the passenger side with the seat belt securely fastened, unless the seat belt cannot be safely fastened without significant risk of injury to the officer.
 - 3. If possible, female suspects being transported should be transported or accompanied by a female officer.
 - 4. Whenever a suspect is transported, the starting odometer reading, location, and destination should be reported by radio or cell phone at the initiation and termination of the transport.

Crow Police Department

Policy and Procedural Manual



5. If a suspect is injured, as a result of the use of handcuffs or during transport, photos of the injury, and a written report will be provided with the arrest report.

6) EXTENDED TRANSPORTS

- a) During normal suspect transports, a rest stop should not be required. Prior to leaving a facility on an extended transport, the officer should allow the suspect to use the rest room.
- b) If while at the hospital, court, or on an extended transport the suspect requires use of the rest room, the officer should accompany the suspect to the rest room keeping the suspect in the officers field of vision. Only officers of the same sex as the suspect may accompany suspects to the rest room to perform these functions.
- c) Upon leaving any of the previously noted locations, the officer should search the suspect prior to resuming transport. Whenever the transport vehicle is left unattended, the vehicle should be locked.
- d) If an officer is required to perform an extended transport and the suspect requires a rest stop, the officer should use appropriate care and caution in determining the proper place to stop. Isolated gas stations in rural areas involve the least hazard.
- e) The officer should never allow the suspect out of sight.
- f) Extended transports require an officer of the same sex as the transported suspect.
- g) The officer should always be cognizant of other persons who may desire to prevent a successful transport.
- h) If a suspect attempts to escape from custody, the officer should summon assistance and subdue the suspect using the force necessary to maintain custody.

6. PERFORMING LAW ENFORCEMENT SERVICES WHILE IN TRANSPORT

- a) An officer should not respond to or engage in other law enforcement activities while transporting a suspect, unless the incident is of such magnitude that an officer or other person is placed in jeopardy of serious bodily harm or death. The officer should be constantly concerned with the safety of the suspect, and should not expose the suspect to unnecessary hazards.

7. ESCAPE OF A SUSPECT IN TRANSPORT WITHIN JURISDICTION

Crow Police Department

Policy and Procedural Manual



- a) In the event of an escape of a suspect, the officer shall notify dispatch of the escape and the direction of travel. Dispatch will direct additional units to respond to assist in the apprehension.
- b) If the officer discovers that a suspect is missing and not in sight, the officer must decide whether the suspect is within an enclosed area the officer can control. If the suspect is contained, the officer should:
 - 1. Maintain his position blocking the suspect's escape.
 - 2. Notify Dispatch of his location and status.
 - 3. Await the arrival of assisting officers to aid in the search.
- c) If the officer has reason to believe that the suspect is not within a confined area and is out of sight, the officer should:
 - 1. Notify Dispatch of the officer's location and status.
 - 2. Have dispatch send an "ATL" message; describing the escapee; providing the last known location of the subject; providing the direction of travel if known; description of the escapee including clothing; and criminal charges pending or convicted of.
 - 3. Notify the supervisor.
- d) Under no circumstances should the supervision of other suspects be relaxed to pursue an escaping suspect.
- e) A written report of the escape or escape attempt will be completed. The report will include any use of force deployed, circumstances for the use of force, specific events leading up to the escape or escape attempt, and the action of the officer.
- f) If the suspect is injured during the escape or escape attempt or recapture, the officer should transport the suspect to a medical facility. If the injuries are severe enough to preclude transport in a law enforcement vehicle, the suspect will request and transport in an ambulance. Suspects transported in an ambulance will be accompanied by an officer.

8) ESCAPE OF A SUSPECT IN TRANSPORT OUTSIDE JURISDICTION

- a) If the escape occurs while an officer is conducting transport outside the

Crow Police Department Policy and Procedural Manual



Crow Police Department's jurisdiction, the officer should:

1. Immediately summon assistance by notifying the local law enforcement authority, including: a summary of the situation;
 2. description of the escapee including clothing; and criminal charges pending or convicted of.
- b) The officer should then notify his or her supervisor of the incident.
- c) The officer should file a report in the jurisdiction where the escape occurred while maintaining a copy to include with their agencies incident report.
- d) If the escaped suspect is recaptured by an officer, the suspect should immediately be thoroughly searched for weapons or contraband. The suspect should then be placed in appropriate restraints and transported to the original destination or the agency having jurisdiction where the escape occurred.
- e) Under no circumstances should the supervision of other suspects be relaxed to pursue an escaping suspect.
- f) A written report of the escape or escape attempt will be completed. The report will include any use of force deployed, circumstances for the use of force, specific events leading up to the escape or escape attempt, and the action of the officer.
- g) If the suspect is injured during the escape or escape attempt or recapture, the officer should transport the suspect to a medical facility. If the injuries are severe enough to preclude transport in a law enforcement vehicle, the suspect will request and transport in an ambulance. Suspects transported in an ambulance will be accompanied by an officer.

9) MEALS DURING EXTENDED TRANSPORTS

- a) On extended transports the officer should either make arrangements to have the suspect fed prior to the transport or make arrangements with the destination facility to feed the suspect within 1 hour of a normally scheduled meal time and or upon arrival.
- b) If the transport requires a meal stop before reaching the destination, the officer should plan the route of transport and make arrangements with a local law enforcement agency to feed the suspect at a local detention facility.

Crow Police Department Policy and Procedural Manual



- c) If the local detention facility cannot feed the suspect but will hold the suspect in custody, the officer may obtain a meal and feed the suspect at a local holding facility. If utensils are required to eat the meal they should be made of plastic. All containers and utensils should be accounted for at the end of a meal.
- d) If the local detention facility cannot hold or feed the suspect in custody the officer should obtain the meal at a randomly selected "drive-in" restaurant and conduct the feeding in the patrol vehicle or provide a sack lunch prior to the transportation at a randomly selected site.
- e) The suspect should again be searched for weapons or contraband prior to being placed in the transport vehicle.
- f) In no case should the officer take the suspect into a public dining room or restaurant.

10) TRANSPORT TO A MEDICAL FACILITY

- a) Suspects requiring medical treatment should be transported to a medical facility. Officers should provide advanced notification to the medical facility that they are transporting a suspect to the facility for treatment. The notification should include the following:
 - 1. What medical condition requires treatment;
 - 2. What is the expected arrival time;
 - 3. What, if any, risks does the suspect poses to the medical staff or public.
 - 4. What measures will be in place to minimize any such risks.
- b) Upon arrival, the officer should maintain close contact with the suspect to ensure the safety of the medical staff, public, and the officer. The officer should take precautions to restrict the suspect's opportunity to escape.
- c) The officer should remain with the suspect at all times during the examination and treatment. The officer should be of the same sex as the suspect.
- d) Restraints should not be removed from the suspect unless the medical staff request removal of these restraints. When removing restraints, use utmost caution and only remove those restraints that are necessary for treatment or are requested by the medical staff. In some cases alternative restraints may be appropriate. When handcuffs are removed, use ankle or leg restraints.

Crow Police Department Policy and Procedural Manual



- e) Upon completion of the treatment, place the restraints back on the suspect.
- f) If the required medical treatment restricts the officer's access to the suspect or the use of the restraints, the officer should comply with the attending physician's directions after the physician has been advised of safety concerns. If the suspect is a risk to the officer's safety or the safety of the medical staff or may escape, the officer should notify their supervisor and request additional assistance.
- g) If the suspect is admitted into the hospital, the officer in control of the suspect will notify their supervisor as soon as practical for a decision as to whether an officer will be assigned as a guard to keep watch over the suspect.
- h) The officer should obtain all documents, medical releases and or medications from the hospital when the treatment is completed. If the suspect is to be incarcerated, the transporting officer should ensure all documents, medical releases and or medications is turned over to the receiving officer at the detention facility.
- i) If the suspect refuses medical treatment, this should occur in the presence of medical staff. The officer should prepare documentation of the refusal and include those persons present at the time of refusal in their report. The officer may sign the release form for the arrestee's refusal.
- j) Upon conclusion of medical treatment or refusal of medical treatment the officer shall prepare a written report that should include the following:
 - 1. A description of the injuries;
 - 2. A detailed explanation of how the injuries occurred, if unknown, state so and explain. (i.e. suspect had head injuries prior to arrest).
 - 3. Photos of injuries, if appropriate;
 - 4. Treatment provided; who treated the suspect; and the place, date and time treatment was provided.

11) TRANSPORT TO COURT

- a) When a suspect is required to appear in court, the officer should preplan the transport by acquiring the following information:

Crow Police Department

Policy and Procedural Manual



1. Suspect's name; charges pending; any pertinent criminal history; any other holds and or warrants; the courtroom and judge scheduled for the suspects appearance; and the date and time of the required appearance.
- b) Officers transporting suspects to court should coordinate the appearance of the suspect with the Court Clerk and follow their procedures.
- c) In cases where the escape risk is great or there is a security hazard, the judge should be notified prior to transport. The judge may allow or direct the use of restraining devices in the court room and may request additional security officers.
- d) In escorting the suspect from the vehicle into the court, the following procedures should be adhered to, under normal circumstances:
 1. The officer should walk to the side and slightly to the rear of the suspect, keeping their weapon side away from the suspect; the officer should not turn their back on the suspect; the officer should not allow another person to come between themselves and the suspect; the officer should avoid crowded situations where the suspect might have contact with others; the officer should not allow the suspect to have contact with other persons.
- e) Once in the courtroom, the officer controlling the suspect(s) should, to the extent possible, segregate them from the general public. The officer shall ensure the suspect(s) are sufficiently removed from the public in order to prohibit contact between the suspect and the public.
- f) The officer should be aware at all times of the critical security role assigned to them. The officer should be aware that the victim's and suspect's families represent one of the greatest dangers and may be present during the court appearance.

12) SPECIAL TRANSPORT SITUATIONS

- a) Physically and mentally disabled suspects present conditions that dictate special care and attention for transportation. If a suspect declares or the officer observes a disability that would preclude the suspect from being placed in the vehicle, the officer should notify the on duty supervisor of the problem. The supervisor should evaluate the situation and request an ambulance or other form of transportation device that is suitable for transport.
- b) If a suspect becomes sick or injured during transport, the officer shall seek the appropriate level of medical care for the suspect.

13) SUPERVISED TRIP TRANSPORT

Crow Police Department

Policy and Procedural Manual



- a) Unusual circumstances surrounding situations such as funerals and visits to hospitals, or courtroom appearances provide extraordinary opportunities for a suspect to engage in unauthorized personal contact, escape, or the infliction of injury to themselves or others.
- b) Maximum supervision should be required when transporting suspects approved for supervised trips.
- c) In transport situations where there is doubt whether or not restraint equipment should be used, the decision should be reviewed by the supervisor authorizing such transport prior to departure or in compliance with a court order, the following procedures should be followed prior to conducting a special transport:
 1. Careful planning made prior to departure to determine any special or significant factors involving possible security hazards;
 2. The suspect is thoroughly instructed regarding forbidden practices, communications or unauthorized contacts;
 3. The suspect and officer(s) should be "inseparable companions" and the suspect should be so advised;
 4. Layovers should be planned so that approved jails or institutions are utilized for temporary holding;
- d) The return of the suspect to the facility following termination of the visit, funeral or courtroom appearance is by means that provide for the most expeditious return. The suspect should be searched and restrained as soon as practical, prior to and during transport.

14) ARRIVAL AT A DETENTION OR HOLDING FACILITY

- a) Upon arrival at the destination, the officer should notify dispatch and follow their protocol.
- b) The officer should deliver all the necessary paperwork and required legal documents to the receiving officer at the holding facility.
- c) The officer should obtain a receipt from the receiving officer for the suspect and his personal property.

15) COMMUNICATIONS BETWEEN SUSPECT AND CIVILIANS

Crow Police Department Policy and Procedural Manual



- a) While transporting a suspect, officers should not allow the suspect to have contact with other persons including the suspect's attorney. The lack of control of the physical surroundings by the officer during transport precludes the suspect to have contact with anyone.

16) DOCUMENTATION

- a) Each suspect being transported from a detention facility should be positively identified as the person who is required to be moved.
- b) In the case of interstate transports, the officer should have a properly executed governor's warrant or a properly executed waiver of extradition.

55. UNIFORM REGULATIONS / LEVEL 1

1) PURPOSE

- a) It shall be the purpose of this policy to ensure that members of the Crow Police Department display the utmost of professionalism in their appearance and dress through the proper wearing of departmental uniforms.
- b) This policy is intended to describe appropriate appearance and dress standards. The policy shall give detailed specifications of uniforms, placement of uniform articles, and individual uniform equipment.

2) AUTHORIZED UNIFORMS

- a) It shall be the sole responsibility of the Chief of Police to authorize the type, color, and wearing of departmental uniforms. The Chief of Police shall submit proper directives to all officers regarding any change in departmental uniform or duty equipment.
- b) Unless within the scope of their duties, Crow Police Department employees will receive authorization from the Chief of Police, or his/her designee, prior to representing the Crow Police Department at any function, whether it be in uniform or not, and which uniform will be appropriate.

3) UNIFORM APPEARANCE

- a) All uniforms shall be properly fitted. The shirt and trousers shall fit properly to the individual officer's physique to eliminate excess material. Uniform and uniform articles

Crow Police Department Policy and Procedural Manual



shall not be worn at any time if they are noticeably worn, patched, or show other repairs that are obvious through casual observation. All uniforms and uniform articles shall be kept in good repair and maintained in a neat and clean condition.

- b) Trouser legs, jacket sleeves, and shirt sleeves will not be rolled or pulled up. All buttons will be buttoned except for the top shirt button. When a jacket is worn it will be zipped / buttoned to a minimum of half way.

4) BODY ARMOR

- a) Body armor will be mandatory while in uniform unless authorized by the Chief of Police.

5) COURTROOM APPEARANCE

- a) Any member called to testify in District Court shall be dressed in the Crow Police Department dress uniform, hats optional. Reserve officers shall be in full uniform, wearing long sleeved uniform shirt. Unsworn members shall appear in District Court dressed in neat, clean, and professional attire.
- b) Any member called to testify in City, Tribal, or Justice Court shall be dressed in their working uniform. Plain clothes officers may appear in uniform or professional attire.

6) WEARING OF THE UNIFORM WHILE UNDER SUSPENSION

- a) Officers under suspension will not wear the departmental uniform unless authorized by the Chief of Police

7) DUTY UNIFORM

- a) Shirts. Shirts will be black and specifically approved by the Chief of Police. Officers will have both long and short sleeved shirts on hand. Shirts will bear the Crow Police Department shoulder patch on both the left and right sleeve. The shoulder patch will be placed approximately 1 1/2" from the top of the sleeve and centered on the outside of the arm.
- b) Bike patrol uniforms will be those authorized by the Chief of Police. At no time will bike patrol uniforms be used and mixed with the standard working uniform. Motorcycle uniforms will those authorized by the Chief of Police.

Crow Police Department Policy and Procedural Manual



- c) Under shirt will be black in color, black turtle necks are permitted during winter season
- d) External ballistic vest carrier authorized by the Chief of Police, will be worn. The vests should be purchased custom tailored to match department issued vests and black in color. The vests will have the officer's name on the right side of the chest and a badge on the left side of the chest or hip. The vest will have a maximum of five (5) pouches in any combination, subject to the approval of the Chief of Police.
- e) Badges are to be visible and worn on the outer most uniform apparel

8) DUTY PANTS

- a) Trousers will be black and will be of uniform type specifically approved by the Chief of Police. Bike patrol pants and shorts will be those authorized by the Chief of Police.

9) DUTY FOOTWEAR

- a) Shoes and boots, subject to command approval, will be black in color, and of neat appearance.
- b) At any time, with any uniform, when socks are visible while standing or while sitting with the feet flat on the floor, the socks will be black in color.

10) DUTY OUTERWEAR

- a) Jackets will be black in color and have shoulder patches on the shoulders. The shoulder patch will be placed approximately 1 ½" from the top of the sleeve and centered on the outside of the arm. The jackets will have a Crow Police Department issued / authorized metal badge will be on the left upper chest. A Crow Police Department authorized cloth badge may be worn in place of a metal badge. Shoulder patches are optional on Crow Police Department authorized leather coats. Jackets may be worn with the dress/class "A" uniform.
- b) Police sweaters, authorized by the Chief of Police, may be worn in place of, or under a jacket. Police sweaters will bear the Crow Police Department shoulder patch on both the left and right sleeve. The shoulder patch will be placed approximately 1 ½" from the top of the sleeve and centered on the outside of the arm. If worn as the outermost garment, the sweater will have a Crow Police Department issued / authorized metal badge on the left upper chest. A Laurel Police Department authorized cloth badge may be worn in place of a metal badge. The sweaters will be black in color.

Crow Police Department Policy and Procedural Manual



11) HATS

- a) Hats will be an approved baseball style cap. A designated winter hat will also be approved.

12) DUTY BELTS

- a) Duty weapon, magazines, holster, and magazine holder will be those issued or authorized by the department.
- b) Leather gear will be black basket weave. It shall be polished and in good condition. Officers may wear nylon duty gear. At no time will leather and nylon duty gear be mixed.
- c) Suspenders may be worn connected to the duty belt and around the shoulders to help support the weight of the duty belt. Suspenders need not be leather to match the leather duty belt but must be black in color.
- d) At least one pair of handcuffs will be carried by each officer.

13) DRESS / CLASS "A" UNIFORMS

- a) Shirts will be long sleeve, black in color with a hidden zipper button front or button front. Shirts will bear the Crow Police Department shoulder patch on both the left and right sleeve. The shoulder patch will be placed approximately 1 ½" from the top of the sleeve and centered on the outside of the arm.
- b) Trousers will be black in color and will be of uniform type. The pants will not have a "cargo" style pocket and will be the dress style.
- c) Hats will be black felt and will be the "campaign" style hats with a leather strap to hold it properly on the head. The hat will be worn with the front brim touching the eye brows. A Crow Police Department authorized metal hat badge will be worn on the front of the hat.
- d) A Basket weave duty belt will be worn with the dress uniform. It shall be polished and in good condition. All Accessories must also be Basket weave in design.
- e) Shoes will be black patent leather, high gloss dress shoes.

Crow Police Department Policy and Procedural Manual



The official Crow Police Department badge will be worn on the left side.

- f) The name tag will be worn up to $\frac{1}{4}$ inch above the right pocket. The name tag will be silver in color with black letters and be $\frac{1}{2}$ inch in height.
- g) Service star(s) will be worn up to $\frac{1}{4}$ inch above name tag and be silver in color and be $\frac{1}{2}$ inch in height.
- h) Special awards will be worn on the right side $\frac{1}{4}$ inch above the name tag and service star(s)
- i) At the approval of the Chief, one special training pin (such as SRO or Motorcycle Patrol Training) may be worn above the service stars or special award(s).
- j) Tie will be black in color.

14) COLLAR BRASS

- a) Crow Police Department collar brass will be worn on Class A uniforms only. The officer's badge number will be worn on the left side collar and "CPD" will be worn on the right side collar.
- b) The collar brass will be placed low and centered on the shirt collar tip. The lower left and right corners of the collar brass will be $\frac{1}{4}$ inch from the edge of the collar.
- c) Non command officers will have silver in color collar brass. Command officers will have gold in color collar brass.
- d) Command officers will wear their rank insignia on the right collar, replacing the "CPD" and have the option of wearing the command insignia in place of their badge number also.
- e) Command officers will wear their rank insignia on both the left and right collars of their jackets. The lower left and right corners of the collar brass will $\frac{1}{4}$ inch from the edge of the collar.
- f) Only clear polish may be applied to finger nails. Nails may not be of such length as to interfere with law enforcement duties.
- g) Sideburns shall not extend beyond a point even with the bottom of the ear. Sideburns shall be trimmed and neat in appearance.

Crow Police Department Policy and Procedural Manual



- h) A short and neatly trimmed mustache may be worn by any male officer. Mustaches shall not extend over the upper lip and may not extend below the corner of the mouth.
- i) A well groomed mustache goatee may be worn by male officers. A goatee shall not be longer than 1 inch long, shall not extend more than $\frac{1}{2}$ inch from the corner of the lips (width), and no further than $\frac{3}{4}$ inch at the chin (measured down and out from the corner of the lip toward the ear). The neck must be clean shaven.

A well groomed beard may be worn by male officers. A beard shall not be longer than 1 inch, shall not extend over the upper lip, and the neck must be clean shaven.

- j) To prevent unnecessary injury to officers of the Crow Police Department, the wearing of earrings at any time while in uniform shall be prohibited. This policy is to include all types, styles, and visible locations of earrings.

Due to the importance of clear communicating abilities, at no time will an on duty officer have a tongue stud. Officers may not wear clear retainers, used to keep the piercing hole open, while on duty.

- k) No personal jewelry may be visible while in uniform except for one ring on each hand and one wrist watch. The rings and watch must be not be a style that brings undue attention to the officer.
- i) It shall be prohibited for members of the Crow Police Department to have any visible tattoos that are sexually offensive, racially offensive, profane, or shocks the public conscience. These tattoos will be covered while on duty. Once employed, all tattoos that are visible to the public must be approved by the Chief of Police prior to being applied.

16) SPECIAL EVENTS UNIFORMS

- a) The Chief of Police may designate a special events uniform. This uniform will be worn for a specific event and the uniform and its use must be authorized by the Chief of Police.

Crow Police Department Policy and Procedural Manual



56. USE OF DEPARTMENT PROPERTY / LEVEL 1

1) CARE OF EQUIPMENT

- a) **LEVEL 2** / Members of the Crow Police Department are responsible for the care of all department property. No member will intentionally abuse or damage any department property.
- b) All department property and spaces will be free of excess clutter and refuse.
- c) **LEVEL 3** / No Crow Police Department employee will trade, transfer, pawn, give, or sell any department property unless specifically authorized by the Chief of Police. At the end of a member's employment, all Crow Police Department property will be returned to the Crow Police Department.

2) BADGE / CREDENTIALS

- a) **LEVEL 2** / Members of this department shall not use another member's badge, equipment, or official law enforcement credentials without the permission of the Chief of Police, nor shall they knowingly permit any person not a member of this department to use such badge, equipment, or credentials.
- b) Any loss of a badge or other equipment must be immediately reported by the member to his supervisor.

3) WEAPONS

- a) **LEVEL 2** / No Crow Police Department employee will use or carry any weapon or equipment that is in violation of Crow Tribe.

4) MOTOR VEHICLES

Crow Police Department

Policy and Procedural Manual



- b) Members of this department shall operate and maintain the vehicle assigned to them in a careful and prudent manner and shall be responsible for its proper use and care.
- c) Officers will ensure that their assigned vehicle is properly locked when the vehicle is out of their immediate sight and control.
- d) Members of the Crow Police Department shall not leave or throw refuse about the interior of a department vehicle. They shall take particular care not to damage or soil a motor vehicle past the point of necessity.
- e) Members of this department shall inspect the vehicle assigned to them prior to the start of any shift. Members shall report any visible damage found in writing through the chain of command. If a member damages a vehicle during a shift he/she shall report in like manner.
- f) Members of this department should immediately report any defective vehicle assigned to them to their immediate supervisor. Officers should not operate a vehicle that does not meet all legal safety requirements or that is otherwise mechanically defective.

5) NON EMPLOYEE DRIVERS/PASSENGERS/OBSERVERS

- a) At no time shall members of this department allow persons, other than members of this department, to use departmental vehicles for use without the permission of the Chief of Police or his/her designee. Police vehicles are to be used for police purposes, unless authorization is granted by the Chief of Police.
- b) No person or persons will be permitted to ride in a police vehicle or have access to the police department to observe police/dispatch operations without permission of the Chief of Police or his/her designee. The exception to this is required transporting of persons during the normal course of the officer's duties. Also see "Ride Along" policy.

6) VEHICLE OPERATIONS

- a) Member of this department using departmental vehicles shall ordinarily drive at a lawful speed, taking every precaution to avoid collision and prevent accidents. They shall observe all traffic and parking regulations as far as they are consistent with the performance of police duty. They shall submit a written report of any accident in which they are involved, causing damage to the department vehicles, vehicles of another, person, or property.
- b) When responding to an emergency call, the driver of a police vehicle must follow proper procedures.

Crow Police Department Policy and Procedural Manual



56. USE OF FORCE

1) PURPOSE

The purpose is to provide guidelines on the reasonable use of force by officers.

2) POLICY

- a) Each use of force situation is unique and will be evaluated based on the circumstance faced by the officer at the time force is applied. Officers may use the amount of force which is objectively reasonable to make an arrest or gain control of a situation, but the person arrested may not be subjected to any greater restraint than is necessary to hold or detain that person. As the situation that necessitated the use of force diminishes, so too shall the use of force. Officers should continually reassess all factors and conditions in use of force situations.
- b) Many force and equipment options are available to the officer. The officer should choose the appropriate force option based on the threat, either actual or perceived, including but not limited to:
 1. officer presence;
 2. verbal direction;
 3. physical control;
 4. conducted electrical weapons;
 5. chemical or inflammatory agents;
 6. impact weapons;
 7. firearms;

Crow Police Department Policy and Procedural Manual



8. vehicles, and or weapons of necessity or opportunity.
- c) In order to meet the basic test of objective reasonableness for all force situations, careful attention must be paid to the facts and circumstances of each particular case including:
 1. whether the suspect poses an immediate threat to the safety of officers or other, and;
 2. whether the suspect is actively resisting arrest or attempting to evade or escape, and;
 3. the severity of the crime at issue.

Additional factors may include:

- a. availability of alternative methods of capturing, controlling, restraining, or subduing the suspect;
- b. what officers knew about the suspect's health, mental condition or other relevant frailties.

3)PROCEDURE

- a) The following procedures supplement and provide guidance in application of force.
- b) Officers should use tactics and or weapons as necessitated by the situation.
- c) When deploying any force, for any reason, officers shall exercise reasonable caution in order to avoid unnecessarily endangering the lives of bystanders. When possible, officers should give consideration to background, bystanders, and location.
- d) A supervisor will be notified and respond to all cases where the use of force resulted in any known injury or death.
- e) An officer is justified in the use of force likely to cause death or serious bodily harm only if the officer reasonably believes that such force is necessary to prevent imminent death or serious bodily harm to the officer or another or to prevent the commission of a forcible felony. A forcible felony is any felony involving the use or threat of physical force or violence against any individual. Chokeholds are prohibited. Placing the knee on a person's neck is prohibited.

Crow Police Department

Policy and Procedural Manual



- f) Officers may use deadly force to affect the capture or prevent the escape of a felony suspect whose flight is reasonably believed to represent an imminent threat of serious bodily harm or death to the officers or other person(s).
- g) Officers may discharge a firearm at a moving vehicle or from a moving vehicle if the officer reasonably believes it is necessary to protect against an imminent threat of serious bodily harm or death to the officers or others.
- h) Officers should not fire warning shots.
- i) Whenever the use of force results in an injury, officers should institute appropriate first aid procedures for anyone taken into custody or who needs medical treatment. In the event that chemical agents are dispensed, officers should follow established procedures for treatment and decontamination.
- j) A vehicle is a law enforcement tool, which is capable of inflicting serious injury or death when used as an offensive weapon. Therefore, its use should be considered in the same manner as any use of deadly force.
- k) Officers have the duty to intervene where excessive force is being utilized to protect the individuals involved and report the excessive force to their supervisor as soon as possible.

4) USE OF DEADLY FORCE WHETHER OR NOT INJURIES OR DEATH RESULT

- a) Any officer involved in the use of deadly force shall be allowed to consult with a representative or other person of the officer's choosing prior to being required to give an oral or written statement about the use of deadly force. Such right to consult with a representative or other person shall not unduly delay the giving of the statement. The officer involved should be allowed two full sleep cycles prior to being interviewed. This does not preclude initial inquiries by the responding supervisor.
- b) The officers shall be afforded the opportunity to consult with a mental health provider at the Agency's expense. If the use of force results in death, the officers involved shall be required to consult with a mental health provider at the Agency's expense, prior to return to duty.
- c) Any officer who is witness to, or has information as to the use of force occurrence will prepare an appropriate report.
- d) The officer's immediate supervisor shall respond to the scene and shall determine which support services, including but not limited to investigative and identification personnel, would be beneficial to the reporting and evaluation of the occurrence and should request the response of these units as appropriate. In addition, a supervisor's report will be

Crow Police Department Policy and Procedural Manual



prepared detailing the activity regarding the incident. The agency administrator shall be notified as soon as practical.

- e) When a death has occurred as the result of the use of force, the Agency shall notify the county coroner's office as soon as practical.

5) DESTRUCTION OF INJURED OR DANGEROUS ANIMALS

- a) The destruction of an animal is justified for:
 - 1. self-defense;
 - 2. to prevent substantial harm to the officer or another; or
 - 3. when the animal is believed to be so badly injured that humanity requires its relief from further suffering.
- b) Supervisory approval should be obtained when time and circumstances permit.
- c) Officers using such force against animals will prepare an appropriate report detailing the incident, paying particular attention to the circumstances requiring the immediacy of the situation.

6) REPORTING USE OF FORCE

- a) A report should be made in all occasions where use of force was utilized in excess of verbal directions where risk of injury exists regardless of whether or not injuries occurred.
- b) Officers using force will document the use of such force in the official reports of the incident and will, in addition, notify their immediate supervisor of such use of force as soon as practical after the occurrence. Reports will be written, documenting the use of force whether or not an arrest is made.
- c) Whenever possible, photographs of any injury should be taken to be included with the report.
- d) In instances where the use of force resulted in an injury, a supervisor should respond to the scene and/or hospital, and will document the findings on a supplemental report.

Crow Police Department Policy and Procedural Manual



58. VEHICULAR PURSUITS

1) PURPOSE

The purpose is to provide The Crow Police Department guidelines for making decisions with regard to vehicular pursuits.

2) POLICY

Vehicular pursuit of fleeing suspects can present a danger to the lives of the public, officers, and suspects involved in the pursuit. It is the responsibility of the Crow Police Department to assist officers in the safe performance of their duties. To fulfill these obligations, it will be the policy of the Crow Police Department to regulate the manner in which vehicular pursuits are undertaken and performed.

3) DEFINITIONS

- a) Vehicular Pursuit: The active attempt by an officer in an authorized emergency vehicle to apprehend a fleeing suspect vehicle who is actively attempting to elude police.
- b) Authorized emergency vehicle: A vehicle of this agency equipped with operable emergency equipment as designated by state law.
- c) Primary unit: The police unit, that initiates a pursuit or any unit, assumes control of the pursuit.

Crow Police Department Policy and Procedural Manual



- d) Secondary unit: Any police vehicle, which becomes involved as a backup to the primary unit and follows the primary unit at a safe distance.

4) PROCEDURES

a) Types of Vehicular Pursuits:

1. Basic Pursuit: Fleeing vehicle is obeying all traffic control devices and speed limits yet not stopping for marked police vehicle with emergency lights and sirens activated. This type of pursuit may be a medical situation and may require intervention.
2. Compelling Need Pursuit: Fleeing vehicle is disobeying traffic control devices, exceeding speed limits, and driving in such a manner as to disregard public safety.

b) Decision to Pursue:

1. The decision to initiate a pursuit must be based on the pursuing officer's conclusion that a compelling need is established; and that the immediate danger to the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large.
2. A compelling need to initiate a pursuit exists when an objective evaluation of the totality of the known facts and circumstances leads an officer to reasonably conclude the need for immediate apprehension of a suspect is greater than the possible risk to public and officer safety posed by the pursuit. Compelling need exists whenever an officer reasonably believes that the suspect or the actions of the suspect pose an imminent and identifiable risk of serious bodily injury or death to the public or officer.
3. Compelling need does not include:
 - a. The mere act of fleeing, even if reckless
 - b. Traffic and licensing infractions including DUI and attempted vehicular assault
 - c. Property crimes including auto theft and joy riding
4. Evaluating the Circumstances: When deciding whether to initiate a pursuit the officer should consider the following factors:
 - a. Seriousness of the offense;

Crow Police Department Policy and Procedural Manual



- b. Probability of apprehension;
 - c. Can the identity of the suspect and or occupants be established to the point where a later apprehension is possible;
 - d. Degree of risk created by the pursuit in relation to the risk created by the suspect and or occupants remaining at large or escaping;
 - e. Volume, type, speed, and direction of all traffic;
 - f. Geographical factors such as residential, commercial, school zone, open highway, etc.;
 - g. Presence of pedestrian traffic in and around the roadway;
 - h. Environmental factors such as weather and darkness;
 - i. Road conditions, construction, curves, wet, ice, etc.
5. Officers are prohibited from pursuits under the following circumstances, unless authorized by a supervisor:
- a. When the pursuit is in the opposite direction of the flow of traffic on a one-way street or divided roadway;
 - b. When a passenger in the police vehicle is not an officer.
 - c. When the officer is not the primary or secondary pursuit vehicle.
- c) Mandatory Termination of Pursuits:
- 1. When in the opinion of the officer(s) involved or the supervisor, the level of danger created by the pursuit outweighs the necessity of immediate apprehension.
 - 2. When the officer(s) involved and the supervisor cannot maintain clear radio communications.
 - 3. When the suspect's identity has been established and there is no need for immediate apprehension.
 - 4. When the pursued vehicle's location is no longer known.

Crow Police Department Policy and Procedural Manual



5. All officers and supervisors will be held accountable for continuing pursuits when circumstances indicate it should have been discontinued.
 6. Officers and supervisors will not be criticized or disciplined when their decision is to terminate, rather than continue a pursuit.
- d) Initiating Officer's Responsibilities:
1. As soon as practical the officer should notify the communications center that a pursuit is in progress and provide the following information:
 - a. Officer and or Unit radio identifier;
 - b. Location, speed, and direction of the pursuit;
 - c. Vehicle description, including license plate number – whole or in part;
 - d. Reason for pursuit – specifying alleged criminal act;
 - e. Number of possible occupants;
 - f. Traffic, road, and weather conditions;
 - g. Any radio frequency change.
 2. The pursuing officer shall utilize emergency lights and siren. If available the officers should also activate the video tape (VCR or ICOP) during the pursuit. Use of the air horn does not fulfill the siren requirement, but may be used in addition to the lights and siren.
 3. The initiating primary officer will have operational responsibility for the pursuit, unless relieved by a supervisor.
- e) Supervisor Responsibilities:
1. The Supervisor in charge should be notified of the pursuit, and should monitor the progress of pursuits. A supervisor may order the termination of the pursuit for any reason, and may coordinate any pursuit actions or tactics. Supervisors should consider termination of the pursuit when the risk to the safety of the public exceeds the risk created by the suspect and or occupants remaining at large or escaping.
- f) Assisting Patrol Vehicles Responsibilities:

Crow Police Department Policy and Procedural Manual



1. A pursuit should consist of a primary and secondary or backup unit. Request for additional units may be determined by clear and articulated facts that would warrant the need for additional units.
2. The secondary unit will provide cover for the primary unit, but in the event that the primary unit is disabled or unable to continue the pursuit, the secondary unit should assume the responsibilities of the primary unit.
3. Authorization for additional units to be involved in a pursuit should be obtained from a supervisor.
4. Supervisors should minimize the number of patrol vehicles that will actually be engaged in the pursuit to that number that is necessary for the safety of all officers involved and the safe apprehension of the suspect(s).
5. All additional units will maintain a safe distance behind the primary unit, but close enough to provide assistance if required.

g) Pursuit Intervention Consideration:

Any intervention tactic must take into consideration all of the factors surrounding the incident. Safety is always the foremost factor to be considered. Intervention tactics are discouraged without prior approval by a supervisor and will always be guided by the agency's Use of Force Policy.

h) Methods of Pursuit Intervention:

1. Intentional Contact

Intentional contact with a fleeing vehicle is a high-risk maneuver that should be used only if the officer has concluded that this type of contact would be of less risk than allowing the suspect to continue. Whenever practical, officers should obtain supervisory approval prior to initiating contact with a fleeing vehicle. This policy and the agency's Use of Force Policy should guide officers making these requests and the decision to approve the use of this tactic.

2. Vehicle Disabling Devices

Fabricated tire deflating devices are acceptable methods of terminating a pursuit. When practical, officers should obtain supervisory approval prior to deployment of these types of devices. Supervisors and officers considering deploying a fabricated tire deflating device should do so only after giving considerations to all the principles of this policy, and the degree of risk created by the pursuit and the use of these types

Crow Police Department

Policy and Procedural Manual



of devices in relation to the risk created by the suspect and or occupants remaining at large or escaping. All officers involved in the pursuit must be aware of the exact location of the deployed fabricated tire deflating device so they can reduce speeds in time to allow removal of the device. Fabricated tire deflating devices will not be used when a pursuit involves motorcycles, three wheeled vehicles or all-terrain vehicles.

i) Roadblocks:

1. The use of a roadblock is authorized under this policy, [unless limited under tribal law] any law enforcement agency of is authorized to establish, within its jurisdiction, temporary roadblocks on the highways of this tribe for the purpose of apprehending persons wanted for violation of the laws of this jurisdiction, or any other jurisdiction, or of the United States who are using the highways of the tribe's jurisdiction.
2. The following factors should be considered when establishing a roadblock:
 - a. The site selected will provide sufficient visibility to all oncoming traffic, as well as permit safe off-road parking for patrol vehicles and processed vehicles.
 - b. Time of day. The hours of darkness should be avoided unless the suspect poses an extreme risk to the safety and or welfare of the public.
 - c. A minimum of two officers is needed to adequately process civilian operated vehicles.
 - d. The only vehicles that may be used to blockade any portion of the roadway will be marked, unoccupied law enforcement vehicles, except in a use of force situation.
 - e. Vehicles used as stationary blockades will be placed at an angle that reveals emblems and or markings to oncoming traffic. Emergency lights will be activated.
 - f. The emergency roadblock will be constructed in such a manner as to leave a route through the area. The design should be such that it would be necessary to navigate slowly through the roadblock. A roadway should not be completely blocked by vehicles, except in a situation where the suspect presents an imminent threat of death or serious bodily harm to officers or other members of the public.
 - g. In a situation where the suspect presents an imminent threat of death or serious bodily injury to the officers or innocent members of the public, a complete roadblock may be used. A roadway that is completely blocked may result in an intentional seizure using force. The officer must be able to clearly articulate

Crow Police Department Policy and Procedural Manual



specific facts and circumstances as to the immediate need for the seizure, and the use of force during the seizure. A vehicle other than a law enforcement vehicle may be used to completely block the roadway.

- h. Officers will always place themselves in a position of safety. They should never expose themselves to a risk for the sake of stopping a suspect or diverting traffic. If the emergency roadblock is established for the purpose of apprehending a fugitive or fleeing suspect, officers should position themselves to be able to make apprehension of the suspect if they so choose to terminate their flight at the roadblock.
- i. If a patrol vehicle is not being used as part of the roadblock, it should be off the roadway in a safe position to initiate a pursuit should it become necessary. The emergency lights will be activated while in the parked position.
- j) Use of Firearms during Pursuits:
The use of a firearm as a method of intervention constitutes the deployment of deadly force and therefore must meet and fall within the acceptable standards contained and imposed by a Use of Force Policy.
- k) Notification:
The Administrator and designated members of the command staff will be notified as soon as reasonably possible when any intervention action results in injury or death.
- l) Inter-Jurisdictionnel Pursuit:
 - 1. When a pursuit initiated by this agency enters another jurisdiction, the primary officer should notify the local law enforcement agency of the pursuit. The notification message should include as much as the following information as possible:
 - a. Officer and or Unit radio identifier;
 - b. Location, speed, and direction of the pursuit;
 - c. Vehicle description, including license plate number – whole or in part;
 - d. Reason for pursuit – specifying alleged criminal act;
 - e. Number of possible occupants;
 - f. Traffic, road, and weather conditions;

Crow Police Department Policy and Procedural Manual



- g. Any radio frequency change.
2. The primary officer should clearly indicate if they are requesting assistance from the law enforcement agency or merely providing notification of the pursuit being conducted.
3. Officers of this agency will not become involved in pursuits initiated by another agency without a request for assistance.
4. Officers may continue pursuits across a state line only if the person being pursued is believed to be a felon.
5. A supervisor must be notified immediately when it becomes apparent that a pursuit will cross a state line.
6. Pursuits are not allowed into Canada.
7. In pursuit cases where the criminal act is not a felony, officers will not cross a state line except where the degree of risk created by the suspect and or occupants remaining at large or escaping exceeds the risk of the pursuit or where such authority has been specifically granted by mutual aid agreement by the authority of the jurisdiction to which the pursuit is entering.
8. When a pursuit crosses into another state, that state's highway patrol, state police agency, county sheriff's office or other local law enforcement will be contacted immediately and advised of the circumstances of the pursuit.
9. Pursuits may or may not be permitted on tribal lands. Agencies and their officers must be cognizant of the right of tribal authorities, as sovereign nations, to terminate or prohibit pursuits upon their lands.
10. If a fleeing suspect is subsequently apprehended by a law enforcement agency in a neighboring state, the officer may, with supervisor approval, go to the termination point.

5) CRITICAL INCIDENT REVIEW PROCESS

- a) The primary pursuing officer will prepare a detailed written report that should include the following information:
- b)
 1. Officer and or Unit radio identifier;

Crow Police Department

Policy and Procedural Manual



2. Location, speed, and direction of the pursuit;
 3. Vehicle description, including license plate number if known;
 4. Reason for pursuit – specifying alleged criminal act;
 5. Number of possible occupants;
 6. Traffic, road, and weather conditions;
 7. Any radio frequency change.
- c) If applicable, all officers involved in the pursuit will download the data from their in-car camera or turn in the video tape from their respective vehicles and preserve these recordings for a period of time that is sufficient to allow all judicial proceedings to commence and conclude.

The written report will be submitted to the officer's supervisor as soon as practical and possible. The reports will be made available to a Critical Incident Review Board. The Board may consist of:

1. Command Level Officer designated by the Agency Administrator, (board chairman)
 2. The Agency training coordinator
 3. A member of the command staff
 4. The immediate supervisor of the officer involved in the pursuit
 5. An agency member of the same rank as the officer involved in the pursuit.
- c) The Critical Incident Review Board evaluates, in explicit and fact-finding fashion, each aspect of a vehicular pursuit. Such evaluation should include:
1. A thorough review of the officer's report.
 2. A thorough review of any additional reports or documents, such as those submitted to the agency's insurance carrier as a result of accident or injury sustained by any person during the course of the pursuit.
 3. Hearing of direct statements, if necessary, from officers and witnesses.

Crow Police Department

Policy and Procedural Manual



- d) The Critical Incident Review Board shall develop findings and the chairman shall prepare a report making recommendations to the Agency Administrator in the following areas:
 - 1. Whether the pursuit was within policy.
 - 2. Tactical considerations
 - 3. Training considerations
 - 3. Quality of supervision during the event
 - 4. Any corrective action, if required
 - 5. The quality of the post pursuit investigative processes
- f) The officer who is the subject of the Critical Incident Review Board shall be present during all phases of the board's action with the exception of deliberation. They shall have the right to listen to the presentation of all information and evidence and shall be allowed to speak in their own behalf, if they so choose.
- g) The Critical Incident Review Board's report will be submitted to the Agency Administrator as soon as reasonably possible following the incident.

6) ESCORTS:

- a) Escorts of private vehicles with the use of patrol vehicles are not authorized. Officers will not authorize the driver of any private vehicle to exceed the speed limit or to ignore traffic regulations, signs or devices. Officers will not lead or otherwise escort ambulances. If an ambulance requires traffic control assistance, officers may attempt to clear intersections along the route of the emergency response.

7) VEHICULAR PURSUIT OVERVIEW

- a) Officers should continually assess all factors and risks during a vehicular pursuit. Safety of the public, and the officers should be the overriding consideration on whether to initiate or continue a vehicular pursuit.

CROW TRIBE EXECUTIVE BRANCH

Bacheeitché Avenue
P.O. Box 159
Crow Agency (Baaxuwuasha), Montana 59022



Alvin Not Afraid, Jr.
CHAIRMAN
Carlson Goes Ahead
VICE-CHAIRMAN
Rudolph Old Crow, Sr.
SECRETARY
Shawn Backbone
VICE-SECRETARY

September 1, 2020

Lenora Nioce, Special Agent in Charge
Bureau of Indian Affairs, Office of Justice Services- District V
2021 4th Ave. N
Billings, MT 59101

Re: Crow Tribe Police Department P.L. 93-638 Contract Proposal

Dear Special Agent Nioce:

On behalf of the Crow Nation I respectfully submit the Crow Tribe's P.L. 93-638 Contract Proposal for the Crow Police Department. Enclosed is the: 1) Crow Tribe's P.L. 93-638 Contract Proposal for the Crow Police Department; 2) Implementation Plan which adopts the PFSA - standards for training/qualifications and Scope of Work; 3) Crow Police Department Policy and Procedure Manual, which adopts an Internal Affairs Policy; 4) a formal letter from the Crow Tribe's Auditor addressing the outstanding audits of the Crow Tribe; 5) the Crow Tribe Financial Policy which has been submitted for purposes of identifying and verifying the Crow Tribe's internal controls; and 6) the Crow Tribe's Joint Action Resolution 04-05.

The Crow Tribe requests, consistent with previous discussions, that the BIA conducts background investigations of Crow Police Officers through the use of an independent third party. Please contact me with any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alvin Not Afraid Jr.", written over a horizontal line.

Alvin Not Afraid Jr.,
Chairman of the Crow Tribe

Enclosure: Crow Tribe Police Department P.L. 93-638 Contract Proposal

Cc: Charles Addington, BIA-OJS Director
Susan Messerly, BIA RMRO Director

The Great Apsáalooke Nation: "Teepee Capital of the World"

USA_0765

JULY 2004 CROW TRIBAL LEGISLATURE

JOINT ACTION RESOLUTION NO. 04-05

**INTRODUCED BY CARL E. VENNE, CHAIRMAN
CROW TRIBAL EXECUTIVE BRANCH**

**JOINT ACTION RESOLUTION OF THE CROW TRIBAL LEGISLATURE AND
THE CROW TRIBAL EXECUTIVE BRANCH ENTITLED:
"SUPPORT AND AUTHORIZATION FOR THE CROW TRIBAL CHAIRMAN TO
APPLY FOR, NEGOTIATE, AND EXECUTE GRANT APPLICATIONS
AND P.L. 93-638 CONTRACTS."**

WHEREAS, the Crow Tribal Legislature is authorized by Article V, Sections 2 and 3 of the Crow Tribal Constitution and Bylaws, to promulgate and adopt laws, resolutions, ordinances, codes, regulations and guidelines for the governance of the Crow Tribe of Indians at regular quarterly sessions each year, and has by rule provided for calling special sessions only for matters deemed to be of critical importance; and

WHEREAS, the Executive Branch must routinely and frequently apply for grants and contracts from various federal, state and private sources to promote the social and economic well-being of the Crow Tribe; and

WHEREAS, the applications for the grants and contracts often require a Tribal business council resolution authorizing the application, a function which is shared by the Legislative and Executive Branches under the provisions of the Crow Tribal Constitution and Bylaws; and

WHEREAS, the time-frames and deadlines for making grant and contract applications, and the frequent need to make such applications, makes it impractical for each application to be submitted to the Legislature for review and approval in regular sessions;

NOW, THEREFORE, BE IT RESOLVED BY THE CROW TRIBAL LEGISLATURE:


"That the Crow Tribal Legislature acting jointly with the Crow Tribal Executive Branch hereby authorizes the Chairman of the Executive Branch and his designees to seek, execute applications for, and negotiate the terms of federal, state, and private-source funding for grants, including grants and contracts pursuant to Public Law 93-638, that will, in the Chairman's judgment, benefit the Crow Nation."

Further, that the Crow Tribal legislature directs the executive branch to provide the legislature with a quarterly report regarding the current and pending status of all grant and contract applications and awards.

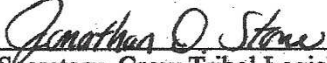
That in the event there is a failure to comply with a material requirement of a 93-638 contract, this authority will become null & void and further negotiations concerning that or future 93-638 contracts will require legislative approval.

CERTIFICATION

I hereby certify that this Joint Action Resolution authorizing the Tribal Chairman to negotiate and execute applications for federal, state and private-source grants, including grants and contracts pursuant to Public Law 93-638, was duly approved by the Crow Tribal Legislature with a vote of 14 in favor, 4 opposed, and 0 abstained, and that a quorum was present on this 15 day of July, 2004.

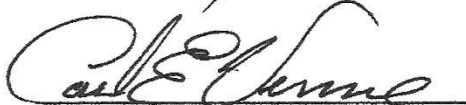

Speaker of the House
Crow Tribal Legislature

ATTEST:


Secretary, Crow Tribal Legislature

EXECUTIVE ACTION

I hereby X approve, _____ veto this Joint Action Resolution authorizing the Tribal Chairman to negotiate and execute applications for federal, state and private-source grants, including grants and contracts pursuant to Public Law 93-638, pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 of the Constitution and Bylaws of the Crow Tribe of Indians, on this 19 day of July, 2004.


Carl E. Venne, Chairman
Crow Tribal Executive Branch

to approve 93-638 contracts

Bill or Resolution Number
Representative

Introduced by: Executive

Date of vote: July 15, 2004

	Yes	No	Abstain
D. Goes Ahead	X		
Cloud	X		
O. Costa	X		
Iron	X		
Plain Feather	X		
Crooked Arm	X		
Stewart		X	
L. Costa	X		
C. Goes Ahead	X		
Hogan	X		
Old Elk	X		
K. Real Bird	X		
Pease	X		
Medicine Horse	X		
Not Afraid		X	
<hr/>			
P. Real Bird	X		
Wilson		X	
Stone		X	
Totals:	<u>14</u>	<u>4</u>	<u>0</u>

Results of Vote:

Passed

Not Passed

Tabled

Veto Override

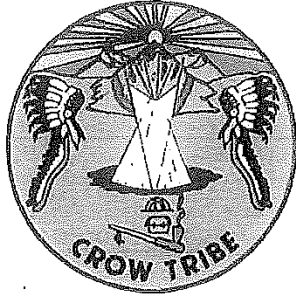
Signature of Officer:

[Handwritten Signature]

Date:

July 15, 2004

CROW TRIBE OF INDIANS



FINANCIAL MANAGEMENT SYSTEM

POLICIES AND PROCEDURES

Established and Approved: September 30, 2016

CROW TRIBE OF INDIAN
FINANCIAL MANAGEMENT SYSTEM

TABLE OF CONTENTS

CHAPTER	INDEX	SUBJECT	PAGE NUMBER
1		INTRODUCTION	1-4
	01.100	GENERAL	1-2
	01.200	GOALS OF THE TRIBE	2
	01.300	ACCOUNTING CONCEPTS	2
	01.301	FUND ACCOUNTING	2-3
	01.302	TYPES OF FUNDS	3
	01.400	CENTRALIZED FINANCIAL MANAGEMENT	3-4
	01.500	AMENDMENTS TO THE POLICIES	4
	01.600	COMPONENT UNITS	4
2		STAFF RESPONSIBILITIES	5-8
	02.100	PURPOSE	5
	02.200	ELECTED OFFICIALS	5
	02.201	CPA	6-7
	02.202	FINANCE DIRECTOR/CONTROLLER	7-8
3		ALLOWABLE EXPENDITURE OF FEDERAL FUNDS	9-33
	03.100	GENERAL GUIDELINES	9
	03.200	EXPENDITURES FOR 638 CONTRACTS	9-10
	03.300	2 CFR PART 200 SUBPART E EXPENDITURES	10-33
4		GENERAL FEDERAL GUIDELINES	34-36
	04.100	OVERVIEW	34
	04.200	FEDERAL FINANCIAL STANDARDS	34-35
	04.300	FEDERAL BUDGET REVISIONS	35-36

CHAPTER	INDEX	SUBJECT	PAGE NUMBER
5		INDIRECT COSTS	37-42
	05.100	INTRODUCTION AND OVERVIEW	37-38
	05.200	EFFECT ON PROGRAMS	38
	05.300	TYPES OF COSTS TO BE INCLUDED IN INDIRECT COST BUDGET	39
	05.400	TERMINOLOGY USED FOR INDIRECT COST PROPOSALS	39-40
	05.500	DIRECT BASE COSTS	40
	05.600	INDIRECT COST RATE METHODS	41
	05.700	TYPES OF INDIRECT COST AGREEMENTS	41
	05.800	THE INDIRECT COST PROPOSAL PACKAGE	41-42
6		THE ACCOUNTING SYSTEM	43-53
	06.100	PURPOSE OF THE ACCOUNTING SYSTEM	43
	06.200	ACCOUNTING SYSTEM-GENERAL DESCRIPTION	43-44
	06.201	STRUCTURE OF MIP FUND ACCOUNTING SYSTEM	44
	06.202	DATA ENTRY	44
	06.203	FINANCIAL REPORTING	44-45
	06.204	FUND ACCOUNTING MODULES	45-46
	06.300	CPA	46
	06.400	OVERVIEW OF RECORDING AND ACCEPTING RECEIPTS	46
	06.401	GENERAL POLICIES REGARDING CASH RECEIPTS	46-47
	06.402	DETAILED PROCESS OF ACTUAL RECEIPTING OF CASH	47
	06.500	OVERVIEW OF CASH DISBURSEMENTS	47-48
	06.501	DETAILS ON CASH DISBURSEMENT PROCESS	48-49
	06.502	LOST/STOLEN CHECKS	49
	06.600	PAYROLL COMPONENT OF THE ACCOUNTING CYCLE	49-50
	06.601	DETAILS OF PAYROLL	50
	06.602	TIMESHEETS	51
	06.603	PAYROLL DEDUCTIONS	51
	06.700	OVERVIEW OF CAPITAL ASSETS	51-52
	06.701	RECORDING CAPITAL ASSETS	52
	06.800	CREDIT LOANS	52-53
	06.900	PER CAPITA PAYMENTS	53
7		TRAVEL	54-60
	07.100	OFF-RESERVATION TRAVEL	54

CHAPTER	INDEX	SUBJECT	PAGE NUMBER
	07.101	USE OF PRIVATE VEHICLES – MILEAGE ALLOWANCE	54
	07.102	USE OF PERSONAL OR TRIBAL VEHICLES: ELECTED OFFICIALS EXCEPTION	54
	07.103	USE OF TRIBAL VEHICLES – MILEAGE ALLOWANCE	54
	07.104	COMMERCIAL TRAVEL COSTS VS PERSONAL VEHICLE	55
	07.105	DIRECT ROUTE	55-56
	07.106	OFFICIAL TRAVEL – COMMUTING	56
	07.107	INSURANCE COVERAGE AND DRIVERS LICENSE	56
	07.108	LODGING AND PER DIEM/OVERNIGHT TRAVEL	56-57
	07.109	OTHER TRAVEL EXPENSES	57
	07.110	ENTERTAINMENT	57
	07.111	NON-EMPLOYEE TRAVEL	58
	07.200	TRAVEL ADVANCE FORM	58-59
	07.300	TRAVEL RECONCILIATION FORM	59-60
	07.400	ON-RESERVATION TRAVEL	60
	07.500	VEHICLE RENTALS	60
8		MISCELLANEOUS EXPENDITURES POLICIES	61-64
	08.100	PURPOSE	61
	08.200	EMERGENCY ASSISTANCE	61
	08.300	FOOD COSTS	61
	08.400	BURIAL FEEDS	61
	08.500	DONATIONS	62
	08.600	COMMITTEE MEETINGS	62
	08.700	CREDIT CARDS	62
	08.800	CELL PHONES	62-63
	08.900	TELEPHONE USAGE	63
	08.1000	LOANS	63
	08.1100	FUEL PURCHASE/MILEAGE REIMBURSEMENTS	63-64
	08.1200	COMPUTER EQUIPMENT/PERIPHERALS PURCHASES	64
	08.1300	SENIOR BENEFITS	64
	08.1400	CONTRACT MONITORING- CONSULTANTS	64
9		RECORDS RETENTION	65-66
	09.100	RETENTION REQUIREMENTS	65-66
	09.200	REQUEST FOR TRANSFER OF FUNDS	66
	09.300	ACCESS TO RECORDS	66

CHAPTER	INDEX	SUBJECT	PAGE NUMBER
10		PROCUREMENT & PURCHASING POLICIES	67-74
	10.100	POLICIES AND OBJECTIVES	67-68
	10.110	STANDARDS OF CONDUCT	68
	10.200	RESPONSIBILITY OF THE PROCUREMENT OFFICER	68
	10.300	SIGNATURE AND REVIEW REQUIREMENTS	69
	10.400	SELECTION OF SUPPLIERS	69-71
	10.500	METHODS OF PROCUREMENT	71
	10.510	SEALED BIDS AND COMPETITIVE PROPOSALS	71-73
	10.600	BONDING	73
	10.700	CONTRACT PROVISIONS UNDER FEDERAL AWARDS	73-74
11		PROPERTY, PLANT AND EQUIPMENT PROCEDURES	75-80
	11.100	DEFINITION OF PROPERTY, PLANT AND EQUIPMENT	75
	11.200	PP&E ACQUIRED	75
	11.300	RECORDKEEPING OVER PROPERTY, PLANT AND EQUIPMENT	75-76
	11.400	DEPRECIATION	76-77
	11.500	INVENTORY OF PROPERTY, PLANT AND EQUIPMENT	77
	11.600	DISPOSAL OF PROPERTY, PLANT AND EQUIPMENT	77-78
	11.700	INSURANCE COVERAGE	78
	11.800	REAL PROPERTY ACQUIRED BY FEDERAL AWARD	78
	11.900	FEDERALLY-OWNED PROPERTY	78
	11.110	EQUIPMENT ACQUIRED BY FEDERAL AWARD	78-79
	11.120	SUPPLIES ACQUIRED BY FEDERAL AWARD	79-80
	11.130	INTANGIBLE PROPERTY ACQUIRED BY FEDERAL AWARD	80
	11.140	PROCUREMENT DEPARTMENT AUTHORITY	80
	11.150	GSA VEHICLES	80
12		INTERNET, COMPUTER AND EMAIL USAGE POLICY	81-84
	12.100	POLICY OVERVIEW	81
	12.200	DETAILED INTERNET/COMPUTER POLICY	81-83

CHAPTER	INDEX	SUBJECT	PAGE NUMBER
	12.300	EMAIL POLICY	83
	12.400	COMPUTER ASSISTANCE – SAMANAGE TICKET SYSTEM	84
13		DISASTER RECOVERY	85-86
	13.100	OVERVIEW	85
	13.200	EMERGENCY CONTACTS	85
	13.300	PROCEDURES TO SAFEGUARD COMPUTER SYSTEM	86
	13.400	STEPS FOR CONTINUING OPERATIONS OF FINANCIAL SYSTEM	86
		APPENDIX A - FORMS	87-97
		TIMESHEET	87
		SPLIT TIMESHEET	88
		LEAVE SLIP	89
		ACCOUNTS PAYABLE VOUCHER	90
		COMMITTEE VOUCHER	91
		CONSULTANT BILLABLE HOURS	92
		W-9	93
		TRAVEL ADVANCE	94
		TRAVEL RECONCILIATION	95
		MILEAGE REIMBURSEMENT	96
		MILEAGE REIMBURSEMENT PAGE 2	97

CHAPTER ONE

INTRODUCTION

01,100 GENERAL.

The Crow Tribe of Indians (The Tribe) is recognized by the United States Government as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. The Tribe receives a substantial amount of its total funds by entering into contracts with the Bureau of Indian Affairs and the Indian Health Service under the provisions of Public Law 93-638, The Indian Self-Determination and Education Assistance Act. As permitted by this law, the Tribe provides maximum participation by the people in these contracts that enable the Tribe to administer its own governmental programs. Other sources of funds are primarily from other departments within the Federal Government and the State of Montana.

General management of the Tribe falls under the responsibility of an elected Chairman, Vice-Chairman, Secretary, and Vice-Secretary. These four officers hereinafter referred to as the elected officials, hire employees to assist in the administration of the Tribe. Key employees are the cabinet heads/members. The Chief Executive Officer leads the cabinet members. The Controller and/or Finance Director is a cabinet member delegated the authority of administering the financial management system. General duties of some of the key employees in regards to the financial management of the Tribe are explained in Chapter Two of this manual.

The Chairperson hires a Certified Public Accountant, hereinafter referred to as the CPA, to act as Controller and/or Finance Director for the Tribe. Certain designated accounting staff assists the CPA and may perform some of the CPA's duties as assigned. The CPA provides on-site monitoring and oversight for all components of the financial management system. The CPA generally performs all controllership functions for the Tribe. General duties of the CPA are explained in Chapter Two of this manual.

The Tribe utilizes monies from both unrestricted and general purposes and from the Federal Government and other governments for restricted programs. Unrestricted funds (general fund) may be used at the discretion of the Tribe with little or no binding requirements other than to follow the financial management policies and procedures as established by the Tribe's elected officials. However, the Federal Government restricts expenditures on programs funded by it only for purposes, and in amounts, approved by it and in accordance with procedures detailed in Federal Law. The constraints are binding, the Tribe has no choice but to operate within them; the financial management system and the accounting system must enable the elected officials to comply with legal constraints. This need to demonstrate compliance with legal requirements led to the development of the Tribe's fund accounting system.

01.200 GOALS OF THE TRIBE

The Tribe has developed the financial management system in order to assist in achieving the following goals and objectives:

1. To provide efficient administrative support to all programs in order to assist those programs in providing maximum services to program participants and recipients.
2. To provide a good use of the Tribe's limited resources.
3. To centralize all financial management support services within the operational control of the Tribe's elected officials in order that policies are standardized for all programs.
4. To assure expenditure of federal and state funds are made according to grant and contract guidelines.
5. To provide meaningful and accurate financial data to programs and external agencies in a timely manner.

01.300 ACCOUNTING CONCEPTS

The Tribe utilizes generally accepted accounting principles as applied to governmental entities. This is commonly referred as GAAP.

01.301 FUND ACCOUNTING

The word FUND has a special technical meaning in the non-business sector. A fund is defined as a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities, or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions or limitations.

The dual meaning of fund should be noted. A fund is an accounting entity; it is also a fiscal entity created, in most instances, by operation of law. The term law is used in its most general sense. The accounting and financial reporting of the Tribe is prescribed by provisions of grants and contracts from Federal or other governmental agencies and may be prescribed by state laws, agreements with employees, and agreements with individuals or private organizations which have donated assets to be used for specific purposes. The Tribe is also bound by administrative regulations of agencies of higher jurisdictions.

Another distinctive characteristic of the Tribe's accounting system is the formal recording of the legally approved budget in the accounts of funds operated on an annual basis. This is a result of the need to demonstrate compliance with laws governing the sources of revenues available and the laws governing the utilization of these revenues. Briefly: Budgetary

accounts are opened as of the beginning of each fiscal year and closed as of the end of each fiscal year; therefore they have no balances at year-end. During the year, however, the budgetary accounts of a fund are integrated with its proprietary accounts. Proprietary accounts generally refer to asset, liability, net worth, revenues, and expense accounts. A general summary of the Tribe's accounting system is that it has the accounting and reporting capability to make it possible both: a) To present fairly and with full disclosure the financial position and results of financial operations of the funds and account groups in conformity with generally accepted accounting principles; and b) to determine and demonstrate compliance with finance related legal and contractual provisions.

01.302 TYPES OF FUNDS

The Tribe utilizes the following types of funds within its accounting system.

1. General fund. The general fund is the operating fund of the Tribe. It is used to account for all financial resources except those required to be accounted for in another fund. The indirect cost charges collected from other funds are accounted for as a separate component of the general fund.
2. Special Revenue Funds. The special revenue funds are used to account for the proceeds of specific revenue sources that are legally restricted to expenditures for specified purposes. These funds are grant/contract funds from Federal or state agencies that represent the activities of various programs which are disbursed by the Tribe and over which the Tribe exercises fiscal and administrative control.
3. Capital Projects Fund. The receipt and disbursement of all financial resources to be used for the acquisition of capital facilities, other than those financed by economic ventures, is accounted for by the capital projects fund.
4. Enterprise Funds. Enterprise funds are used to account for operations that are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services on a continuing basis be financed or recovered primarily through user charges or enterprise revenues.
5. Internal Service Funds. Internal service funds are used to account for the financing of goods or services provided by one department to other departments of the Tribe and to other governmental units, on a cost reimbursement basis. For example, rental income and expenses related to the rental of equipment to programs by the Tribe is reported in the internal service fund when Tribal programs are renting the equipment.

01.400 CENTRALIZED FINANCIAL MANAGEMENT

The Crow Tribe of Indians has adopted a centralized financial management all accounting system as provided in 25 Code of Federal Regulations. The Tribe utilizes a centralized financial management system whereby the elected officials retain control over the use of any funds under the management of the Tribe. All funds are accounted for through the

centralized financial management system. Any individual or entity that utilizes the name of the Crow Tribe of Indians to gain funding, either formally or informally, agrees to utilize the centralized financial management system.

Programs may be granted an exception to maintain a separate financial management system if special circumstances warrant. These programs will generally follow the same policies as the Tribe.

01.500 AMENDMENTS TO THE POLICIES

Amendments to the policies stated in this manual will be attached. The amendment will refer to the paragraph of the policy changed, if applicable. The amendment must be dated and signed by the elected Chairman.

01.600 COMPONENT UNITS

There are currently five Component Units operating under the Crow Tribe of Indians. They are the Awe Kualawaache Care Center, Apsaalooke Housing Authority, Apsaalooke Nights Casino, Crow Nation Express Center and Apsaalooke Cattle Company, Inc. These Component Units should have their own financial policies established. If a particular policy is not addressed within their policies, then they should adopt the Tribe's policies in those circumstances.

CHAPTER TWO

STAFF RESPONSIBILITIES

02.100 PURPOSE

The following financial management and accounting job duties have been assigned as designated to maximize separation of duties and provide better internal administrative and accounting controls:

02.200 ELECTED OFFICIALS

The elected officials have general oversight responsibility for the financial stability of the government. Specific duties are listed below.

1. Assists in the development and implementation of plans of operation to meet local needs.
2. Ensures that the needs of the citizens are met as far as possible with available Tribal resources.
3. Selects the external auditor to perform an annual audit as required by Title 2 Code of Federal Regulation Part 200 and approves the audit report prior to the Data Collection form being submitted to the Federal Audit Clearinghouse.
4. Reviews and approves the annual indirect cost proposal prior to its submission to the Department of the Interior, Office of Inspector General.
5. Participates in federal funding grant and contract negotiations; with final signature authority.
6. Participates in legal and settlement issues involving potential monetary and land reclamation for the benefit of the Tribe.
7. Participates in the negotiated settlement of other legal disputes.
8. With assistance from the Tribe's legal staff, negotiates major contracts to be performed by outside firms.
9. Serves as signers on checks for disbursement of funds. Two signatures are required on all checks.

02.201 CPA

A. ACCOUNTING

1. Assists with the financial planning, investment, and procurement of Tribal funds.
2. Analyzes financial records to forecast future financial position, cash flow and subsequent budget requirements.
3. Assists the finance director and program directors with the budgeting process. Responsible for budget modifications as deemed necessary. Program directors should submit their budget modification requests to Finance. It must be allowable under the Federal contract. The elected officials will receive notification of any major budget modifications.
4. Responsible for preparing Trial Balances and all financial reports. Reviews for reasonableness and resolves any discrepancies.
5. Responsible for the overall accounting functions. Reconciling the bank accounts and preparing all journal entries.
6. Assists the auditors as necessary in completing their fieldwork and preparing the financial audit report.

B. PAYROLL

1. Receives timesheets, computes earnings and deductions, and computes annual and sick leave for all employees.
2. Prepares payroll listing by program.
3. Processes payroll and maintains employee earnings records.
4. Processes checks to entities due payments for withholdings from employees' gross earnings.
5. Prepares all required tax reports.
6. Monitors employee timesheets and time records for validity.
7. Prepares all year-end reports and statements on employee earnings.
8. Maintains the payroll journal and summarizes expenditure and liability data on a monthly basis for posting to the general ledger.

C. CONTRACTS MANAGEMENT

1. Maintains individual program files, including award notices, modifications, approved budgets, correspondence with funding agencies and Tribal program staff, and financial and program audit reports.
2. Assists program administrative staff in contract and grant budgetary matters and compliance issues. The CPA does not prepare program reports, but may provide some assistance in filing as deemed necessary. Program directors and Department Heads are responsible for all program reports in their respective programs. Disciplinary action may be taken if reports are not filed timely.
3. Performs technical assistance to the Tribe's Contracts Officer as directed by the elected officials.
4. Prepares the financial reports and draw down requests for all contracts and grants. Reports will be filed in a timely manner.
5. Records any expenditure incurred for all contracts and grants.

D. AUTOMATED ACCOUNTING SYSTEMS

1. Serves as the contact person for the external servicing vendor for the automated system.
2. Assists the Technology Department to assure the automated system is maintained in operating order.
3. Provides training to Tribal staff on use of required software.
4. Provides assistance to departments in the installation of automated systems and subsequent use.
5. Provides assistance in the per capita distribution to assure payments are generated in a timely manner.

02.202 FINANCE DIRECTOR /CONTROLLER

The CPA may perform the duties of both the Finance Director and the Controller. Or the position of Finance Director may be filled by a separate individual. There may be other accounting staff that performs some the duties of the Finance Director, as well as, the Controller. These individuals are assigned to perform the Finance Director's duties for particular programs/funds or in the absence of the Controller. The Finance Director is responsible for reviewing all payable vouchers to assure proper account codes are used, funds are adequately budgeted, the proposed payment is within the guidelines of disbursement as approved by the elected officials, and the checks for the vouchers are prepared in a timely manner. General duties within the control of the Finance Director

include the following: (It is noted that the Finance Director utilizes accounts payable and voucher payable employees for completion of the work.)

1. Approves all payable vouchers after review to assure that proper account codes are used, funds are adequately budgeted, and the proposed payment is within the guidelines of disbursement as approved by the elected officials.
2. Processes checks from the accounts payable voucher with proper supporting documentation and secures the check signatures.
3. Maintains a file of paid invoices, purchase orders, vouchers, and other documents pertaining to the payables process.
4. Corresponds to vendors on problems on billings and duplicate invoices.
5. Provides technical support to staff on interpretation of Tribal financial management policies and procedures.
6. Serves as an advisor to the elected officials on financial management matters.
7. Assists the CPA's with developing the annual operating budgets for the Tribe's unrestricted funds and trust funds for approval by the elected officials/legislature.
8. Monitors the budgets and advises on budget modification and issues. Provides technical assistance to program staff on budgetary issues.

CHAPTER THREE

ALLOWABLE EXPENDITURE OF FEDERAL FUNDS

03.100 GENERAL GUIDELINES

It is the responsibility of the program director to assure that all costs charged to a program are permitted under the terms of the grant or contract agreement. The most important factor which governs the allowability of the cost is the grant or contract agreement. Many agreements restrict or allow certain types or amounts of costs. The agreement prevails over all other federal guidelines governing the expenditure of funds. If there is a conflict with the allowability of a cost, the law prevails in the following order:

1. Award documents/contract agreement
2. Program statutes and regulations
3. Title 2 CFR Part 200
4. Tribal Policy

If the terms of the agreement require matching funds from the Tribe, the expenditure of the matching portion falls under the same general guidelines as the agreement.

Except where otherwise authorized by statute, costs must be necessary and reasonable for the performance of the Federal award. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

The total cost of a Federal award is the sum of the allowable direct and allocable indirect costs less any applicable credits.

03.200 EXPENDITURES FOR 638 CONTRACTS

Program directors who are operating under a 638 contract with the Department of the Interior or Department of Health and Human Services (IHS) have greater flexibility in the expenditure of program funds than do program directors that are funded by other federal and state agencies. Title 2 CFR Part 200 Subpart E generally determines allowable costs for a federally funded program. However, allowable costs for a 638 contract are defined in section 106 (k) of the Indian Self-Determination and Education Assistance Act. This definition may differ from allowable costs in 2 CFR Part 200 Subpart E.

Accordingly, a program director operating under a 638 contract may, without the approval of the funding agency, expend funds provided under a self-determination contract for the

following purposes to the extent that the expenditure of the funds is supportive of the contracted program.

1. Depreciation and use allowances not otherwise specifically prohibited by law, including the depreciation of facilities owned by the Tribe.
2. Publication and printing costs.
3. Building, realty, and facilities costs, including rental costs or mortgage expenses.
4. Automated data processing and similar equipment or services.
5. Costs for capital assets and repairs.
6. Management studies.
7. Professional services, other than services provided in connection with judicial proceedings by or against the United States.
8. Insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property.
9. Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.
10. Interest expenses paid on capital expenditures such as building, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Bureau of Indian Affairs in providing funds under a contract.
11. Expenses of the governing body of the Tribe that are attributable to the management or operation of contracted programs.
12. Costs associated with the management of pension funds, self-insurance funds, and other funds of the Tribe that provide for participation by the Federal Government.

03.300 2 CFR PART 200 SUBPART E EXPENDITURES

Program directors operating under a 638 contract should refer to 2 CFR Part 200 Subpart E as a general guide on the allowable costs to charge to the contract, even though the Indian Self-Determination and Education Assistance Act prevails. The additional types or examples of expenditures in 2 CFR Part 200 Subpart E will provide information on costs typically associated with federally funded programs.

Program directors operating under any federally funded program other than a 638 contract are restricted to, and must use, 2 CFR Part 200 Subpart E as the final authority on the allowable costs to charge to the program, unless it is specifically written in the Federal Award.

The applicable cost principles for certain items from 2 CFR part 200 Subpart E are generally described below. Refer to the actual Code of Federal Regulations for further detail.

1. Advertising and public relations costs – Sec. 200.421.

(a) The term "advertising costs" means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

(b) The term "public relations" includes Community relations and means those activities dedicated to maintaining the image of the governmental unit or maintaining or promoting understanding and favorable relations with the Community or public at large or any segment of the public.

(c) Advertising costs are allowable only when incurred for the recruitment of personnel, the procurement of goods and services, the disposal of surplus materials, and any other specific purposes necessary to meet the requirements of the Federal award. Advertising costs associated with the disposal of surplus materials are not allowable where all disposal costs are reimbursed based on a standard rate as specified in the grants management common rule-

(d) Public relations costs are allowable when:

- 1) Specifically required by the Federal award and then only as a direct cost;
- 2) Incurred to communicate with the public and press pertaining to specific activities or accomplishments that result from performance of the Federal award and then only as a direct cost; or
- 3) Necessary to conduct general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of Federal contract/grant awards, financial matters, etc.

(e) Unallowable advertising and public relations costs include the following:

- 1) All advertising and public relations costs other than as specified in subsections c. and d.;
 - 2) Except as otherwise permitted by these cost principles, costs of conventions, meetings, or other events related to other activities of the governmental unit including:
 - a) costs of displays, demonstrations, and exhibits;
 - b) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and
 - c) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;
 - 3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs; and
 - 4) Costs of advertising and public relations designed solely to promote the governmental unit.
2. Advisory Councils-Sec 200.422. Costs incurred by advisory councils or committees are allowable as a direct cost where authorized by the Federal awarding agency or as an indirect cost where allocable to Federal awards.
 3. Alcoholic beverages-Sec 200.423. Costs of alcoholic beverages are unallowable.
 4. Audit services-Sec 200.425. A reasonably proportionate share of the costs of audits are allowable provided that the audits were performed in accordance with the Single Audit requirements under Act and 2CFR Part 200 Subpart F.
 5. Bad debts-Sec 200.426. Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable unless provided for in Federal program award regulations.
 6. Bonding costs-Sec 200.427. Costs of bonding required pursuant to the terms and conditions of the Federal award are allowable.
 7. Compensation for personal services-Sec 200.430.
 - (a) General. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of

performance under the Federal award, including but not necessarily limited to wages and salaries. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees:

(1) Is reasonable for the services rendered and conforms to the established written policy of the Tribe consistently applied to both Federal and non-Federal activities;

(2) Follows an appointment made in accordance with the Tribe's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and

(3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable.

(b) Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the Tribe. In cases where the kinds of employees required for Federal awards are not found in the other activities of the Tribe, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the Tribe competes for the kind of employees involved.

(c) Professional activities outside the Tribe. Unless an arrangement is specifically authorized by a Federal awarding agency, a Tribe must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the Tribe for non-organizational compensation. Where such Tribe-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on Federal awards be allocated between: (1) Tribe activities, and (2) Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

(d) Unallowable costs. (1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation. (2) The allowable compensation for certain employees is subject to a ceiling in accordance with statute. For the amount of the ceiling for cost-reimbursement contracts, the covered compensation subject to the ceiling, the covered employees, and other relevant provisions, see 10 U.S.C. 2324(e)(1)(P), and 41 U.S.C. 1127 and 4304(a)(16). For other types of Federal awards, other statutory ceilings may apply.

(e) Special considerations. Special considerations in determining allowability of compensation will be given to any change in a Tribe's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of Federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

(f) Incentive compensation. Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the Tribe and the employees before the services were rendered, or pursuant to an established plan followed by the Tribe so consistently as to imply, in effect, an agreement to make such payment.

8. Compensation-fringe benefits-Sec 200.431.

(a) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick or military), employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, Tribe-employee agreement, or an established policy of the Tribe.

(b) Leave. The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met: (1) They are provided under established written leave policies; (2) The costs are equitably allocated to all related activities, including Federal awards; and, (3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the Tribe or specified grouping of employees. (i) When a Tribe uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment. (ii) The accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When a non-Federal entity uses the accrual basis of accounting, allowable leave costs are the lesser of the amount accrued or funded.

(c) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in §200.447 Insurance and indemnification); pension plan costs (see paragraph (i) of this section); and other

similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, must be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities, and charged as direct or indirect costs in accordance with the Tribe's accounting practices.

(d) Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of entity-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, unless the Tribe demonstrates that costs in relationship to salaries and wages do not differ significantly for different groups of employees.

(e) Insurance. See also §200.447 Insurance and indemnification, paragraphs (d) (1) and (2). (1) Provisions for a reserve under a self-insurance program for unemployment compensation or workers' compensation are allowable to the extent that the provisions represent reasonable estimates of the liabilities for such compensation, and the types of coverage, extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made must not exceed the present value of the liability. (2) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the Tribe is named as beneficiary are unallowable. (3) Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment compensation, severance pay, and similar employee benefits (e.g., post-retirement health benefits), are allowable in the year of payment provided that the Tribe follows a consistent costing policy.

(f) Automobiles. That portion of automobile costs furnished by the entity that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit or indirect (F&A) costs regardless of whether the cost is reported as taxable income to the employees.

9. Conferences-Sec 200.432. A conference is defined as a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the Tribe and is necessary and reasonable for successful performance under the Federal award. Allowable conference costs paid by the Tribe as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the Federal award. As needed, the costs of identifying,

but not providing, locally available dependent-care resources are allowable. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the Federal award. The Federal awarding agency may authorize exceptions where appropriate for programs including Indian Tribes.

10. Contingency provisions-Sec 200.433.

(a) Contingency is that part of a budget estimate of future costs (typically of large construction projects, IT systems, or other items as approved by the Federal awarding agency) which is associated with possible events or conditions arising from causes the precise outcome of which is indeterminable at the time of estimate, and that experience shows will likely result, in aggregate, in additional costs for the approved activity or project. Amounts for major project scope changes, unforeseen risks, or extraordinary events may not be included.

(b) It is permissible for contingency amounts other than those excluded in paragraph (a) of this section to be explicitly included in budget estimates; to the extent they are necessary to improve the precision of those estimates. Amounts must be estimated using broadly-accepted cost estimating methodologies, specified in the budget documentation of the Federal award, and accepted by the Federal awarding agency. As such, contingency amounts are to be included in the Federal award. In order for actual costs incurred to be allowable, they must comply with the cost principles and other requirements in this part (see also §§200.300 Statutory and national policy requirements through 200.309 Period of performance of Subpart D of this part and 200.403 Factors affecting allowability of costs); be necessary and reasonable for proper and efficient accomplishment of project or program objectives, and be verifiable from the non-Federal entity's records.

(c) Payments made by the Federal awarding agency to the Tribe's "contingency reserve" or any similar payment made for events the occurrence of which cannot be foretold with certainty as to the time or intensity, or with an assurance of their happening, are unallowable, except as noted in §§200.431 Compensation—fringe benefits regarding self-insurance, pensions, severance and post-retirement health costs and 200.447 Insurance and indemnification.

11. Contributions and donations-Sec 200.434. Contributions and donations, including cash, property, and services, by the Tribe to others, regardless of the recipient, are unallowable. The value of services and property donated may not be charged to a Federal award either as a direct or indirect cost. The value of donated services and property may be used to meet cost sharing or matching requirements. Refer to Section 200.434 for further description.

12. Defense and prosecution of criminal and civil proceedings, and claims-See 200.435. These costs are allowable with restrictions. Refer to 2 CFR Section 200.435 for detailed description.

13. Depreciation -See 200.436.

(a) Depreciation is the method for allocating the cost of fixed assets to periods benefitting from asset use. The Tribe may be compensated for the use of its buildings, capital improvements, equipment, and software projects capitalized in accordance with GAAP, provided that they are used, needed in the Tribe's activities, and properly allocated to Federal awards. Such compensation must be made by computing depreciation.

(b) Depreciation is computed applying the following rules. The computation of depreciation must be based on the acquisition cost of the assets involved. For an asset donated to the Tribe by a third party, its fair market value at the time of the donation must be considered as the acquisition cost. Such assets may be depreciated or claimed as matching but not both. For the purpose of computing depreciation, the acquisition cost will exclude: (1) The cost of land; (2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it is presently located; (3) Any portion of the cost of buildings and equipment contributed by or for the Tribe where law or agreement prohibits recovery; and (4) Any asset acquired solely for the performance of a non-Federal award.

(c) When computing depreciation charges, the following must be observed: (1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment, technological developments in the particular area, historical data, and the renewal and replacement policies followed for the individual items or classes of assets involved. (2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods must reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method must be presumed to be the appropriate method. Depreciation methods once used may not be changed unless approved in advance by the cognizant agency. The depreciation methods used to calculate the depreciation amounts for indirect (F&A) rate purposes must be the same methods used by the Tribe for its financial statements. (3) The entire building, including the shell and all components, may be treated as a single asset and depreciated over a single useful life. A building may also be divided into multiple components. Each component item may then be depreciated over its estimated useful life. The building components must be grouped into three general components of a building: building shell (including construction and design

costs), building services systems (e.g., elevators, HVAC, plumbing system and heating and air-conditioning system) and fixed equipment (e.g., sterilizers, casework, fume hoods, cold rooms and glassware/washers). In exceptional cases, a cognizant agency may authorize a Tribe to use more than these three groupings. When the Tribe elects to depreciate its buildings by its components, the same depreciation methods must be used for indirect (F&A) purposes and financial statements purposes, as described in paragraphs (d)(1) and (2) of this section. (4) No depreciation may be allowed on any assets that have outlived their depreciable lives. (5) Where the depreciation method is introduced to replace the use allowance method, depreciation must be computed as if the asset had been depreciated over its entire life (i.e., from the date the asset was acquired and ready for use to the date of disposal or withdrawal from service). The total amount of use allowance and depreciation for an asset (including imputed depreciation applicable to periods prior to the conversion from the use allowance method as well as depreciation after the conversion) may not exceed the total acquisition cost of the asset. (e) Charges for depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. Statistical sampling techniques may be used in taking these inventories. In addition, adequate depreciation records showing the amount of depreciation taken each period must also be maintained. [

14. Employee health and welfare costs-Sec.200.437. The costs incurred in accordance with the Tribe's documented policies for the improvement of working conditions, employer-employee relations, employee health, and employee performance are allowable. Such costs will be equitably apportioned to all activities of the Tribe. Income generated from any of these activities will be credited to the cost thereof.

15. Entertainment-Sec.200.438. Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.

16. Equipment and other capital expenditures-Sec.200.439.

(a) See §§200.13 Capital expenditures, 200.33 Equipment, 200.89 Special purpose equipment, 200.48 General purpose equipment, 200.2 Acquisition cost, and 200.12 Capital assets.

(b) The following rules of allowability must apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity.

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5,000 or more have the prior written approval of the Federal awarding agency or pass-through entity.

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the Federal awarding agency, or pass-through entity. See §200.436 Depreciation, for rules on the allowability of depreciation on buildings, capital improvements, and equipment. See also §200.465 Rental costs of real property and equipment.

(4) When approved as a direct charge pursuant to paragraphs (b) (1) through (3) of this section, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate and negotiated with the Federal awarding agency.

(5) The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the Federal cognizant agency for indirect cost.

(6) Cost of equipment disposal. If the Tribe is instructed by the Federal awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allowable.

(7) Equipment and other capital expenditures are unallowable as indirect costs. See §200.436 Depreciation.

17. Fines, penalties, damages and other settlements- Sec 200.441. Costs resulting from Tribe violations of, alleged violations of, or failure to comply with, Federal, state, tribal, local or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the Federal award, or with prior written approval of the Federal awarding agency.

18. Fund raising and investment management costs- Sec 200.442.

(a) Cost of organized fund raising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purpose of emitting the

Federal program objectives are allowable with the prior written approval from the Federal awarding agency.

(b) Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable except when associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this Part.

(c) Costs related to the physical custody and control of monies and securities are allowable.

(d) Both allowable and unallowable fund raising and investment activities must be allocated an appropriate share of indirect costs under the conditions described in subsection 200.413 direct costs.

19. Gains and losses on disposition of depreciable assets-Sec 200.443.

(a) Gains and losses on the sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to the asset cost grouping (s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping (s) shall be the difference between the amount realized on the property and the undepreciated basis of the property.

(b) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions:

(1) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under sections 200.36 and 200.439.

(2) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(3) A loss results from the failure to maintain permissible insurance, except as otherwise provided in section 200.447.

(4) Compensation for the use of the property was provided through use allowances in lieu of depreciation.

(5) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions must be considered on a case-by-case basis.

(c) Gains or losses of any nature arising from the sale or exchange of property other than the property covered in subsection a., e.g., land or included in the fair market value used in any adjustment resulting from a relocation of Federal awards covered in subsection b. shall be excluded in computing Federal award costs.

(d) When assets acquired with Federal funds, in part or wholly, are disposed of, the distribution of the proceeds must be made in accordance with section 200.310 Insurance Coverage through 200.316 Property trust relationship.

20. General government expenses—Sec 200.444.

(a) The general costs of government are unallowable (except as provided in section 200.474 Travel costs⁴¹). Unallowable costs include:

- 1) Salaries and expenses of the Office of the Governor of a State or the chief executive of a local government or the chief executives of federally-recognized Indian tribal governments;
- 2) Salaries and other expenses of State legislatures, tribal councils, or similar local governmental bodies, such as county supervisors, city councils, school boards etc., whether incurred for purposes of legislation or executive direction;
- 3) Cost of the judiciary branch of a government;
- 4) Cost of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in section 200.435); and
- 5) Other general types of governmental services normally provided to the general public, such as fire and policies, unless provided for as a direct cost in program statute or regulations.

(b) For federally recognized Indian tribal governments and Councils of Governments (COGs), up to 50% of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his or her staff can be included in the indirect cost calculation without documentation.

21. Goods or services for personal use—Sec 200.445.

(a) Costs of goods or services for personal use of the Tribe's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

- (b) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, and rent), housing allowances and personal living expenses are only allowable as direct costs regardless of whether reported as taxable income to the employees. In addition, to be allowable direct costs must be approved in advance by a Federal awarding agency.

22. Idle facilities and idle capacity-See 200.446.

(a) As used in this section the following terms have the meaning set forth below:

- 1) "Facilities" means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the Tribe.
- 2) "Idle facilities" means completely unused facilities that are excess to the none-Federal entity's current needs.
- 3) "Idle capacity" means the unused capacity of partially used facilities. It is the difference between (a) that which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and (b) the extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.
- 4) "Cost of idle facilities or idle capacity" means costs such as maintenance, repair, housing, rent, and other related costs e.g. insurance, interest, and depreciation or use allowances.

(b) The costs of idle facilities are unallowable except to the extent that:

- 1) They are necessary to meet fluctuations in workload; or,
- 2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are not idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes, which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to

be necessary or was originally reasonable and is not subject to reduction or elimination by use on other Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities.

23. Insurance and indemnification-~~Sec 200.447.~~

(a) Costs of insurance required or approved and maintained, pursuant to the Federal award, are allowable.

(b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

- 1) Types and extent and cost of coverage are in accordance with the Tribe's policy and sound business practice.
- 2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the awarding agency has specifically required or approved such costs.
- 3) Costs allowed for business interruption or other similar insurance must exclude coverage of management fees.
- 4) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation. The cost of such insurance when the Tribe is identified as the beneficiary is unallowable.
- 5) Insurance against defects. Costs of insurance with respect to any costs incurred to correct defects in the Tribe's materials or workmanship are unallowable. Actual losses that could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the Federal award or as described below. However, the Federal Government will participate in actual losses of self-insurance fund that are in excess of reserves. Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

(c) Contributions to a reserve for certain self-insurance programs, including workers compensation, unemployment compensation, and severance pay are allowable subject to the following provisions:

- 1) The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including re-insurance) been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, shall not exceed the discounted present value of the liability. The rate used for discounting the liability must be determined by giving consideration to such factors as the Tribe's settlement rate for those liabilities and its investment rate of return.
- 2) Earnings or investment income on reserves must be credited to those reserves.
- 3) Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biannually for each major risk being insured and take into account any reinsurance, co-insurance, etc. Reserve levels related to employee-related coverages will normally be limited to the value of claims (a) submitted and adjudicated but not paid, (b) submitted but not adjudicated, and (c) incurred but not submitted. Reserve levels in excess of the amounts based on the above must be identified and justified in the cost allocation plan or indirect cost rate proposal.
- 4) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the governmental unit. If individual departments or agencies of the Tribe experience significantly different levels of claims for a particular risk, those differences are to be recognized by the use of separate allocations or other techniques resulting in an equitable allocation.
- 5) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund), refunds shall be made to the Federal Government for its share of funds transferred, including earned or imputed interest from the date of transfer.

(e) Insurance refunds shall be credited against insurance costs in the year the refund is received.

(f) Indemnification includes securing the Tribe against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the Tribe only to the extent expressly provided for in the Federal award, except as provided in subsection d.

24. Interest- Sec. 200.449.

(a) General. Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the Tribe's own funds, however represented, are unallowable. Financing costs (including interest) to acquire, construct, or replace capital assets are allowable, subject to the conditions in this section.

(b)(1) Capital assets is defined as noted in §200.12 Capital assets. An asset cost includes (as applicable) acquisition costs, construction costs, and other costs capitalized in accordance with GAAP. (2) For Tribe fiscal years beginning on or after January 1, 2016, intangible assets include patents and computer software. For software development projects, only interest attributable to the portion of the project costs capitalized in accordance with GAAP is allowable.

(c) Conditions for all non-Federal entities.

(1) The Tribe uses the capital assets in support of Federal awards;

(2) The allowable asset costs to acquire facilities and equipment are limited to a fair market value available to the Tribe from an unrelated (arm's length) third party.

(3) The Tribe obtains the financing via an arm's-length transaction (that is, a transaction with an unrelated third party); or claims reimbursement of actual interest cost at a rate available via such a transaction.

(4) The Tribe limits claims for Federal reimbursement of interest costs to the least expensive alternative. For example, a capital lease may be determined less costly than purchasing through debt financing, in which case reimbursement must be limited to the amount of interest determined if leasing had been used.

(5) The Tribe expenses or capitalizes allowable interest cost in accordance with GAAP.

(6) Earnings generated by the investment of borrowed funds pending their disbursement for the asset costs are used to offset the current period's allowable interest cost, whether that cost is expensed or capitalized. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.

(7) The following conditions must apply to debt arrangements over \$1 million to purchase or construct facilities, unless the Tribe makes an initial equity contribution to the purchase of 25 percent or more. For this purpose, "initial equity contribution" means the amount or value of contributions made by the Tribe for the acquisition of facilities prior to occupancy. (i) The Tribe must reduce claims for reimbursement of interest cost by an amount equal to imputed interest earnings on excess cash flow attributable to the portion of the facility used for Federal awards. (ii) The Tribe must impute interest on excess cash flow as follows: (A) Annually, the Tribe must prepare a cumulative (from the inception of the project) report of monthly cash inflows and outflows, regardless of the funding source. For this purpose, inflows consist of Federal reimbursement for depreciation, amortization of capitalized construction interest, and annual interest cost. Outflows consist of initial equity contributions, debt principal payments (less the pro-rata share attributable to the cost of land), and interest payments. (B) To compute monthly cash inflows and outflows, the Tribe must divide the annual amounts determined in step (i) by the number of months in the year (usually 12) that the building is in service. (C) For any month in which cumulative cash inflows exceed cumulative outflows, interest must be calculated on the excess inflows for that month and be treated as a reduction to allowable interest cost. The rate of interest to be used must be the three-month Treasury bill closing rate as of the last business day of that month.

(8) Interest attributable to a fully depreciated asset is unallowable. (d) Additional conditions for states, local governments and Indian tribes. For costs to be allowable, the Tribe must have incurred the interest costs for buildings after October 1, 1980, or for land and equipment after September 1, 1995. (1) The requirement to offset interest earned on borrowed funds against current allowable interest cost (paragraph (c) (5), above) also applies to earnings on debt service reserve funds. (2) The Tribe will negotiate the amount of allowable interest cost related to the acquisition of facilities with asset costs of \$1 million or more, as outlined in paragraph (c)(7) of this section. For this purpose, a non-Federal entity must consider only cash inflows and outflows attributable to that portion of the real property used for Federal awards.

25. Lobbying- Sec 200.450.

(a) The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans is governed by relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, "New Restrictions on Lobbying" published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Government wide Guidance for New Restrictions on Lobbying" and notices published at 54 FR 52306 (December 20,

1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996).

(b) Executive lobbying costs. Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the executive branch of the Federal Government to give consideration or to act regarding a Federal award or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter.

26. Losses on other awards or contracts-See 200.451. Any excess of costs over income under any other award or contract of any nature is unallowable. This includes, but is not limited to, the non-Federal entity's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect (F&A) costs. Also, any excess of costs over authorized funding levels transferred from any award or contract to another award or contract is unallowable. All losses are not allowable indirect (F&A) costs and are required to be included in the appropriate indirect cost rate base for allocation of indirect costs.

27. Maintenance and repair costs-See 200.452. Costs incurred for utilities, insurance, security, necessary maintenance, janitorial services, repair, or upkeep of buildings and equipment (including Federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as capital expenditures (see §200.439 Equipment and other capital expenditures). These costs are only allowable to the extent not paid through rental or other agreements.

28. Materials and supplies, including costs of computing devices-See 200.453.

(a) Costs incurred for materials, supplies, and fabricated parts necessary to carry out a Federal award are allowable.

(b) Purchased materials and supplies must be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms must be charged at their actual net cost under any recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs.

(c) Materials and supplies used for the performance of a Federal award may be charged as direct costs. In the specific case of computing devices, charging as

direct costs is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a Federal award.

(d) Where federally-donated or furnished materials are used in performing the Federal award, such materials will be used without charge.

29. Memberships, subscriptions, and professional activities-Sec 200.454.

(a) Costs of the Tribe's memberships in business, technical, and professional organizations are allowable.

(b) Costs of the Tribe's subscriptions to business, professional, and technical periodicals are allowable.

(c) Costs of membership in any civic or community organization are allowable with prior approval by the Federal awarding agency or pass-through entity.

(d) Costs of membership in any country club or social or dining club or organization are unallowable.

(e) Costs of membership in organizations whose primary purpose is lobbying are unallowable.

30. Plant and Security costs-Sec 200.457. Necessary and reasonable expenses incurred for protection and security of facilities, personnel, and work products are allowable. Such costs include, but are not limited to, wages and uniforms of personnel engaged in security activities; equipment; barriers; protective (non-military) gear, devices, and equipment; contractual security services; and consultants.

31. Pre-award costs-Sec 200.458. Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval for the awarding agency.

32. Professional service costs-Sec 200.459.

(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the non-Federal entity, are allowable, subject to paragraphs (b) and (c) when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government. In addition, legal and related services are limited under §200.435 Defense and

prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

(1) The nature and scope of the service rendered in relation to the service required.

(2) The necessity of contracting for the service, considering the Tribe's capability in the particular area.

(3) The past pattern of such costs, particularly in the years prior to Federal awards.

(4) The impact of Federal awards on the Tribe's business (i.e., what new problems have arisen).

(5) Whether the proportion of Federal work to the Tribe's total business is such as to influence the Tribe in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Federal awards.

(6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions). (c) In addition to the factors in paragraph (b) of this section, to be allowable, retainer fees must be supported by evidence of bona fide services available or rendered.

33. Proposal costs-Sec 200.460. Proposal costs are the costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards or projects, including the development of data necessary to support the Tribe's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect (F&A) costs and allocated currently to all activities of the Tribe. No proposal costs of past accounting periods will be allocable to the current period.

34. Publication and printing costs-Sec 200.461. Publication costs for electronic and print media, including distribution, promotion, and general handling are allowable. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the Tribe.

35. Rearrangements and reconversion costs-Sec 200.462.

(a) Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable as indirect costs. Special arrangements and alterations costs incurred specifically for a Federal award are allowable as a direct cost with the prior approval of the Federal awarding agency or pass-through entity.

(b) Costs incurred in the restoration or rehabilitation of the Tribe's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, less costs related to normal wear and tear, are allowable.

36. Rental costs of real property and equipment-Sec 200.465.

(a) Subject to the limitations described in subsections b. through d. of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and, the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available.

(b) Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the Tribe continued to own the property. This amount would include expenses such as depreciation, maintenance, taxes, and insurance.

(c) Rental costs under "less-than-arm's-length" leases are allowable only up to the amount (as explained in paragraph (b) of this section). For this purpose, a less-than-arm's-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between:

(1) Divisions of the Tribe;

(2) The Tribe under common control through common officers, directors, or members; and

(3) The Tribe and a director, trustee, officer, or key employee of the Tribe or an immediate family member, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example,

the Tribe may establish a separate corporation for the sole purpose of owning property and leasing it back to the Tribe.

(4) Family members include one party with any of the following relationships to another party: (i) Spouse, and parents thereof; (ii) Children, and spouses thereof; (iii) Parents, and spouses thereof; (iv) Siblings, and spouses thereof; (v) Grandparents and grandchildren, and spouses thereof; (vi) Domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and (vii) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

(5) Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount (as explained in paragraph (b) of this section) that would be allowed had the Tribe purchased the property on the date the lease agreement was executed. The provisions of GAAP must be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in §200.449 Interest. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the Tribe purchased the property.

(6) The rental of any property owned by any individuals or entities affiliated with the Tribe, to include commercial or residential real estate, for purposes such as the home office workspace is unallowable.

37. Taxes-Sec 200.470.

(a) Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs...

(b) Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the Federal Government are allowable.

(c) This provision does not restrict the authority of Federal agencies to identify taxes where Federal participation is inappropriate. Where the identification of the amount of unallowable taxes would require an inordinate amount of effort, the cognizant agency for indirect costs may accept a reasonable approximation thereof.

38. Training and education costs-Sec 200.472. The cost of training and education provided for employee development is allowable.

39. Travel costs- Sec 200.474.

(a) General. Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the Tribe. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the amount used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally funded activities and in accordance with Tribe's written travel reimbursement policies. Notwithstanding the provisions of section 200.444 Federal costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal awards.

(b) Lodging and subsistence. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the Tribe in its regular operations as a result of the Tribe's written travel policy. In addition, if these costs are charged directly to the Federal award documentation must justify that:

- 1) Participation of the individual is necessary to the Federal award; and
- 2) The costs are reasonable and consistent with the Tribe's established travel policy.

(c) 1) Temporary dependent care costs (as dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care that directly results from travel to conferences is allowable provided that: (i) The costs are a direct result of the individual's travel for the Federal award; (ii) The costs are consistent with the Tribe's documented travel policy for all entity travel; and (iii) Are only temporary during the travel period.

2) Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the Federal awarding agency. See also §200.432 Conferences. (d) In the absence of an acceptable, written Tribe policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11, ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards (48 CFR 31.205-46(a)).

(d) In the absence of an acceptable, written Tribe policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11, ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards (48 CFR 31.205-46(a))

(e) Commercial air travel.

1) Airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would: (i) Require circuitous routing; (ii) Require travel during unreasonable hours; (iii) Excessively prolong travel; (iv) Result in additional costs that would offset the transportation savings; or (v) Offer accommodations not reasonably adequate for the traveler's medical needs. The Tribe must justify and document these conditions on a case-by-case basis in order for the use of first-class or business-class airfare to be allowable in such cases.

2) Unless a pattern of avoidance is detected, the Federal Government will generally not question a Tribe's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the Tribe can demonstrate that such airfare was not available in the specific case.

(f) Air travel by other than commercial carrier. Cost of travel by Tribe-owned, leased, or chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceeds the cost of airfare as provided for in paragraph (d) of this section, is unallowable.

CHAPTER FOUR

GENERAL FEDERAL GUIDELINES

04.100 OVERVIEW

When the Tribe receives Federal funds, increased demands are placed upon its financial management activities. The Tribe must set up and use accounting systems, which comply with government requirements. The program directors need to understand the guidelines and restrictions, which Federal funding agencies establish in order to make sure that funds are used efficiently to produce the desired results. In addition, the Tribe must establish systems, which enable it to meet the payroll tax related requirements of the Internal Revenue Code. The Tribe must relate financial data to performance accomplishments of the Federal award.

The contracts the Tribe enters into are normally the result of funds appropriated by the Bureau of Indian Affairs (BIA) or the Indian Health Service (IHS), under Public Law 93-638, the Indian Self-Determination and Education Assistance Act. The financial management requirements for self-determination contracts arise from clauses contained in the regulations of Public Law 93-638. When the Tribe receives grant funds from Federal or other agencies, it must follow the agencies' grant administrative guidelines.

Most of the administrative/management requirements the Tribe must meet can be found in:
25 CFR Part 900
2 CFR Part 200

04.200 FEDERAL FINANCIAL STANDARDS

All of the above referenced regulations and management guidelines provide similar instructions and establish similar requirements. Generally, the Tribe has implemented a financial management system that meets the following Federal financial standards.

1. Accounting and Financial Records

Maintain a system of accounting and financial records, which is capable of identifying the source and application of Federal funds. The Tribe must be able to account for the receipt, obligation and expenditure of funds.

2. Internal Control

Maintain a system of internal control procedures to insure that the Federal funds are used correctly. The Tribe must adequately safeguard all assets and assure they are used solely for the authorized purpose.

3. Disclosure

Maintain a system for disclosing and reporting the financial transactions of the Tribe. The system must be sufficient to permit the preparation of reports and tracing of funds to a level of expenditures adequate to establish that such funds have been used according to Federal statutes, regulations, and the terms and conditions of the Federal award.

4. Budget Comparison

A system for analyzing expenditures in relation to approved budgets.

5. Allowable Expenditures

Maintain a system of analyzing expenditures to determine their allowability and allocability. Charge allowable costs incurred during the period of performance only.

6. Documentation

A system for documenting all transactions recorded in the Tribe's accounting records. Records must be retained and access to records provided to Federal agencies.

7. Minimizing Federal Cash on Hand

Procedures for minimizing the time between the receipt of Federal funds and the payment of those funds for allowable costs. Advance payments must be in interest-bearing and insured accounts.

8. Audits

Auditing procedures for auditing the performance of the Tribe and for resolving deficiencies found in such audits. Prompt action must be taken when instances of noncompliance are identified in audit findings.

Based upon these requirements established in the Federal guidelines, the Tribe has established a financial management department capable of maintaining accurate, complete, and current records of all financial transactions and concurrently capable of meeting certain financial objectives.

04.300 FEDERAL BUDGET REVISIONS

The approved budget for the Federal award summarizes the financial aspects of the project or program as approved during the Federal award process. Recipients are required to report deviations from budget or project scope or objective, and request prior approvals from Federal awarding agencies for budget and program plan revisions, in accordance to 2 CFR Part 200.308. Some of the standard is described below.

For non-construction Federal awards, recipients must request prior approvals from Federal awarding agencies for changes in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

For construction Federal awards, the recipient must request prior written approval promptly from the Federal awarding agency for budget revisions whenever the revision results from changes in the scope or the objective of the project or program, the need arises for additional Federal funds to complete the project and a revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in 2 CFR 200 Subpart E-Cost Principles.

CHAPTER FIVE

INDIRECT COSTS

05.100 INTRODUCTION AND OVERVIEW

In 1975, Congress enacted Public Law 93-638, the Indian Self-Determination and Education Assistance Act. The intent of the Act is to "encourage the development of human resources of the Indian People" and to provide for their maximum participation in their own education and government and in the programs and services conducted for them by the Federal government.

One means of actualizing the intent of Public Law 93-638 is contained in the Act's provisions, by regulation, to provide opportunity for contract support funds to finance many of the costs incurred in the course of administrative operations. This provision enables the Tribe to obtain Federal monies to cover its indirect costs. Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned directly to Federal awards and other activities as appropriate, indirect costs are those remaining to be allocated to benefitted cost objectives. The Tribe can place the burden of meeting these indirect costs on the funding agency. What this means is that more of the Tribe's own resources can be used in efforts to deal directly with the employment, housing, health care, economic development, and other pressing needs of its members.

In order to obtain contract support funds to finance indirect costs, the Tribe must prepare, each fiscal year, a proposal that substantiates its claim for reimbursement of indirect costs. The CPA is responsible for carrying out the procedures necessary in preparing these proposals. The proposal is submitted to the Federal cognizant agency responsible for reviewing and approving the Tribe's indirect cost rate(s) on behalf of the Federal Government.

The purpose of this overview is to highlight the tasks necessary in preparing an indirect cost rate proposal. It is also intended to provide a sound basis for carrying out the general leadership, administrative, and financial management responsibilities associated with indirect costs.

The Tribe must conduct basic governing operations and increase its ability to perform those operations. In the process of doing so, it incurs indirect costs. The Tribe is severely handicapped by a lack of adequate resources for financing the basic operations performed by its government structure. No Federal or State funds are generally made available for this purpose. The necessary tasks must therefore be paid for with other resources. Unfortunately, the Tribe is in no position to finance its own government operations.

The acceptance of Federal grants and contracts itself imposes an administrative burden on any government. The Tribe must conduct many management and financial management procedures in order to comply with the requirements of the funding agency. These tasks impose tremendous financial strains on the Tribe.

The Tribe can relieve itself of these financial burdens by placing the responsibility of paying for the Tribe's administration on the funding agency. Regulations implementing the indirect cost reimbursement concept in Public Law 93-638 provide that if the Tribe develops an indirect cost rate proposal it can receive contract support funds to cover these costs each fiscal year.

The purpose of indirect cost reimbursement is to provide a means of paying for administrative costs incurred in the management of State and Federal funded programs.

05.200 EFFECT ON PROGRAMS

The Tribe currently negotiates a Fixed Carryforward rate with a Direct Salaries Base. Federal and State funded programs are "charged" for the indirect costs required by the Tribe's government to oversee or administer programs by applying an indirect cost rate to the direct salary costs incurred by the program in providing services. For example, if the Tribe has an indirect cost rate of 20% and a program incurs \$100,000 in salary costs in operating the program, then the Tribe charges the program \$20,000 for the indirect costs incurred in administering the program.

Tribe Indirect Cost Rate	Program Salary Costs	Indirect Costs
20%	Multiplied by \$100,000	= \$ 20,000

Programs under PL 93-638 receive indirect costs over and above the total amount of direct costs required to operate the program. Therefore, regardless of the amount of indirect costs charged to the program, the program remains unaffected by the indirect costs.

Most other federal and state funded programs require the Tribe to recover indirect costs from the total program award. For example, an award of \$100,000 includes both direct and indirect costs.

The Tribe requires that all programs provide full funding for indirect costs based upon the Tribe's approved rate, unless the federal awarding agency restricts the amount of indirect cost recovery to a rate less than the approved rate. Waiver of the full indirect cost recovery policy requires that the elected officials approve a written request from the program director.

05.300 TYPES OF COSTS TO BE INCLUDED IN INDIRECT COST BUDGET

The following types of costs are generally included in the Tribe's indirect cost budget.

Salaries of elected officials at 50%

Salaries of administrative personnel (non-program)

Accountants and related staff

Purchasing employees

Contracts employees

Property employees

Personnel employees

IT employees

Security guards

Receptionists

Office personnel

Maintenance & Janitorial

Fringe benefits

Travel/Training for the above personnel

Audit costs

Bank fees

Utilities

Telephone

Computer services

Program Legal costs

Office supplies & expenses

Insurance

Contracted CPA services

These costs vary from one fiscal year to the next. The indirect costs rate changes from year-to-year and specific line-item expenditures within the indirect cost budget need not be consistent from year-to-year.

05.400 TERMINOLOGY USED FOR INDIRECT COST PROPOSALS

The Office of Inspector General uses the following terminology in negotiating indirect cost proposals.

DIRECT COST

A direct cost is a cost that can be specifically identified with a particular cost objective (program).

INDIRECT COST

An indirect cost is a cost incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to a specific cost objective without an effort that is not proportionate to the results achieved.

Note: There is no universal rule classifying a cost as direct or indirect. An indirect cost to one Tribe may be a direct cost to another Tribe, depending on the accounting system in use.

INDIRECT COST POOL

The indirect cost budget is frequently referred to as the pool, or indirect cost pool. It is the accumulated costs that jointly benefit two or more programs or other cost objectives.

ALLOWABLE INDIRECT COST

Allowable indirect costs are costs which are reasonable; not prohibited; conform to limitations; consistent with policies, regulations and procedures that apply uniformly to both Federal grants and contracts and the Tribal government. The costs must be necessary to the efficient administration of all contracts and grants in the base.

INDIRECT COST RATE

The indirect cost rate is the ratio (expressed as a percentage) of the indirect costs to a direct cost base. (Indirect costs are applied to a grant or contract as a percentage of some acceptable direct cost base. The base may be total salaries and wages, total direct costs, or total direct costs less capital expenditures.)

05.500 DIRECT BASE COSTS

The accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures) used to distribute indirect costs to individual Federal awards. The direct cost base selected should result in each Federal award bearing a fair share of the indirect costs in reasonable relation to the benefits received from the costs.

05.600 INDIRECT COST RATE METHODS

The following types of rates may be approved by OIG:

SINGLE RATE

This is a uniform rate applied equally to all programs and activities when they receive approximately the same benefit from the indirect cost pool.

MULTIPLE RATE

This is a method of applying different rates to different programs because the programs benefit to different degrees from the indirect cost pool.

RESTRICTED RATE

This method is used when Federal statutes restrict the full recovery of indirect costs on a specific program. This rate is extremely difficult to negotiate with OIG, because OIG stance generally is that all programs receive the same amount of administrative support, even though a given program may restrict the amount of indirect cost recovery.

05.700 TYPES OF INDIRECT COST AGREEMENTS

The following types of indirect cost agreements are approved by OIG:

PROVISIONAL to FINAL

The Provisional agreement accepts a rate based on either a past period's cost experience or a projection of a future year's expected cost. At the end of the fiscal year, the agreement is renegotiated and a Final agreement obtained. Once established, as final, audited rate cannot be adjusted.

PREDETERMINED

This agreement is a firm agreement not subject to revision except in the most unusual circumstances.

FIXED WITH CARRY-FORWARD

This agreement is based upon an estimate of future period's cost and is not subject to revision during the accounting period. However, the difference between estimated and actual costs, when known, is included as an adjustment in a subsequently proposed cost plan. (Adjustment is made two years after the year causing the adjustment.) This is the type of indirect cost agreement that the Tribe utilizes.

05.800 THE INDIRECT COST PROPOSAL PACKAGE

The complete indirect cost proposal should contain, at least, the following information.

1. Audited financial statements for the year that historical data is being presented.
2. Certification by a Tribal official that the proposal has been prepared in accordance with 2 CFR Part 200 Subpart E-Cost Principles.
3. Information on all grants and contracts.

- A. Funding agency.
 - B. Type of contract/grant and name.
 - C. Amount of contract/grant expenditures (including a breakdown of Tribe's share and Federal/State share).
4. Organizational chart of the Tribe. The Tribe may also present job descriptions of key positions.
 6. When applicable, the package should contain a carryforward adjustment.
 7. The initial proposal should contain a financial management system certification from the Tribe's auditor.
 8. Indirect cost pool.
 9. Direct cost base.
 10. Reconciliation of audited financial statement costs to indirect cost proposal.
 11. Breakdown of IDC recovery by 638 programs, non-638 programs, and Tribal programs.

Based upon the above, a common proposal might have a table of contents as follows:

- I. Introduction and Certification
- II. Financial Management System Description
- III. Policy Statement of Direct vs. Indirect Costs
- IV. Organizational Chart
- V. Type of Rate and Fiscal Period with Description of Base
- VI. Calculation of Indirect Cost Rate
- VII. Carryforward Computation
- VIII. Direct Salaries Base (actual and proposed) and Indirect Costs Recovered
- IX. Indirect Cost Pool (actual and proposed)
- X. Indirect Cost Personnel Justifications
- XI. Reconciliation Audit report to Indirect Cost proposal
- XII. Depreciation Schedule
- XIII. Single Audit Report

CHAPTER SIX

THE ACCOUNTING SYSTEM

06.100 PURPOSE OF THE ACCOUNTING SYSTEM

The accounting system is the major quantitative information system for the Tribe. It provides information for three broad purposes: (1) internal reporting to department directors, for use in planning and controlling current programs; (2) internal reporting to the elected officials and the Tribe for use in strategic planning, that is, the making of special decisions and in the formulating of over-all policies and long-range plans, and 3) external reporting to funding agencies.

A summary of the steps in the accounting process is:

1. Scorekeeping. This is the accumulation of financial data. This aspect of accounting enables both internal and external parties to evaluate Tribal performance and financial position.
2. Attention directing. The reporting and interpreting of information which helps program directors and the elected officials to focus on operating problems, imperfections, inefficiencies, and opportunities. This aspect of accounting, in particular, helps program directors concern themselves with important aspects of operations promptly enough for effective action either through perceptive planning or through astute day-to-day supervision.
3. Problem solving. This aspect of accounting involves the concise quantification of the relative merits of possible courses of action, often with recommendations as to the best procedure. Problem solving is commonly associated with nonrecurring decisions facing the Community, situations that require special accounting analyses or reports.

06.200 ACCOUNTING SYSTEM-GENERAL DESCRIPTION

The Tribe utilizes the MIP Fund Accounting System, which is an automated system. Fund accounting, also known as not-for-profit or governmental accounting, is a specialized type of accounting. Even though fund accounting uses some of the same basic principles as commercial accounting (including a double entry system of recording transactions, a comparable set of financial statements, and so on) there are many differences.

Some of these differences are fundamental. For example, the commercial accounting entity is the company, while the not-for-profit entity is the fund. Also, commercial accounting measures income, while not-for-profit accounting measures the flow of money (funds).

Other differences involve degrees of emphasis. For instance, while budget amounts and encumbrances (purchase orders) appear frequently in a not-for-profit organization's accounting records, they're rarely included in commercial accounting ledgers.

Because of these and other differences, not-for-profit and governmental organizations need an accounting system designed with their specific requirements in mind. The MIP Fund Accounting system meets those special requirements. It has all of the capabilities necessary for not-for-profit accounting.

06.201 STRUCTURE OF MIP FUND ACCOUNTING SYSTEM.

The basic structure of the MIP Fund Accounting system, the chart of accounts, provides the flexibility and customization capabilities of an individually designed program. The MIP chart of accounts consists of the following items:

- Fund
- General ledger account
- Department

06.202 DATA ENTRY

Automatic offset generation allows the entering of the second half of a transaction by simply pressing a single key. The system completes the entry by entering the necessary accounts and amounts on the screen (Set up the appropriate offset accounts first.) For example, after entering the expenditure side of the entry, press the designated offset key to enter the credit side of the entry. The CPA can set up offsets for any general ledger account.

Automatic interfund transfers allow the recording of transactions across funds. For example, if fund A incurred an expenditure and fund B pays for it, the system can record the transaction automatically, generating the proper interfund payable/receivable (that is, due to/due from) entry.

06.203 FINANCIAL REPORTING

A summary of the financial reporting options available include:

1. A report based upon a specific fiscal year or years and a range of fiscal periods to be included.
2. A report based upon a range of funds, general ledger accounts, and departments to be included.
3. Any regular report (for example, a budget versus expenditure by line-item for a program) can be reprinted the following period without re-entering reporting options.

4. Reports on vendors, including presentation of information by check number, receipt number, or invoice number.

06.204 FUND ACCOUNTING MODULES

Fund Accounting is a modular system. The central core is the General Ledger module, which contains the accounting ledgers. The other modules in the system transmit information to and from the accounting ledgers. All modules permit the Tribe to enter transactions or budget entries, print related reports, and display account balances and posted entries on the screen.

Here's a list of the modules the Tribe may utilize in the Fund Accounting System:

- General Ledger
- Budget Reporting
- Accounts Payable
- Accounts Receivable
- Payroll

The general ledger module is used to enter transactions that do not involve accounts payable or accounts receivable. Generally, this means journal vouchers, cash receipts, and cash disbursements. Budgets can be entered with this module and general ledger amounts (balances and activity) can be displayed on the screen. This module allows the printing of journals for each type of transaction entered, plus a general ledger and a cash journal. This module includes the financial statements. The system produces both combining and combined financial statements.

The budget reporting module permits the creation of a worksheet based on either a previous budget's balances or actual account balances. That worksheet is a working budget. It can be modified; specific line-item amounts can be designated; and a budget worksheet report can be printed. Once budget amounts on the worksheet are final, the system creates entries to record the new budget based on the worksheet. This module produces reports comparing actual balances to budget balances for expenditures, revenues, or both. It displays on the monitor accounts' budget and actual amounts and differences between the two.

The accounts payable module is used to record invoices from vendors. Checks are printed utilizing an automated check writing system. Accounts payable balances and activity can be displayed on the monitor and accounts payable ledger, aged accounts payable ledger, cash requirements, selected invoices, and preliminary check register reports are generated from this module.

The accounts receivable module is used to print customer bills automatically or used to record bills that are prepared manually. This module produces past due statements for customers whose payments are late. This module is also used to record receipts on accounts receivable balances and credit memos issued. Accounts receivable ledger, aged accounts receivable ledger and expected cash receipts reports are generated from this module. Accounts receivable balances and specific account activity can be displayed on the monitor.

The payroll module integrates information with the general ledger module. The module produces and maintains all employee payroll data for distributing payroll costs to the proper budget, accounting for employee and employee payroll taxes, actual production of the payroll checks, and historical salary information.

06.300 CPA

The CPA is responsible for the overall accounting function. The automated financial management system is designed so that accounting functions are performed individually for the programs and all accounting records are networked in order for the Tribe to obtain combined or combining data. The CPA is in control of the networked financial management system.

The CPA performs the following duties for each program. (See additional duties in Chapter Two.)

1. Prepares a trial balance.
1. Prepares comparative report for budgeted expenditures to actual expenditures.
2. Prepares a comparative report of budgeted revenues to actual revenues.
3. Performs bank reconciliations.
5. Reviews the trial balance for reasonableness.

06.400 OVERVIEW OF RECORDING AND ACCEPTING RECEIPTS

IMPORTANT NOTE: By generally accepted accounting principles, governmental fund revenues and expenditures should be recognized on a modified accrual basis. The Tribe utilizes this method of accounting. Thus, revenues should be recognized in the accounting period in which they become available and measurable. Since most revenues received from the Federal government by the Tribe only become legally available after expenditure, it is not proper to establish a receivable at the time of a grant award. See chapter seven entitled "Structure of Accounts and Transactions" for proper accounting entries.

06.401 GENERAL POLICIES REGARDING CASH RECEIPTS

1. All cash receipts (checks and cash only) shall be deposited in a timely manner.
2. All checks shall be deposited to the unrestricted checking and recorded to the proper program receiving the funds. Since the automated accounting system provides for separate accountability by account number for all programs, a separate checking account for each federally funded program is not necessary.
3. The CPA or designee shall endorse all checks for deposit upon receipt.

4. The disbursing of undeposited funds shall be strictly forbidden.
5. All coin and currency shall be deposited by the CPA or designee.
6. The CPA or designee is responsible for receipting all money received. No cash shall be accepted without a receipt being issued.
7. All mail shall be opened by the Receptionist. The Receptionist through a formal daily listing of receipts shall track all receipts from incoming mail.
8. The CPA will maintain formal cash receipts journal for all receipts.
9. All cash receipts will be entered and posted to the general ledger in a timely manner.

06.402.DETAILED PROCESS OF ACTUAL RECEIPTING OF CASH

The Receptionist shall prepare a daily list of receipts and turn all checks over to the CPA or designee for deposit. Upon receipt of a check, the CPA or designee shall record the check number, source and amount and immediately stamp the check "For Deposit Only". The check is then mailed or carried to the bank for deposit to the checking account with a duplicate of the deposit slip retained.

After this is done, the CPA or designee records the receipt in the cash receipts journal.

The procedures for receiving coin or currency shall differ from those for checks. Coin and currency shall be received by the CPA or designee who shall enter on the money receipt the following information:

Name of the individual turning in the money
Amount of money being received
Source or origin for the money

The CPA or designee shall then initial the money receipt and give it to the person turning in the cash. The program director should retain his copies of the receipt until the closeout of the program year.

It is noted that the CPA utilizes several different individuals on staff in the cash receipts function to enhance internal control through separation of duties.

06.500 OVERVIEW OF CASH DISBURSEMENTS

General policies regarding cash disbursements include the following:

1. All checks shall be prenumbered and accounted for.
2. Unused checks shall be in the custody of the CPA or assigned representative.

3. Checks shall be prepared only after receipt and verification of supporting documents.
4. Spoiled and voided checks shall be mutilated by removing the signature line and writing "void" across the face of the check. (All such checks shall be retained.)
5. All invoices shall indicate date, amount, vendor name and description of purchase.
6. All checks shall be prepared on a timely basis.
7. All checks require the signatures of two individuals.
8. All cash disbursements are entered into the cash disbursements journal through the automated accounting system.

06.501 DETAILS ON CASH DISBURSEMENT PROCESS

The Accounts Payable clerks will process the checks from an Accounts Payable voucher if the proper documentation and signatures are included. All vouchers must contain the following:

- Vendor Name
- Vendor Number
- Date
- Description
- Fund, General Ledger and Department Numbers
- Amount
- Appropriate Signatures – See section 10.430
- Copies of Purchase Order and Purchase Requisition, if applicable
- Original Invoices or Contracts, and/or other applicable documentation
- W-9, if applicable, W-9 required for all contract services, unless already on file.

All exceptions to the above must be noted either in the "Remarks" or in a memo.

"Checks up front" will be processed on an as needed basis. If receipts are not provided within one month of purchase, then the appropriate director or staff may be responsible for the amount of payment and will be deducted from their salary. The program director will not be allowed any new "checks up front" if receipts are not provided timely. A log should be kept of "Checks up front" issued and date when receipt is received. Once receipt is received, the documentation must be scanned and filed timely.

Checks will be processed from the appropriate checking accounts. In the accounting system, a daily batch will be created for each staff person processing checks. This batch will be open for the entire day. The following day the batch will be posted to the general ledger. For each check the following information will be entered:

Vendor Number
Vendor Name
Date
Amount
Description
Fund, General Ledger and Department Number

After the checks are printed, Accounts Payable will obtain the check signatures. All checks require two signatures. A copy of the check remittance will be attached to the voucher and documentation. Accounts Payable will be responsible for the mailing checks. The date the check is mailed will be written on the voucher or in a log. If the check is picked up, the recipient will sign and date the check remittance.

The check remittance with the attached voucher and documentation will be given to records to file in the appropriate vendor file. Additionally, the voucher and documentation should be scanned prior to the check issuance.

06.502 LOST/STOLEN AND FORGED CHECKS

Stop payments will be issued on lost/stolen checks. Accounts Payable checks will be re-issued 10 working days after the stop payment is issued or within 5 working days if original check date is at least 6 months old. For payroll checks the payroll supervisor should follow the same policy, but may use his/her discretion to override and re-issue checks in less days. No Per Capita checks will be re-issued until after 45 days from the issuance date of the main Per Capita payments. Per Capita payments occur three times per year. Per capita checks will be re-issued 10 working days after the stop payment is issued or 45 days after the main issuance, whichever is greater. The enrollment supervisor on rare occasion may override this policy. A stop payment fee will be deducted from the amount of the re-issued per capita check.

The payee on a forged check will need to address the forgery with First Interstate Bank. An affidavit will need to be signed. Once First Interstate has determined it was a forgery, the funds will be returned to the Crow Tribe accounts. After the funds are returned, the Tribe will issue a replacement check for the forged check less any applicable bank fees charged.

06.600 PAYROLL COMPONENT OF THE ACCOUNTING CYCLE

General policies regarding payroll include the following:

1. The payroll system is part of the overall automated accounting system. The gross salary is accounted for as part of the primary cash disbursements. All deductions from gross salary are reconciled each pay period and such deductions are automatically entered into the general ledger.
2. Payroll checks are distributed bi-weekly to the department directors or persons assigned to pick up. The Tribe has the option of distributing checks at other times upon the approval of the Chairman.

3. Timesheets are reviewed and approved by each program director to confirm labor assignment to proper code and total of hours worked. See section 06.603 for further detail
4. The CPA oversees the payroll generation.
5. Checks for payroll are written on a separate bank account.
6. The CPA is responsible for compliance with Federal and State wage and tax laws, payroll tax depository requirements, etc.
8. Any change in the payroll master file shall be initiated by a properly executed form, such as a personnel action form, notice of an employee status change, a W-4 form, deduction form and an insurance application for group insurance.
9. Leave slips documenting approved absences must be submitted with the timesheet for the current pay period only.
10. Leave accruals for a given pay period may not be used until a subsequent pay period.

06.601 DETAILS OF PAYROLL

This section includes a discussion of procedures to maintain accurate payroll records and to prepare payroll checks. These procedures are developed to respond to both internal control requirements, as well as, to satisfy Federal and State regulations applying to wages, withholding, and timely submission of appropriate reports.

Each timekeeper shall submit timesheets for payroll and verify that hours reported are charged to the correct account. This includes time directly chargeable to a project, leave taken, holidays, time-off, etc. Timesheet preparation is discussed in detail in section 06.603. The approved employee timesheets are forwarded to the payroll department. The Payroll Department reviews the timesheets and leave forms for accuracy, and approves the data to be entered into the MIP Payroll module of the accounting system. When that step is complete, the payroll department processes and prepares the payroll checks. The payroll department reviews the checks for accuracy. If any discrepancies are found, corrections can be made at that time. Checks are then signed in accordance with general Tribal policies. Payroll checks shall be available for pick-up by program directors at a designated time on paydays. Any check errors, which are discovered after distribution, shall be corrected with the next paycheck or upon the discretion of the Payroll Department.

The CPA is responsible for payment of the appropriate payroll taxes and other items withheld from the gross payroll. The deposit of Federal taxes is made electronically on the date due. Similarly, the other amounts due from deductions are remitted timely to the respective entities.

06.602 TIMESHEETS

Timesheets must be fully completed and submitted to the timekeepers by 5 PM Friday the week prior to payroll release. Timekeepers have until 10 AM the following Monday to review, make any necessary corrections, and turn into the Payroll department. Late or rejected time sheets will not be processed until all checks have been issued and may not be processed until the next payroll, depending upon the discretion of the Payroll department.

All signatures on the timesheet must be originals. The employee and appropriate supervisor/director must sign the timesheet. If the employees are not available to sign, the supervisor can sign on their behalf, but must initial the signature. The paycheck will be processed but the Payroll department will hold the employee's check until the employee comes in and signs the timesheet.

Timesheets containing Administrative, Annual or Sick Leave must have complete approval slips attached and must match the time and dates reported. Timesheets need to have the employee's correct employee number and position at the top of the timesheet. Timesheets that do not comply will only be processed for the hours properly documented. Docked hours will not be paid until correct documentation is provided. Docked hours may not be processed until the next pay period, depending upon the discretion of the Payroll department.

06.603 PAYROLL DEDUCTIONS

Payroll deductions for insurance, Credit loans, Housing, Direct Deposits, Tribal reimbursements (Travel/Cell phones), Garnishments/Liens, etc... must be submitted to the Payroll Department prior to or along with the timesheets. Once the deduction is added, it cannot be cancelled unless notified in writing by the employee or authorized individual. The appropriate individuals from those departments must authorize cancellation of Credit, Housing and Tribal reimbursement deductions. Liens served by the IRS, Child Support, etc... must be legally honored by the Tribe and cannot be cancelled without a written release from the agency that served the lien. If an employee purchases Tribal property, it may be paid from a payroll deduction if specifically approved by the Chairman. No personal payroll deductions are allowed other than those listed above. Examples of disallowed deductions are car loans, personal loans and utility payments, etc...

06.700 OVERVIEW OF CAPITAL ASSETS

Note in the Introduction that there is a self-balancing group of accounts (Fixed Assets Group of Accounts) not used exclusively by anyone fund. All capital assets are accounted for in this fund (separate ledger).

General policies on capital assets are described in Chapter 11, Property, Plant and Equipment. Highlights of these policies include the following.

1. A capital asset shall be defined as any item of non-expendable personal or real property which the cost exceeds \$5,000 and has a useful life of more than one year.
2. Computers and peripherals that cost less than \$5,000 will still be tracked by the computer department to insure proper distribution and control. These items will not be categorized as capital assets.
3. A bi-annual inventory of capital assets shall be conducted by the Property and Supply Director and verified through the annual audit.
4. The Property and Supply Director shall notify the CPA of any property dispositions for the CPA to properly record the disposition.
5. The CPA shall conduct a reconciliation of the ledger account to property control records at year-end.

06.701 RECORDING CAPITAL ASSETS

For each capital asset, the information included in a Fixed Asset schedule shall include the following:

- Asset ID
- Asset Type
- Asset Description
- Purchase Date
- Cost
- Estimated Useful Life
- Category
- Responsibility or Fund Code
- Location Code
- Serial Number, if applicable

Disposition of any capital asset requires the prior approval of the elected officials. The CPA shall make a general journal entry to remove the original amount paid from the account, which is posted to the general ledger.

06.800 CREDIT LOANS

Loans are approved and issued through the Credit Dept. The Credit Dept. maintains the policies regarding issuance and collection of loans. The loans are tracked through the accounts receivable module of the MIP Accounting system. Duties and responsibilities regarding the loans are split between the Credit Department and the Accounting Department as such:

Credit Department

- a. Approve the loan and prepare the loan documents.
- b. Enter the debtor's information in the Customer maintenance.
- c. Post payments to the debtor's accounts receivable.
- d. Submit payroll deduction information to the appropriate organization.
- e. Monitor the loans and establish collections for past due loans.
- f. Issue loan statements or information.
- g. Retain the loan documents.

Accounting Department

- a. Issue the loan check for amount submitted by the Credit Department.
- b. Reconcile the general ledger accounts to insure customers' accounts are properly debited for loans received and credited for payments received.
- c. Enter the loan amount and loan fee into accounting system.
- d. Monitor the availability of funds to issue loans.
- e. Enter miscellaneous credit adjustments to clear out miscellaneous balances or make corrections to accounts as determined appropriate by the Credit Department.
- f. Reconcile the Credit Departments bank accounts.

06.900 PER CAPITA PAYMENTS

Enrollment will be maintained with Progeny software by the Enrollment Department. Per Capita checks will be issued by the Finance Department from data maintained in the Progeny software. Payments will be issued by the 10th of April, August and December annually. All discrepancies with checks issued should to be directed to the Enrollment Department. Checks are issued at the direction of the Enrollment Department to the Finance Department. See section 06.502 regarding lost/stolen and forged checks.

CHAPTER SEVEN

TRAVEL

07.100 OFF-RESERVATION TRAVEL

All Off-Reservation travel requires prior approval. Prior to traveling a Travel Advance Form must be completed with the appropriate signatures. The Travel Advance Form is discussed in 07.200. When travel is completed a Travel Reconciliation Form must be submitted as discussed in 07.300. All Federal travel away from the reservation requires the prior approval of the program director, the Finance Office, and the Chairman. Tribal policies regarding travel off the reservation are detailed below.

07.101 USE OF PRIVATE VEHICLES - MILEAGE ALLOWANCE

Mileage allowance for use of a private vehicle on Tribal business shall be at the Federal approved standard mileage rate for all employees including elected officials. (However, see the exception noted below in 07.102). The standard mileage rate is utilized in lieu of reimbursing for the actual costs of operating the vehicle. The standard mileage rate covers the operational costs of the vehicle while on Tribal business. The standard mileage rate does not include incidental charges such as highway tolls and parking expenses. These incidental charges shall be reimbursed to the employee in addition to the standard mileage rate. Receipts are required for reimbursement of highway tolls, parking expenses, and other incidental charges. Receipts are not required for gasoline costs, or other vehicle operational expenses.

07.102 USE OF PERSONAL OR TRIBAL VEHICLES: ELECTED OFFICIAL EXCEPTION

Elected officials are required to be available for service twenty-four hours per day, seven days per week. The nature of the positions require tremendous amount of local travel for Tribal purposes. As a result, the four elected officials may either get reimbursed at the standard mileage rate or may purchase gas and actual expenditures to be reimbursed by the Tribe. The elected official may choose whichever method, but must stay with that method during the year without changing methods. If the elected official chooses to get reimbursed for actual expenditures, they should maintain a log of their business travel.

07.103 USE OF TRIBAL VEHICLES - MILEAGE ALLOWANCE

Travelers that utilize a Tribal vehicle rather than a personal vehicle may get reimbursed at \$.25 per mile to cover fuel expenses or get reimbursed for the actual fuel expenses. If actual expenses are used then original receipts must be attached. If no personal or Tribal vehicle is available, a vehicle may be rented from a commercial company. The fuel will be reimbursed at \$.25 per mile or the actual expense.

07.104 COMMERCIAL TRAVEL COSTS VS PERSONAL VEHICLE

If commercial forms of travel are used, such as airlines, buses, trains, or charter services, the actual cost is the basis for reimbursement. The form of transportation used should be the least expensive available, unless the loss of time or effectiveness is disproportionate to the monetary savings. If airlines are used, a standard coach class ticket will be purchased with the exception of the Tribal Officials. The Tribal Officials may purchase a First Class ticket pending budget availability and from General funds only. If the employee opts to drive a personal vehicle in lieu of a commercial carrier, and the cost of mileage allowance at the standard rate for use of a personal vehicle exceeds the regular coach 21 day advance fare of a commercial airline, then the employee shall be reimbursed for transportation costs at the regular coach 21 day advance fare of a commercial airline. If an airline reservation is changed due to personal reasons and there is a fee charged, the traveler is responsible to pay the fee. Airfare should be requested 21 days in advance. Travel may be denied because of the higher cost of purchasing airfare after the 21-day advance fare.

If the traveler opts to drive a personal vehicle and this extends the travel time, the traveler will be reimbursed for the lesser travel time that the commercial travel would require. Per Diem and lodging is reimbursed beginning twenty-four (24) hours prior to the start of his/her scheduled travel purpose and ending twenty-four (24) hours after the conclusion of the traveler's scheduled travel purpose. There are three exceptions to the 24-hour rule. One exception is if the savings on airfare for extending the travel time less the additional per diem and lodging costs were less than the airfare allowed with the 24 hour rule, then the traveler may get reimbursed for the additional per diem and lodging. The second exception is if there are no available flights within the 24 hours then per diem and lodging will be reimbursed until the next available flight is procured. The third exception is if a personal vehicle is utilized because there are no other forms of commercial travel and the travel cannot feasibly be completed within the 24 hour period, then additional per diem and lodging will be reimbursed. If the traveler opts to drive a personal vehicle and this extends the travel time beyond the 24-hour rule, the traveler will not be reimbursed the additional per diem and lodging.

07.105 DIRECT ROUTE

An employee is entitled to travel reimbursement for the most direct route to and from the destination. The employee will pay any extra expenses incurred due to the interruption of the most direct route at the convenience of the employee. Employees who must travel to the Billings airport for airline travel are entitled to reimbursement either:

- A) Mileage for one round-trip to Billings plus the cost of long-term parking, or
- B) Mileage for two round-trips to Billings.

Long-term parking receipts must be attached to Travel Reconciliation Form.

Employee will not be reimbursed for a hotel in Billings prior to or upon return from a flight unless extenuating circumstances justify this additional cost. Circumstances that would qualify for one night hotel in Billings:

1. Flight Departure prior to 7:00 am
2. Flight Return after 9:00 pm
3. Due to inclement weather causing hazardous roads, i.e. winter storm or flooding.

07.106 OFFICIAL TRAVEL - COMMUTING

In cases where the employee must begin official travel from the employee's home, the employee will be entitled to reimbursement for mileage from their home rather than from the Tribe.

07.107 INSURANCE COVERAGE AND DRIVERS LICENSE

Employees who use a private vehicle for travel in connection with Tribal business must maintain automobile liability insurance coverage and have a current valid driver's license. Employees who use a Tribal vehicle must have a current valid driver's license.

07.108 LODGING AND PER DIEM/OVERNIGHT TRAVEL

Lodging and per diem is based upon the federal approved daily rate for a given destination as published in the federal register. The Lodging and Per Diem rates can be found on GSA.gov. All employees will be subject to these rates regardless of position with the exception of the elected officials. The elected officials may get reimbursed for their actual expenses regardless of whether the expenses are less than or greater than the per diem rates. The only exception is that the lodging may not exceed 300% of the federal rate. If the officials do not provide receipts for meals, the meals will get reimbursed at the applicable federal per diem rates.

Travelers are entitled to a flat rate for each day that requires overnight travel regardless of the actual expense. The flat rate for overnight travel is the federal approved rate for lodging plus the federal approved rate for per diem.

Travelers are entitled to a flat rate for each day that does not require an overnight stay at the federal approved rate for per diem, excluding lodging, regardless of the actual expense. In instances where meals are provided by the conference/workshop the traveler's meal rate must be adjusted by deducting the appropriate amount allocated to that particular meal. Travel to/from days or same day travel are reimbursed at 75% of the full day per diem rate.

A sample reimbursement is given as such: If an employee travels to Billings on January 15 and returns January 17, the employee will receive 75% of the federal approved per diem rate for meals for the 15th and 17th. They will receive the full per diem rate for the 16th and two nights lodging for the 15th and 16th. The federal approved per diem rate for Billings is currently \$51 per day and \$89 for lodging. The total reimbursement will be \$285.50.

The traveler may get reimbursed for the actual lodging expense if greater than the federal approved rate under two conditions. The first condition is if the traveler is staying in the hotel that's hosting the travel purpose (i.e. seminar). The second is if no lodging near the traveler's destination can be obtained for less than the federal approved rate. The actual expense may be reimbursed if either of these two conditions is met at no greater than 300% of the established federally approved rate.

An employee who travels for a period that is equal to or less than four hours voids any right to per diem. For example, an employee who travels to Billings at 8:00 a.m. and returns at 12:00 noon would not receive per diem for the trip. If travel is less than 12 hours a reimbursement for the applicable lunch rate will be given. If the travel is the same day, but greater than 12 hours 75% of the full day rate will be given.

For overnight travel, per diem and lodging is reimbursed beginning twenty-four (24) hours prior to the start of his/her scheduled travel purpose and ending twenty-four (24) hours after the conclusion of the traveler's scheduled travel purpose. In instances where the employee's travel is extended beyond the 24 hours through no fault of their own, the traveler will be eligible for additional lodging or per diem reimbursement. To be reimbursed for the additional lodging and per diem, the traveler must state the reason for the extended stay in writing and obtain the signatures of the program director, CEO and Finance Office.

Failure to provide a properly documented lodging receipt for any night of travel voids the employee's right for lodging reimbursement for that 24-hour period. It does not void the employee's right to reimbursement for other days for which lodging receipts are provided.

Travelers who share lodging with another employee are entitled to a full daily rate provided that a lodging receipt is obtained bearing each traveler's name. The only exception is if the travelers are married. Married travelers will be required to share lodging and only one of the married travelers will be reimbursed for the lodging.

The traveler must provide the original lodging receipt issued by the hotel/motel that bears the traveler's name. A copy issued by the hotel/motel is acceptable if traveler loses the original, however, such copy must be sent directly to the Finance Office by the hotel/motel and must show the travelers name, dates of stay and final cost. Receipts are not required for meals and incidentals relative to per diem.

07.109. OTHER TRAVEL EXPENSES

The only travel expenses which will be reimbursed to the traveler, other than the cost of travel to and from the destination, lodging, and per diem for meals, is the cost of local transportation or parking at the travel destination. A receipt for local transportation and parking is required for reimbursement.

07.110. ENTERTAINMENT

Entertainment is not an eligible travel expense.

07.111 NON-EMPLOYEE TRAVEL

The elected officials may allow travel for non-employee Tribal members when the travel is deemed beneficial to Tribal operations. The elected official shall authorize travel for the non-employee through a signed memorandum and Travel Advance Form. For non-employees who do not reconcile outstanding travel, the Tribe will deduct the outstanding amount owed from future payments to the non-employee such as committee stipends or contracted services. If the Tribe receives no reconciliation or payment within sixty (60) days after the trip has been completed, the Tribe may pursue any legal method of debt collection.

A Tribal employee funded from federal or state sources who travels at the request of the Elected Administration for purposes unrelated the employee's Federal or State program is required to take leave from the program for the travel.

07.200 TRAVEL ADVANCE FORM

Travelers must complete a Travel Advance Form prior to traveling. This form authorizes the travel. A valid and completed form should be submitted at least three days prior to travel. If the Travel Advance Form is not submitted three days prior to travel then the travel may be denied and/or an advance of funds may not be given. The steps to complete the form include the following:

1. Traveler must provide basic travel data on the Travel Advance Form and sign the request. Traveler shall provide back-up for registration fees and dates of required travel. An agenda, if applicable, needs to be attached. If the traveler does not know the accounting line-items to be charged, the travel specialist should be contacted to obtain the correct account number.
2. Traveler must obtain the signatures of the program director, Finance Officer and elected official, if applicable prior to submitting to the Travel Specialist. The form must have dates by the signatures.

The Travel Specialist will first confirm there is budget in the line items that the travel will be charged to. If budgeted funds are not available, the form is rejected and returned to the traveler. The Travel Specialist will write on the form: "Rejected due to lack of budgeted funds."

If the Travel Specialist notes any other reason why the travel should be rejected, the form will be returned to the traveler with the reason written on the form. The travel may get rejected due to traveler having outstanding travel that hasn't been reconcile.

The Travel Specialist will confirm all amounts to be advanced and make corrections as deemed necessary. If approved, the Travel Specialist signs and submits the travel advance form to accounts payable to process the advance payment. The Tribe will pay all airfare and registration fees directly to the vendor, not to the traveler. An Accounts Payable voucher

must be submitted by the traveler to pay for the registration. The Travel Specialist or specifically designated staff are responsible for making and paying for all airline reservations.

07.300 TRAVEL RECONCILIATION FORM

All travelers should complete a Travel Reconciliation Form within fourteen (14) days after the Travel is completed. A validly completed Travel Reconciliation Form must be filled out and contain:

1. Hotel/motel receipt with travelers name
2. Airline ticket receipt (if applicable)
3. An agenda or other handout from the meeting evidencing attendance (if applicable)
4. Any other required receipts
5. Traveler's signature
6. Program director's signature
7. Finance Officer's signature

Original receipts should be attached. If traveler seeks reimbursement for expenses not included in his/her advance, he/she must provide receipts and must be applicable.

The Travel Specialist reviews the completed form for accuracy and indicates approval by signature. The travel specialist then forwards the travel reconciliation to accounts payable if a refund is due, accounts receivable if the traveler has submitted payment for a balance owed, or payroll if the balance owed is to be repaid through a payroll deduction. If there is a balance owed and payment is not attached, then the form is automatically forwarded to payroll for a payroll deduction from the traveler's paycheck. Once a deduction is forwarded to payroll, the travel is no longer considered outstanding. If no balance or refund is due, the form is filed in records.

If traveler fails to go on the intended travel, traveler shall void the travel advance and return the check not cashed. If traveler cashes his/her travel advance check without traveling, he/she shall reimburse the Tribe immediately. If traveler fails to reimburse the Tribe, the Tribe shall deduct the travel advance from the traveler's paycheck.

Failure to submit a valid Travel Reconciliation Form within 30 days after the travel is completed will result in the Tribe deducting the travel advance from the employee's paycheck. The only exception to the thirty days is for the elected officials. They may take up to 60 days to submit the Travel Reconciliation Form after the travel is completed.

Payroll deductions regarding travel advances will be deducted in full unless specifically requested to spread deduction evenly over 4 pay periods. Once travel is deducted from an employee's paycheck, it will not be reimbursed to the employee, unless specifically authorized by the Chairman and all Travel is fully reconciled by employee. A traveler may not elect to have the payroll deduction deducted from their annual leave balance. Special pay back arrangements may be given if the total deduction is larger than \$400. If it is the traveler's last paycheck, 100% of the travel advance will be deducted, including from any remaining annual leave balance. If a traveler is no longer an employee and still has

outstanding travel advances that are not reimbursed, then the amount will be added to the employee's gross W-2 wages and subject to income tax.

07.400 ON-RESERVATION TRAVEL

On-reservation travel is considered local travel within the reservation or a 100-mile radius from the Tribal Offices at Crow Agency. This travel does not include an overnight stay unless tribal business is conducted on two or more consecutive days or business purpose extends beyond 9:00 pm. The employee still has the option of driving back and forth, if more than one business day required. Travel must be authorized by the employee's program director or the appropriate supervisor. The request for reimbursement for on-reservation travel that does not include an overnight stay or per diem is submitted on a Mileage Report form to accounts payable.

07.500 VEHICLE RENTALS

When a program budget permits the rental of a vehicle for program personnel, the program director may secure a GSA rental or a tribally owned vehicle for the program through the procedures identified in the procurement management system. Programs are not permitted under any circumstances to rent a vehicle from an employee of the program.

CHAPTER EIGHT

MISCELLANEOUS EXPENDITURE POLICIES

08.100 PURPOSE

The following are expenditure policies specific to the Crow Tribe. They will be applied to all funds within the Tribe, unless stated otherwise below.

08.200 EMERGENCY ASSISTANCE

Emergency Assistance is available to Tribal Members on a limited basis through the general funds. The Tribal Member must qualify through an application process. Emergency assistance is defined as financial assistance given to Tribal Members on behalf of the Crow Tribe when an unusual occurrence gives rise to a financial need for that member. Members must complete an application and provide back-up for their specific need (i.e., death certificate, hospital admission slip). The financial assistance will be limited to \$200 or less per situation. The assistance will also be limited based on the amount of funds available per approved budget. Assistance given greater than \$200 requires special approval by the Tribal Chairman. Assistance will be limited to once per year. Emergency assistance is not considered taxable income as described below:

The Tribal General Welfare Exclusion Act of 2014 added section 139E to the Internal Revenue Code. This section provides that gross income does not include the value of any Indian general welfare benefit if all the following requirements are satisfied:

- (a) The program is administered under specific guidelines and does not discriminate in favor of members of the governing body of the tribe.
- (b) The benefits provided under the program are:
 1. Available to any tribal member who meets the guidelines;
 2. For the promotion of general welfare
 3. Not lavish and extravagant
 4. Not compensation for services

08.300 FOOD COSTS

Some federal programs require the purchase of food to meet the program's objectives. Menus are generally required prior to purchase. Refreshments and/or light meals may be approved for trainings, if applicable. Employee parties need to have prior approval by the Tribal Chairman.

08.400 BURIAL FEEDS

Expenditures may be allowed to provide assistance with Burial Feeds.

08.500 DONATIONS

Donations/sponsorships may be made to any individual, group or organization upon the approval of the Tribal Chairman from general funds only.

08.600 COMMITTEE MEETINGS

Stipends will be paid to official members of official committees for meetings specific to their purpose. Stipends are paid approximately \$100 - \$300 per meeting, as pre-determined. Payment amounts are set and can be changed with the approval of the Tribal Chairman only. Frequency of meetings will be based on available budget. Meetings will not be paid if there is not available budget. Meetings should be held after business hours. If a meeting is during business hours, the employee will have to take leave without pay for that day (8 hours) to receive the stipend. Sign-in sheets and minutes are required for payment. Food and beverage will not, generally, be provided by the Tribe at the meetings.

Because committee payments are received for services performed (i.e. serving on the 107 Committee) and *not* based on a social benefit program for Tribal general welfare as discussed in 08.201 above, the payments are not exempt from taxation. The monetary payments made to committee members are characterized as "nonemployee compensation". The Tribe will issue IRS Form 1099-MISC for these payments and they will be characterized as gross income subject to federal income and self-employment tax.

08.700 CREDIT CARDS

Credit cards will be issued for specific business uses only. Credit card issuance other than listed below must have written approval from the Tribal Chairman. The Tribal Officials and Official's secretary may be issued credit cards for Tribal business purposes. The Travel Specialists will be issued credit cards to reserve airline tickets, car rentals and hotel arrangements. Water Resources and Transportation Departments will be issued credit cards on a limited basis for program/business use only as approved by the Chairman. Itemized receipts need to be turned into Finance in a timely manner as stated in the credit card user agreement. Purchases must follow the procurement policies in Chapter 10. Business meal receipts should include business purpose and attendees listed. Credit cards may not be used for personal use. Cash advances on credit cards are not allowed. Cardholders must sign a credit card user agreement when the initial credit card is issued. Cardholders who do not adhere to these policies and the credit card user agreement will risk revocation of their credit card privileges and/or disciplinary action. Cardholders will be held responsible for all personal use.

08.800 CELL PHONES

Cell phones will be provided on a limited basis. Cell phones will be provided to Tribal Officials and certain "qualified employees". The Qualified Employees are those employees that have special needs for a cell phone or it is beneficial and allowable under the funding agency. The cell phone must be approved by the Finance Department. The IT department

will issue the phone, provide phone maintenance/instruction and changes to service, as approved. Cell phones should be used for business purposes only. Any additional charges beyond the normal contract price/data usage will be the responsibility of the employee. Costs for lost, stolen or broken phones will be covered by the Tribe's insurance on the first occurrence. The employee will be responsible for the costs of lost, stolen or broken phones beyond the first occurrence.

08.900 TELEPHONE USAGE

1. Telephone usage should be for business purposes only. On rare occasions it may be used for personal use. If an employee has excessive personal usage, it will be deducted from that employee's salary. Random calls will be made to determine if calls are for personal or business use.
2. Request for additional phone hook-ups need to be made through the Finance Department. The Tribe has a centralized phone system that requires special equipment and installation.

08.1000 LOANS

No personal loans are allowed. Personal loans may be obtained through the Crow Credit Department. See chapter 06.800 regarding the issuance of loans through the Credit Dept.

08.1100 FUEL PURCHASE / MILEAGE REIMBURSEMENTS

Fuel purchases for Tribal vehicles must utilize a Gasoline/Oil Requisition form. The gas requisition must be requested on a per time basis for Tribal Vehicles specifically assigned. The vehicles must be licensed and insured under the Tribal Insurance Policy. The vehicle driver must have a valid Montana's driver license. Gas requisitions will not be issued if budget is not available. The Crow Tribe operates the Crow Nation Express Center, where gas purchases can be made. Each program director should submit a list of vehicles with make, model, color and license plate number to authorize gas requisitions to be issued and charged to their respective departments.

Fuel purchases for GSA vehicles must follow the GSA guidelines and restrictions. See section 11.150 for further information regarding GSA vehicles.

Mileage reimbursements will be made for Tribal employees that utilize their personal vehicles to conduct tribal business. The Tribal business should be pre-approved. Mileage will not be reimbursed for travel between the vehicle owner's home and their place of employment at the Crow Tribe. The employee must submit an auto mileage report to request reimbursement at the approved Federal Standard Mileage rate. If applicable, documentation needs to be attached proving their need to conduct the Tribal business. The employee may need to provide proof that they were physically at the destination. This can be a signed letter or statement from an individual at the destination. A copy of the employee's current valid Driver License and proof of vehicle insurance for the specific vehicle driven need to be provided. A mileage reimbursement request needs to be submitted

to Finance within 30 days of the conducted tribal business. The reimbursement is solely for the use of the vehicle. The reimbursement should be made to the vehicle owner listed on the proof of insurance. If the payee is different than the owner listed on the insurance, it should be explained and requested in memo form.

08.1200 COMPUTER EQUIPMENT/PERIPHERALS PURCHASES

Computer equipment/program purchases must be made through the Tribe Information Technology Department. This is to guarantee that the equipment/program is compatible with our computer network and the specs are consistent with the Tribe's needs.

08.1300 SENIOR BENEFITS

Senior members of the Crow Tribe of Indians age 67 and older receive a \$300 benefit monthly. The checks are issued on the 1st day of the month. Back benefits will be paid from the period the member turned 67, if the senior member did not receive the benefits. Proof of age must be provided. If a check is not received by the senior for the current month a stop payment will be issued. A replacement check will be issued after 10 working days from the date of the stop payment. This benefit is subject to change or termination at the discretion of the Tribal Chairman at any time. It is not a required benefit.

08.1400 CONTRACT MONITORING – CONSULTANTS

The Tribe requires sufficient documentation/invoices from consultants which describe the activities/services provided and the hours worked. Two options to document services:

- (c) If the initial contract provides extensive detail on the services to be performed, then it is sufficient to provide an invoice itemizing hours worked only. A sample invoice is included in Appendix A – Forms.
- (d) If the initial contract is general in the description of services to be performed, then an invoice must provide detail on the activities/services performed, as well as, itemize hours worked.

Supervisors must review services performed and authorize the payment to the Consultant. Contracts should be reviewed annually or as needed to insure services are being performed and update for any changing circumstances.

CHAPTER NINE

RECORDS RETENTION

09.100 RETENTION REQUIREMENTS

The Records Retention Supervisor is responsible for maintaining a catalogue by type and date of all records retained in satisfaction of 2 CFR Part 200. Tribal policy requires the records to be stored for at least three years from the date of submission of the final expenditure/financial report to the Federal awarding agency according to the following guidelines.

1. Financial records, supporting documents, statistical records, and all other records pertinent to a grant shall be retained for a period of three years from the date of submission of the final expenditure/financial report, with the following qualifications:
 - a. If any litigation, claim or audit is started before the expiration of the 3-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.
 - b. When the Tribe is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
 - c. Records for real property and equipment acquired with Federal funds must be retained for three years after its final disposition.
 - d. When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement not applicable to the Tribe.
 - e. Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the Tribe's fiscal year in which the program income is earned.
 - f. Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) Submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) Not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

2. Records should be kept in electronic format, if feasible. There should be reasonable safeguards in place to prevent alteration and remain readable. Records retention supervisor should keep a system for easy access and identifiability of records.⁴

09.200 REQUESTS FOR TRANSFER OF RECORDS

The Federal awarding agency must request transfer of certain records to its custody from the Tribe when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the Tribe to retain any records that are continuously needed for joint use.

09.300 ACCESS TO RECORDS

(a) Records of non-Federal entities. The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the Tribe which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the Tribe's personnel for the purpose of interview and discussion related to such documents.

(b) Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the Tribe and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

(c) Expiration of right of access. The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

CHAPTER 10

PROCUREMENT & PURCHASING POLICIES

The Crow Tribe follows all Federal Procurement and Purchasing Policies as put forth in 2CFR 200 Subpart D, as well as, specific requirements under each individual grant agreement. Procurement includes both the purchasing of goods and services. The following policies may be in addition to the above regulations, and are general policies of the Tribe.

10.100 POLICIES AND OBJECTIVES

1. Procurement transactions for goods and services that are directly charged to a Federal award must be conducted in a manner providing full and open competition, except where Indian Preference is specifically allowed. Indian Preference is allowed for 638 contracts.
2. It is the policy of The Crow Tribe to procure only those items, which are required to perform the mission and/or fill a bona fide need. Procurements will be made with complete impartiality based strictly on the merits of supplier proposals and applicable related considerations such as delivery, quantity, etc.
3. The Program Directors, with the assistance of the Procurement Officer, are responsible for all functions related to the acquisition of supplies and services, including overall administration. In performing the functions, the acquisitions will adhere to the following objectives:
 - a. Obtain quality supplies/services needed for delivery at the time and place required
 - b. Purchase from responsible sources of supply. Contractors must possess the ability to perform successfully under the terms and conditions of a proposed procurement.
 - c. Obtain maximum value for all expenditures. Avoiding acquisition of unnecessary or duplicative items.
 - d. Deal fairly and impartially with all vendors/contractors.
 - e. Give consideration to consolidating or breaking out procurements to obtain a more economical purchase.
 - f. Where appropriate a lease-purchase analysis should be conducted.
 - g. Review the use of Federal excess or surplus property in lieu of new equipment or property.
 - h. Document each transaction as required by the Internal Revenue Service and 2 CFR 200. The Tribe must maintain records sufficient to document the procurement method, selection of contract type, contractor selection or rejection and basis for contract price.

- i. Avoid any conflict of interest. See Conflict of Interest policy in section 10.xxx.

10.110 STANDARDS OF CONDUCT

1. No employee, officer or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. Disciplinary action will be taken if an employee, officer, or agent violates this standard. This may include suspension or termination.
2. The officers, employees, and agents of the Tribe will not solicit or accept any gratuities, favors, or anything of monetary value from contractors or parties to subcontracts with the Tribe. A gift that is unsolicited and of limited or nominal value may be accepted.
3. Maintaining the integrity of the procurement process is of paramount importance; therefore, any person disseminating procurement information to persons who do not have a bona fide need to know, within or outside of the Organization, are in violation of this trust.
4. Disciplinary action will be taken if an employee, officer or agent does not abide by the aforementioned standards of conduct. Action may include warnings, suspension, and/or termination.

10.200 RESPONSIBILITY OF THE PROCUREMENT OFFICER OR PROGRAM DIRECTOR

The Procurement Office or Program Director, when applicable will:

- a. Review each purchase for proper item description and technical references or specifications such as approvals, clearances, etc., and all other necessary documentation to initiate the required purchase.
- b. Select at least 2 qualified suppliers, sufficient for meeting the small purchases criteria in Section 10.500. More than one quote is encouraged to ensure free and open competition.
- c. Document all proposals/quotations/bids and attach to voucher submissions.
- d. Document negotiations/discussions pertaining to the purchase.
- e. Conduct price analysis and when necessary obtain cost analysis for purchases greater than \$150,000 per criteria in Section 10.510.
- f. Assure that funds and budget are available for the purchase.
- g. Administer and modify or terminate purchasing agreements/contracts as necessary.
- h. Initiate purchases that adhere to all Federal and Tribal purchasing requirements and are allowable under Federal and Tribal regulations.

10.300 SIGNATURE AND REVIEW REQUIREMENTS

1. Each Program Director for the Tribe should be familiar with the Tribe's signature requirements for the Purchases and the Accounts Payable process.
 - a. The CPA staff or Finance Director must approve all Purchase Orders, if utilized.
 - b. All Accounts Payable Vouchers must have CPA staff or Finance Director's signature, as well as, Budget Officer and Requester's signature. CPA staff or Finance Director can act as Budget Officer in their absence. There are two exceptions. One is Credit Loans in which the Credit Department is the only signature authority. The second exception is payments posted to non-budgetary line items, such as a Payable Account. The Budget Officer is not required to sign in these situations.
 - c. The Tribal Chairman must approve all purchases over \$10,000 by signing the initial contract and/or the Accounts Payable Voucher. If more than one payment on a contract is required for the purchase, the initial payment/contract is the only payment that requires the Chairman's approval. The Tribal Chairman must sign all contracts. The Chairman can give signature authority to specific individuals in his absence or for certain projects. This transfer of authority must be in writing.
 - d. The program director or requester should sign on all Accounts Payable Vouchers.
 - e. Contracts and miscellaneous service agreements should be signed by person responsible for providing the service.

10.400 SELECTION OF SUPPLIERS

1. There are no standards by which all suppliers can be judged, because of the wide variety of materials, equipment and services required by The Tribe. There are, however, several major considerations and sources of information used to locate sources and guide the selection of suppliers:
 - a. Master vendor's mailing list/procurement history file
 - b. TERO list of suppliers
 - c. Technical and business reputation of a company
 - d. Past performance of a company, if previously used by The Tribe
 - e. Recommended sources (input from the requesting organizational element)
 - f. Classified sections of telephone directories
 - g. Buyer's knowledge and experience
 - h. Professional associations

2. Every supplier requesting an opportunity to render an offer will be given the opportunity to do so, unless there is supportable evidence that he or she cannot realistically be expected to provide the required item(s).
3. If bids/quotes are requested and submitted, the selected supplier should be the lowest bidder. If the lowest bidder is not accepted, then it should be documented why the particular supplier was selected. A valid reason should be determined.
4. If a supplier is an individual rather than an established business then steps must be taken to determine that a fair and competitive price is being charged by the individual. The price may be reviewed and approved by Finance for reasonableness. Finance may require a quote from an established business to verify the reasonableness. If the established business provides a quote lower than the individual, than the individual can be the selected supplier if it lowers its price to the same as the established business.
5. **Exceptions:** NONCOMPETITIVE PROCUREMENT is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
 - a. The item is available only from a single source.
 - b. The public exigence or emergency for the requirement will not permit a delay resulting from competitive solicitation.
 - c. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the Tribe.
 - d. After solicitation of a number of sources, competition is determined inadequate. This must be documented in writing steps taken to solicit sources.
 - e. The Tribe may use noncompetitive procurement from non-Federal funds including Indirect Costs for certain professional contracts that require specific expertise or experience at the discretion of the Chairman, such as Attorneys, CPA's and Consultants. All noncompetitive procurement made from non-Federal and Indirect C funds must be authorized by the Chairman if greater than \$3,000, except if the purchase is made by the Judicial or Legislative Branch. The Judicial and Legislative Branch may authorize non-competitive purchases from non-Federal funds up to \$10,000 without the Chairman's approval.
6. The Tribe will not restrict competition within regards to purchases directly charged to Federal awards, unless specifically allowable under Indian Preference. Some situations considered to be restrictive of competition include but are not limited to:
 - a. Placing unreasonable requirements on firms in order for them to qualify to do business.
 - b. Require unnecessary experience or excessive bonding.

- b. Noncompetitive pricing practices between firms or between affiliated companies.
- c. Noncompetitive contracts to consultants that are on retainer contracts.
- d. Organizational conflicts of interest.
- e. Specifying only a "brand name" product instead of allowing "an equal" product to be offered.
- f. Any arbitrary action in the procurement process.

7. The Tribe will take necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. These steps will include, but are not limited to, placing qualified small and minority businesses and women's business enterprises on solicitation lists and soliciting whenever they are potential sources.

10.500 METHODS OF PROCUREMENT

Procedure	Limits
a. Micro-purchases: Competition not required, if price considered reasonable. Must distribute equitably among qualified suppliers.	< \$3,000 (\$2,000 if construction subject to Davis-Bacon Act)
b. Small purchases between \$3,000 and \$50,000: Solicit at least two (2) price or rate quotations documented in writing. (Can be from a price list via online search engine)	> \$3,000 < \$50,000
c. Small purchases between \$50,000 and \$150,000: Solicit at least three (3) price or rate quotations in writing.	> \$50,000 < \$150,000
d. Sealed bids or Competitive Proposal: As described below in 10.510	> \$150,000 (Simplified Acquisition threshold) Does not apply to Noncompetitive Procurement as discussed in 10.400 Section 5 above.

10.510 SEALED BIDS AND COMPETITIVE PROPOSALS

1. **Sealed Bids:** Bids are publicly solicited (formal advertising) and a firm fixed price contract is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction.
 - a. In order for sealed bidding to be feasible, the following conditions should be present:
 - (i) A complete, adequate, and realistic specification or purchase description is available;
 - (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
- b. If sealed bids are used, the following requirements apply:
 - (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
 - (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 - (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
 - (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - (v) Any or all bids may be rejected if there is a sound documented reason.
- 2. Competitive Proposals: The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
 - a. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
 - b. Proposals must be solicited from an adequate number of qualified sources;
 - c. The Tribe must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
 - d. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - e. The Tribe may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- 3. Contract Cost and price: The Tribe must perform a cost or price analysis in connection with every sealed bid or competitive proposal in excess of \$150,000, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Tribe must make independent estimates before receiving bids or proposals. The Tribe must negotiate profit as a separate

element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

10.600 BONDING

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (\$150,000), minimum bonding requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

For the construction, alteration, or repair of Federal buildings, the Tribe will abide by the Miller Act and require payment and performance bonds for contracts in excess of \$100,000, as well as, coverage for taxes in the performance bond.

10.700 CONTRACT PROVISIONS UNDER FEDERAL AWARDS

All contracts made by the Tribe under a Federal award must contain provisions covering the following, where applicable (See Appendix II to 2 CFR Part 200):

(a) Contracts for more than the simplified acquisition threshold currently set at \$150,000, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(b) All contracts in excess of \$10,000 must address termination for cause and for convenience by the Tribe including the manner by which it will be effected and the basis for settlement.

(c) All federally assisted construction contracts must include the equal opportunity clause provided under 41 CFR 60.

(d) Davis-Bacon - Construction contracts in excess of \$2,000 awarded by the Tribes must include a provision for compliance with the Davis-Bacon Act. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145).

(e) Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

(f) Contracts and sub-grants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

(g) Debarment and Suspension - A contract award must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180. Contractors should register with SAM.Gov on the website. There is no fee to register.

(h) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification.

CHAPTER 11

PROPERTY, PLANT AND EQUIPMENT (PP&E) PROCEDURES

The Crow Tribe follows all Federal Regulations regarding the acquisition, disposal and depreciation of fixed assets, as put forth in 2 CFR Part 200. The following policies may be in addition to the above regulations, and are general policies of the Tribe. Property regulations under 2CFR Part 200 are generally described in sections 11.700-11.130 below.

11.100 DEFINITION OF PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment (PP&E) is also referred to as capital assets or fixed assets throughout this manual. Capital assets are defined as non-expendable personal, real or intangible property which the cost exceeds \$5,000 and has a useful life of more than one year.

11.200 PP&E ACQUISITIONED

1. PP&E Acquisitions will be based on Approved Requests.

Before a purchase is made prior approval must be obtained. See chapter 10 for signature authority.

2. Internal Accounting Controls

The CPA will insure the Accounts Payable voucher used to purchase the property has the correct coding to a PP&E general ledger account. All purchases greater than \$5,000 will be reviewed for this type of coding. The CPA will add all property purchases from PP&E accounts during the year to a master fixed asset schedule. The information added to the fixed asset schedule includes, but is not limited to: serial or identification number, acquisition price, asset description, date of purchase, physical location of asset, and source of funding, as well as, percentage Federal participation, if applicable. If title other than the Tribe's, it must be listed.

3. Donated tangible assets

- A. All tangible assets donated to the organization will be treated as owned by the organization.
- B. Each donated asset will be identified, and entered in the fixed assets schedule at the fair market value of the asset at the time of the donation.

11.300 RECORDKEEPING OVER PROPERTY, PLANT AND EQUIPMENT

The Tribe will perform recordkeeping to completely and accurately record fixed asset acquisitions, transfers and dispositions.

1. Capitalization Policies

The Crow Tribe will observe its policies on the capitalization of equipment and distinguish between normal maintenance and betterments. The Crow Tribe will follow GAAP regarding the capitalization of expenditures for capital assets under construction and the capitalization of interest expense. Items purchased in bulk purchases will be recorded as property, plant and equipment if items within the purchase exceed \$5,000 individually.

2. Fixed Asset Classification

Fixed assets will be maintained for the following classifications: land, buildings, equipment, furniture and fixtures, vehicles, livestock and infrastructure.

3. Procedures

- A. Asset acquisitions, transfers, dispositions and depreciation will be entered in the Fixed Assets Schedule. Additionally, a construction in progress (cip) schedule will be maintained. Once the construction is completed, the asset will be entered onto the fixed asset schedule.
- B. The fixed asset and CIP schedules will be reconciled to the Capital fund in the accounting system, reporting the original acquisition cost and accumulated depreciation.
- C. The \$5,000 threshold for fixed assets was adopted October 1, 2005. Prior to that date the threshold was \$1,000. The items purchased for less than \$5,000 prior to October 1, 2005 will continue to be reported as fixed assets until fully depreciated and/or disposed of.

11.400 DEPRECIATION

The purpose of this control objective is to ensure that the depreciation of PP&E is correctly stated. The Tribe will record depreciation upon the due date of implementation as required by GASB 34.

1. Depreciation Policies

The Tribe utilizes the straight-line method depreciation. The useful lives and residual values depend on the type and class of asset. Depreciation of Assets

Detailed depreciation records will be maintained so that the organization's total depreciation amounts will be cumulative from each fixed asset's periodic and accumulated depreciation.

2. Procedures

- A. Each new capital asset will be properly classified according to the type of asset and useful life and entered in the Fixed Assets Spreadsheet.

- B. Annually, the Finance Office (CPA) will evaluate the useful lives of fixed assets. If a change is made, the remaining cost of the class of assets will be spread over their revised remaining lives.

11.500 INVENTORY OF PROPERTY, PLANT AND EQUIPMENT

The purpose of this control objective is to ensure that all recorded assets exist and are in use.

1. Internal accounting controls
 - A. All applicable PP&E tagged when received
 - B. Restricted access to facilities during non-working hours
 - C. Physical inventories completed at least bi-annually
2. Procedures
 - A. Inventory will be taken by those employees with responsibilities independent of the custody or record keeping of such assets.
 - B. The inventory of fixed assets will be compared to the detailed fixed asset schedule and the schedule will be adjusted accordingly.
 - C. Any differences will be resolved with the employee to whom the asset has been assigned.

11.600 DISPOSAL OF PROPERTY, PLANT AND EQUIPMENT

The purpose of this control objective is to ensure that assets no longer in use will be disposed of in accordance with existing policies.

1. Internal Accounting Controls
 - A. Disposal or transfer of fixed assets only with proper authorization
 - B. Periodic count of fixed assets that is reconciled with fixed asset records.
2. Procedures
 - A. A determination will be made by the procurement officer, in coordination with the finance director, as to the necessity of keeping a fixed asset.
 - B. An asset may be disposed of by: 1.) Trade-in on a similar asset; 2.) Sale to employees or third parties; 3.) Gift to a local charity/treatment as scrap/etc.

- C. Asset disposals will be documented and list of disposed assets will be maintained. The Finance Office (CPA) will enter the asset disposals as a reduction in the General Ledger control account/ the related accumulated depreciation account/ treatment of any proceeds from the disposition/ and the recognition of any gain or loss on sale of the disposed asset.

11.700 INSURANCE COVERAGE

The Tribe must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the Tribe. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award.

11.800 REAL PROPERTY ACQUIRED BY FEDERAL AWARD

Real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the Tribe must not dispose of or encumber its title or other interests. When real property is no longer needed for the originally authorized purpose, the Tribe must obtain disposition instructions from the Federal awarding agency or pass-through entity.

11.900 FEDERALLY-OWNED PROPERTY

If the Tribe has property in its custody whose title remains federally-owned then upon completion of the Federal award or when the property is no longer needed, the Tribe must report the property to the Federal awarding agency for further Federal agency utilization. The Tribe must submit annually an inventory listing of federally-owned property in its custody to the Federal awarding agency.

11.110 EQUIPMENT ACQUIRED BY FEDERAL AWARD

Title to Equipment acquired under a Federal award will belong to the Tribe as a conditional title unless otherwise specifically authorized. Conditions to follow:

- (1) Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
- (2) Not encumber the property without approval of the Federal awarding agency or pass-through entity.
- (3) When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:
 - (a) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then

(b) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.

(4) During the time that equipment is used on the project or program for which it was acquired, the Tribe must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate. The Tribe must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.

(5) When acquiring replacement equipment, the Tribe may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

(6) When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the Tribe must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

(a) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.

(b) If the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the Tribe or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the Tribe to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.

11.120 SUPPLIES ACQUIRED BY FEDERAL AWARD

Title to supplies will vest with the Tribe upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the

Tribe must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share.

11.130 INTANGIBLE PROPERTY ACQUIRED BY FEDERAL AWARD

The regulations regarding intangible property follow similar provisions as stated in section 11.110 above regarding equipment acquired by Federal award.

11.140 PROCUREMENT DEPARTMENT AUTHORITY

The Tribal Procurement Department has the full authority and responsibility to manage all the Crow Tribe's vehicles and other property. This includes cars, trucks, GSA vehicles, trailers, ATVs, snowmobiles, office furniture, equipment, corral panels, buildings and any other property purchased through the Tribe.

All requests to use Tribal property must go through Procurement, and be checked-out from Procurement. All drivers are required to log mileage, fuel and conditions for each use, utilizing sign-out sheets and usage logs.

11.150 GSA VEHICLES

GSA motor vehicles may be used for official and work-related purposes only. GSA vehicles may not be used for personal transportation between place of residence and place of employment or for personal business during work hours. Non-tribal employees including family members are absolutely not allowed in GSA motor vehicles for any reason at all. If a Tribal employee willfully uses or authorizes the use of a GSA vehicle for other than official business purposes, the employee is subject to disciplinary action.

A GSA vehicle is assigned to a particular department and must be utilized for that department only.

Tribal employees operating a GSA vehicle must have a valid driver license.

CHAPTER 12

INTERNET, COMPUTER AND EMAIL USAGE POLICY

12.100 POLICY OVERVIEW

This Internet usage policy is designed to help you understand our expectations for the use of resources in the particular conditions of the Internet, and to help you use those resources wisely.

The Crow Tribe's first concern is the security of our data and systems. An Internet user can be held accountable for any breaches of security or confidentiality.

The Internet is a business tool, provided to you at a significant cost. The Crow Tribe expects you to use your Internet access primarily for business related purposes, i.e., to communicate with customers and suppliers, to research relevant topics and obtain useful business information, except as outlined below. We insist that you conduct yourself honestly and appropriately on the Internet, and respect the copyrights, software licensing rules, property rights, privacy and prerogatives of others, just as you would in any other business dealings. All existing company policies apply to your conduct on the Internet, especially (but not exclusively) those that deal with intellectual property protection, privacy, misuse of company resources, sexual harassment, information and data security, and confidentiality.

The Crow Tribe System Engineer must take special care to maintain the clarity, consistency and integrity of the company's image and posture. Anything any one employee writes in the course of acting for the company on the Internet can be taken as representing the company's posture. That is why we expect you to forgo a measure of your individual freedom when you participate in newsgroups on company business, as outlined below.

12.200 DETAILED INTERNET/COMPUTER POLICY

1. User Ids and passwords help maintain individual accountability for Internet resource usage. Any employee who obtains a password or ID for an Internet resource must keep that password confidential. Company policy prohibits the sharing of user Ids or passwords obtained for access to Internet sites.
2. The Systems Engineer may monitor and record all Internet usage. We want you to be aware that all our security systems may record (for each and every user) each World Wide Web site visit, newsgroup or email message, and each file transfer into and out of our internal networks, and we reserve the right to do so at any time. No employee should have any expectation of privacy as to his or her Internet usage.
3. Employees may use their Internet facilities for non-business research, browsing, or communication during mealtime or other breaks, or outside of work hours, provided that

all usage policies are observed.

4. Employees are prohibited from downloading software onto Tribal computers without authorization from the IT Department.
5. Participation in Internet chat groups is prohibited during business hours.
6. Video and audio streaming and downloading technologies represent significant data traffic, which can cause local network congestion. Video and audio downloading should be avoided unless necessary for business use.
7. The Tribe reserves the right to inspect any and all files stored in private areas of our network in order to assume compliance with policy.
8. The display of any kind of sexually explicit image or document on any company system is a violation of our policy on sexual harassment. In addition, sexually explicit material may not be archived, stored, distributed, edited or recorded using our network or computing resources.
9. The Crow Tribe's Internet facilities and computing resources may not be used knowingly to violate the laws and regulations of the United States or any other nation, or the laws and regulations of any state, city or province or other local jurisdiction in any material way. Use of any company resources for illegal activity is grounds for immediate termination, and the Tribe will cooperate with any legitimate law enforcement activity.
10. No employee may use company facilities knowingly to download or distribute pirated software or data.
11. No employee may use the Crow Tribe's Internet facilities to deliberately propagate any virus worm, Trojan horse, or trap-door program code.
12. No employee may use the Crow Tribe's Internet facilities to disable or overload any computer system or network, or to circumvent any system intended to protect the privacy or security of another user.
13. Each employee using the Internet facilities of the company shall identify himself or herself honestly, accurately and completely (including one's company affiliation and function where requested) when participating in chats or newsgroups, or when setting up accounts on outside computer systems.
14. Employees are reminded that chats and newsgroups are public forums where it is inappropriate to reveal confidential company information, customer data, trade secrets, and any other material covered by existing company secrecy policies and procedures. Employees releasing protected information via newsgroup or chat—whether or not the release is inadvertent—will be subject to all penalties under existing data security and

procedures.

15. Since a wide variety of materials may be deemed offensive by colleagues, customers or suppliers, it is a violation of company policy to store, view, print, or redistribute any document or graphic file that is not directly related to the user's job or the company's business activities.
16. The company will comply with reasonable requests from law enforcement and regulatory agencies for logs, diaries, and archives on individuals' Internet activities.
17. Any violations of these Internet and computer guidelines may result in corrective action, including loss of computer and /or network privileges.

12.300 EMAIL POLICY

The Tribe provides electronic mail ("e-mail") to employees as a privilege of employment for communication related to work for the tribal government. Incidental personal usage is permitted, provided that such use does not interfere with tribal operations or negatively impact an employee's job performance.

E-mail Guidelines:

1. Employees may not use their tribal e-mail for commercial purposes, personal financial gain, to distribute chain mail, or to support organizations unrelated to the Tribe. Employees who wish to use tribal e-mail in support of external organizations must obtain written or e-mail approval from the employee's supervisor or Department head. Such use will ordinarily be approved only when it furthers the Tribe's mission and goals.
2. Employees are prohibited from sending or forwarding e-mail messages containing libelous, defamatory, offensive, or obscene remarks. Employees who receive an e-mail of this nature should notify their supervisor.
3. The Tribe supports a climate of trust and respect and does not ordinarily read, monitor, or screen employees' e-mail. However, confidentiality of e-mail cannot be guaranteed due to the nature of the medium and the need for authorized staff to maintain e-mail systems. The Chairman, or his designee, may authorize access to employee e-mail in a variety of circumstances, including, but not limited to: situations involving the health or safety of people or property; possible violations of the Crow Law & Order Code, regulations or policies; possible violations of state or federal law; subpoenas and court orders; other legal responsibilities or obligations of the Tribe; or the need to locate information required for tribal business.
4. The Tribe uses e-mail for both formal and informal communication with staff. The Tribe expects employees with e-mail access to regularly check their e-mail accounts for tribal communications.
5. Due to the limited amount of storage space, the Tribe strongly encourages employees to regularly delete e-mail that has been read and to empty their deleted items folder. This is especially important for large e-mails, such as those with attachments.

6. Tribal e-mail accounts are the property of the Tribe. If an employee is laid off or terminated, the Tribe may disable the employee's tribal e-mail account.
7. E-mail use that violates the rights of others, laws, or tribal policies or regulations may subject an employee to corrective action, including termination of e-mail account privileges, disciplinary action and/or legal action.

12.400 COMPUTER ASSISTANCE – SAMANAGE TICKET SYSTEM

Employees may request computer assistance, lap top checkout and cell phones through the Samanage Ticket System. This system creates an electronic ticket order that is handled by the Tribe's IT Department. Samanage is accessed through the Tribe's internal employee webpage called Sharepoint at <https://sharepoint.crow-nsn.gov/>. The Tribe recommends opening the internet through Firefox to access this webpage. Once Sharepoint's main page is accessed, the employee must select "IT Help". This will redirect you to the Samanage website. Select "New Incident" to create a ticket. Please fill out the ticket with as much information as possible to assist the IT Tech staff to properly assist.

CHAPTER 13

DISASTER RECOVERY

13.100 OVERVIEW

There are many aspects to Disaster Recovery. These policies will mainly cover the Tribe's contingency plans in regards to the financial computer systems in case of disaster, emergency and/or computer system failure. We will touch on a few other aspects in regards to emergency situations.

13.200 EMERGENCY CONTACTS

As soon as an emergency situation occurs, individuals should contact the appropriate emergency authority and then take the necessary steps to minimize property damage and injury to individuals in the vicinity.

<u>Type of Situation</u>	<u>Contact Person</u>	<u>Phone Number</u>
Computer Room or System Damage, such as electrical, water, fire, excessive heat, cold, or humidity	Elwyn Stewart, Operations Supervisor	Office 638-3791/3797
	Switchboard	Office 638-3708/3805
Building Damage, such as air conditioning and heat, fire, electrical, plumbing and water	Elwyn Stewart, Operations Supervisor	Office 638-3791/3797
	Disaster Recovery	Office 638-3859/3726
	Source Refrigeration	406-248-7843
Phone Lines Down	Project Telephone	800-275-6004
	Quentin Whiteman, Project Telephone	
Electrical Outage	Big Horn Electric	406-665-2830
Physical Security	Executive Security	638-3722
	Finance Security	638-3869

13.300 PROCEDURES TO SAFEGUARD COMPUTER SYSTEM

In case of an emergency situation, the immediate steps to be taken are:

- a. Immediately power-down the computer
- b. In case of fire, use fire extinguisher to attempt to put out fire. A fire extinguisher is mounted on the wall next to the door of the computer room.
- c. Immediately contact Computer Specialist and Operations Supervisor. See phone numbers above.
- d. If time permits:
 - Remove current tapes
 - Detach Cables and Roll Cart Out

13.400 STEPS FOR CONTINUING OPERATIONS OF FINANCIAL SYSTEM

In case the current facilities/computer systems are destroyed or inoperable for a sustainable period, a plan is in place for a substitute facility/computer operation to be up and running within a short period. The following are the steps and/or plans in place:

- a. Check Stock – A substantial amount of check stock is located at the First Interstate Bank of Hardin's bank vault. We will be able to issue checks immediately without waiting for new check stock to be printed.
- b. Computer System Back-up – Electronic back-ups of our financial accounting system and electronically stored documentation of transactions are made. The actual financial software can be restored and running within a day.

APPENDIX A -- FORMS

Sample forms are included below. Official forms may be obtained from the Finance Department.

TIMESHEET

**CROW TRIBE
PAYROLL TIME SHEET**

EMPLOYEE NUMBER: _____

NAME: _____

PAY PERIOD: _____ Number _____ Beginning (Mon) _____ To _____ Ending (Fri) _____

RECAP OF HOURS WORKED OR TO BE PAID:							
DATE WORKED:	(a) REGULAR HOURS	(b) SICK LEAVE	(c) ANNUAL LEAVE	(a+b+c+d) TOTAL REG HRS PAID	(e) OVERTIME HOURS	(f) LEAVE W/O PAY	(d+e+f) TOTAL HOURS
Mon							
Tue							
Wed							
Thu							
Fri							
Mon							
Tue							
Wed							
Thu							
Fri							
TOTAL							

	LEAVE STATUS		COMMENTS:
	SICK		
BALANCE FORWARD			
ACCRUED			
AVAILABLE			
USED			
ENDING BALANCE:			

I Certify that the above hours represents the hours worked to the best of my knowledge.

EMPLOYEE: _____ DATE: _____

SUPERVISOR: _____ DATE: _____

SPLIT TIMESHEET - MULTIPLE DEPARTMENTS

GROW TRIBE

PAYROLL TIME SHEET - MULTIPLE DEPARTMENTS

EMPLOYEE NUMBER: _____ DEPT NAME See Below _____

NAME: _____ FUND/DEPT CODE See Below _____

PAY PERIOD: _____ Number _____ To _____ Beginning (Mon) _____ Ending (Fri) _____

DEPARTMENT NAME AND CODE:						
DATE WORKED	(a) REGULAR HOURS	(b) SICK LEAVE	(c) ANNUAL LEAVE	(d) HOLIDAY/ADMIN LEAVE	(a+b+c+d = e) TOTAL REGULAR HOURS PAID	(f) OVERTIME HOURS
Mon	1/0				0.0	
Tue	1/1				0.0	
Wed	1/2				0.0	
Thu	1/3				0.0	
Fri	1/4				0.0	
Mon	1/7				0.0	
Tue	1/8				0.0	
Wed	1/9				0.0	
Thu	1/10				0.0	
Fri	1/11				0.0	
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

DEPARTMENT NAME AND CODE:						
DATE WORKED	(a) REGULAR HOURS	(b) SICK LEAVE	(c) ANNUAL LEAVE	(d) HOLIDAY/ADMIN LEAVE	(a+b+c+d = e) TOTAL REGULAR HOURS PAID	(f) OVERTIME HOURS
Mon	1/0				0.0	
Tue	1/1				0.0	
Wed	1/2				0.0	
Thu	1/3				0.0	
Fri	1/4				0.0	
Mon	1/7				0.0	
Tue	1/8				0.0	
Wed	1/9				0.0	
Thu	1/10				0.0	
Fri	1/11				0.0	
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

TOTAL ALL DEPTS	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	------------	------------	------------	------------	------------	------------

I Certify that the above hours represents the hours worked on the Program/Dept listed above on the dates listed.

EMPLOYEE: _____ DATE: ____/____/____

SUPERVISOR: _____ DATE: ____/____/____

LEAVE SLIP

<u>CROW TRIBAL PROGRAMS</u>	
EMPLOYEE NAME:	EMPLOYEE NO:
DATE FROM:	NO. OF HRS
DATE TO: _____	_____
TYPE OF LEAVE: <input type="checkbox"/> ANNUAL <input type="checkbox"/> SICK <input type="checkbox"/> WITHOUT PAY <input type="checkbox"/> ADMINISTRATIVE <input type="checkbox"/> OTHER	
REASON: (explain)	
SIGNATURE OF EMPLOYEE	

<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED	
SUPERVISOR SIGNATURE _____	DATE _____

EMPLOYEE NAME:	EMPLOYEE NO:
DATE FROM:	NO. OF HRS
DATE TO: _____	_____
TYPE OF LEAVE: <input type="checkbox"/> ANNUAL <input type="checkbox"/> SICK <input type="checkbox"/> WITHOUT PAY <input type="checkbox"/> ADMINISTRATIVE <input type="checkbox"/> OTHER	
REASON: (explain)	
SIGNATURE OF EMPLOYEE	

<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED	
SUPERVISOR SIGNATURE _____	DATE _____

COMMITTEE VOUCHER

CROW TRIBE COMMITTEE VOUCHER		
VENDOR ID:		DATE:
NAME:		
ADDRESS:	FUND:	
CITY, STATE, ZIP:	GL:	
SSN:	DEPARTMENT:	
TRIBAL EMPLOYEE?	<small>(CIRCLE ONE)</small> YES OR NO IF YES->	<small>(CIRCLE ONE)</small> ANNUAL LEAVE OR LWOP
DATE & TIME OF MEETING	DESCRIPTION OF MEETING	AMOUNT
TOTAL		\$ -
<p>I CERTIFY THAT THIS STATEMENT, THE AMOUNTS CLAIMED ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT PAYMENTS FOR THE AMOUNT CLAIMED HAS NOT BEEN RECEIVED.</p>		
_____ DATE	_____ SIGNATURE OF PAYEE	
_____ DATE	_____ SUPERVISOR/DIRECTOR	
_____ DATE	_____ BUDGET OFFICER	
_____ DATE	_____ GPA OFFICE	

CONSULTANT BILLABLE HOURS

**CROW TRIBE OF INDIANS
CONSULTANT BILLABLE HOURS FORM**

VENDOR ID: _____

NAME: _____

CONTRACT ON FILE: _____ DATED _____

RECAP OF TIME ON CONTRACT AGREEMENT SCOPE					
DATE WORKED	TIME ON DELIVERABLE A)	TIME ON DELIVERABLE B)	TIME ON DELIVERABLE C)	TIME ON DELIVERABLE D)	TOTAL
Mon					
Tue					
Wed					
Thu					
Fri					
Mon					
Tue					
Wed					
Thu					
Fri					
TOTAL					

I Certify that the above hours represents the hours worked on the Program/Dept listed above on the dates listed.

CONSULTANT: _____ / /

PROGRAM: _____ / /

W-9 - (Print copy from IRS.gov)

W-9 Request for Taxpayer Identification Number and Certification

Form header area with fields for Name, Address, and Social Security Number.

Section 1: Taxpayer Identification Number (TIN). Includes instructions for providing the TIN and a field for the TIN.

Section 2: Certification. Includes instructions for certifying the TIN and a field for the certification.

Section 3: Sign Here. Includes fields for the name and signature of the taxpayer.

General Instructions. Includes detailed instructions regarding the purpose of the form, how to fill it out, and special rules for partnerships.

TRAVEL ADVANCE

Crow Tribe Travel Advance Form

Vendor Number _____
 Last Name _____ Departure Date _____
 First Name _____ Departure Time _____
 Fund _____ Return Date _____
 Department _____ Return Time _____
 GL _____
 Purpose _____
 Destination _____

Days _____ Amount per Day _____ Airfare _____
 Lodging \$ _____
 Lodging Tax _____
 Days _____ Amount per Day _____ Amount of Meals \$ _____
 Registration Fees _____

Personal Vehicle Miles _____ Amount for Personal Mileage \$ _____

Tribal Vehicle Miles _____ Amount for Tribal Miles \$ _____

Note: The claim for personal vehicle miles requires that the traveler drive his or her vehicle. A passenger in a vehicle driven by another traveler is not entitled to any mileage advance or reimbursement.

Local Transportation _____

Describe Other _____ Other _____

Total Estimated Travel Costs \$ _____

Tribal Paid Air _____

Tribal Paid Registration _____

Tribal Paid Other _____

Total Paid By Tribe \$ _____

I hereby certify that the above information is true and correct. Failure to use monies advanced to a traveler for the listed purposes will result in criminal prosecution if the amount of the advance is more than \$100.00 and will result in civil liability if the amount advanced is less than \$100.00. A Travel Reconciliation report is due within 5 days of the traveler's return or further travel will be denied. A payroll deduction will be made for the amount of the advance 10 days after conclusion of travel; if the travel reconciliation has not been completed and any advance excess over the actual costs incurred has not been repaid in full to the Tribe.

Total Advance To Traveler \$ _____

Traveler Signature _____

Supervisor Signature _____

Finance Director Signature _____

Chairman/Or CEO Signature _____

Personnel Signature _____

TRAVEL RECONCILIATION

Crow Tribe Travel Reconciliation Form

TA Number _____ Vendor # _____
 Last Name _____ Departure Date _____
 First Name _____ Departure Time _____
 Fund _____ Return Date _____
 Department _____ Return Time _____
 GL _____
 Purpose _____
 Destination _____

Days _____ 1 Amount Per Day _____ Airfare _____
 Days _____ Amount Per Day _____ Lodging \$ _____
 Lodging Tax _____
 Amount of Meals _____
 Registration Fees _____

Personal Vehicle Miles _____ Amount for Personal Mileage _____
 Tribal Vehicle Miles _____ Amount for Tribal Miles \$ _____

Note: The claim for personal vehicle miles requires that the traveler drive his or her vehicle. A passenger in a vehicle driven by another traveler is not entitled to any mileage reimbursement.

I hereby certify that this information is true and correct and by signing this form acknowledge that criminal prosecution will result if funds in excess of \$100.00 have been used for any purpose other than the travel costs claimed.

Local Transportation \$ _____
 Describe Other _____ Other _____
 Actual Cost Incurred \$ _____
 Total Travel Advance _____
 Paid by Tribe/Credit Card _____
 Total Amount Owed or Due _____

Payment: _____
 Money Order _____
 Payroll Deduct _____ PAYMENT AMOUNT _____

Traveler Signature _____
 Supervisor Signature _____
 Finance Director Signature _____

MILEAGE REIMBURSEMENT

MILEAGE REIMBURSEMENT				
EMPLOYEE: _____	Vendor # _____			
<i>(Please attach copy of Driver's License & Vehicle Insurance)</i>				
FUND : _____	TITLE	CODE		
DEPARTMENT: _____	TITLE	CODE	VEHICLE MAKE & MODEL _____	
GL: _____	TITLE	CODE	VEHICLE LICENSE # _____	
DOCUMENTATION REQUIRED BY TRIBAL POLICIES MUST BE ATTACHED				
DATE	TRIP (TO-FROM)			
	REASON			
	ENDING MILEAGE	STARTING MILEAGE	TRIP MILES	
DATE	TRIP (TO-FROM)			
	REASON			
	ENDING MILEAGE	STARTING MILEAGE	TRIP MILES	
DATE	TRIP (TO-FROM)			
	REASON			
	ENDING MILEAGE	STARTING MILEAGE	TRIP MILES	
DATE	TRIP (TO-FROM)			
	REASON			
	ENDING MILEAGE	STARTING MILEAGE	TRIP MILES	
				TOTAL MILES PAGE 1
				TOTAL MILES PAGE 2
				TOTAL MILES
				AUTHORIZED AUTO RATE/MILE
				TOTAL AMOUNT DUE
<p style="font-size: small;">I CERTIFY THAT THIS STATEMENT, THE AMOUNTS CLAIMED AND THE ATTACHMENTS ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT PAYMENTS FOR THE AMOUNT CLAIMED HAS NOT BEEN RECEIVED. FURTHER, I UNDERSTAND THAT MY VOUCHER MAY BE SELECTED FOR INTERNAL AUDIT AND I MAY BE REQUIRED TO VERIFY ANY OR ALL OF THE ITEMS ABOVE. IF ANY DISCREPANCIES ARE IDENTIFIED AND NOT JUSTIFIED, I AGREE THAT REPAYMENT FOR THE FULL VOUCHER PAYMENT WILL BE AN AUTOMATIC PAYROLL DEDUCTION.</p>				
SIGNATURE OF TRAVELER _____			DATE _____	
SIGNATURE OF SUPERVISOR/DIRECTOR _____			DATE _____	
SIGNATURE OF BUDGET OFFICER _____			DATE _____	
SIGNATURE OF CPA OFFICE _____			DATE _____	

MILEAGE REIMBURSEMENT PAGE 2

EMPLOYEE: _____

PAGE 2

DOCUMENTATION REQUIRED BY TRIBAL POLICIES MUST BE ATTACHED

DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
DATE	TRIP (TO- FROM)				
	REASON				
	ENDING MILEAGE		STARTING MILEAGE		TRIP MILES
TOTAL PAGE 2					

June 17, 2020

To Whom It May Concern:

The purpose of this letter is to provide you with a status update regarding the Crow Tribe of Indians (the “Tribe”) account reconciliations for the year ended September 30, 2017. To satisfy Subpart F – Audit Requirements in 2 CFR Part 200, the Tribe hired us to perform their fiscal year 2017 year-end reconciliations on October 25, 2017. However, we did not start on the account reconciliations at this time, due to the Tribe’s fiscal year 2016 audit not being completed.

On March 31, 2018, the Tribe’s fiscal year 2016 audit was completed and all adjusting journal entries to support the balances were entered in the Tribe’s accounting system. We started the planning phase of our engagement on February 14, 2018 and started to receive some of the supporting documentation related to cash and accounts payable. Then, we had to stop the engagement because we stopped receiving supporting documentation from the Tribe, due to turnover in the accounting department, documents to support fiscal year 2017 general ledger balances were stolen/compromised from the Tribal Finance Office, and the Tribal Finance Office burning down. Therefore, delaying the engagement.

On December 20, 2018, we started to receive some supporting documentation related to capital assets and accounts payable, so we were able to start working on the engagement. However, due to turnover in the accounting department and the Tribal Finance Office burning down, the Tribe did not have the majority of the documentation to support the fiscal year 2017 year-end general ledger balances. We suggested that the Tribe request invoices to support expenditure balances from the vendors and the cash receipts from the Federal granting agencies so that the Tribe can materially support the balances presented in their fiscal year 2017 Schedule of Federal Awards (SEFA) with their audited financial statements. By doing this the Tribe can show some transparency related to the activity in regard to the Tribe’s Federal programs.

The Tribe started making progress with requesting the invoices and cash receipts to support the SEFA balances. Then, in the middle of August 2019, the Tribe’s Abila MIP accounting system was hacked and held for ransom, and the Tribe lost all of their general ledger activity posted since inception, the start of the Tribe using the accounting system. Furthermore, the Tribe and/or the Tribe’s consultants at the time did not perform a backup of the accounting system. The last backup that the Tribe and/or their previous consultants performed was in May 2019. Therefore, losing all the activity entered into the accounting system from May 2019 – August 2019. Furthermore, since the accounting system was comprised, the Tribe could not access the accounting system to enter any day to day activity for about two months, since the accounting system was locked and the hacker was requesting monetary compensation to unlock the accounting system. This incident further delayed the progress of the Tribe’s fiscal year 2017 significant account reconciliations.

With the delays and in order for the Tribe to have accurate information at fiscal year end 2017, we went back to October 1, 2017 and started our reconciliation process for cash, grants receivable, capital assets, accounts payable, accrued liabilities, unearned revenue, fund balance/net position, revenues and expenditures. Since the majority of the balance sheet general ledger accounts were not reconciled throughout fiscal year 2017, we have and continue to work with the Tribe extensively to compile the necessary reconciliations that would be needed for the purpose of their fiscal year 2017 audit. The following is the status of the engagement by the Tribe's significant accounts:

- ◆ Cash:
 - Reconciling items have been identified and we are currently drafting adjusting journal entries for items that we were able to identify with the help of the Tribe's personnel where to code them to for twelve bank accounts.
 - A listing of revenues and expenditures that need to be recorded to the correct fund and/or grant has been provided to the Tribe so that they can make the decision as to what fund and/or grant needs to be recorded to for fiscal year 2017.
- ◆ Grants receivable, unearned revenue, grant revenues and grant expenditures:
 - Cash receipts have been identified with the cash reconciliation process and we are currently drafting adjusting journal entries to post to the system for fiscal year 2017.
 - Majority of the expenditures have been recorded by the Tribe. However, there are some expenditures that are recorded in the Tribe's general fund in error that need to be identified and recorded to the correct grant for fiscal year 2107. This is part of the cash reconciliation items above.
 - We will record a revenue equals expenditures adjustment once all cash receipts and expenditures have been recorded to determine the Tribe's grants receivable and unearned revenue as of year-end for fiscal year 2017.
- ◆ Capital assets:
 - Capital asset listing and depreciation schedule is completed by year and adjusting journal entries to agree amounts will be posted to the general ledger for fiscal year 2017.
- ◆ Accounts payable and accrued liabilities have been reconciled and final adjusting journal entries need to be posted to the general ledger for fiscal year 2017.

We anticipate to have the reconciliations discussed above completed by July 15, 2020. If you have any questions, or would like to additional clarification or details about this, please e-mail at ralcon@redw.com or call me at (505) 998-3486.

Sincerely,

REDWLLC



Rochelle J. Alcon, CPA
Senior Manager

RA:dlm



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, DC 20240

SEP 03 2020

Honorable Alvin Not Afraid
Chairman, Crow Tribe of Indians
P.O. Box 159
Crow Agency, Montana 59022

Dear Chairman Not Afraid:

This is to acknowledge receipt of an initial P.L. 93-638 self-determination contract proposal to request transfer of the law enforcement, criminal investigations, dispatch, and administrative program, functions, services and activities (PFSA) from the Bureau of Indian Affairs (BIA) Office of Justice Services (OJS) to the Crow Tribe of Indians. The initial contract proposal dated September 1, 2020 was forwarded via email from Dion Killsback, Crow Tribal Attorney, and received by the BIA OJS District V Office on the same date for review and processing in accordance with Indian Self-Determination and Education Assistance Act (ISDEAA) regulations at 25 C.F.R. § 900, and includes the following:

- Initial Contract Proposal (25 C.F.R. § 900.8(c)) unsigned/dated September 1, 2020.
- Crow Tribal Resolution No. 04-05 (2004).
- Crow Law Enforcement Implementation Plan with a budget totaling \$2,382,436 (a different budget total than the funding amount requested).
- Funding request in the amount of \$1,970,876 for direct law enforcement, criminal investigations, dispatch, and administration; a request for start-up cost (\$171,600); and Pre-Award Funding request (\$239,960).
- Crow Police Department Job Descriptions; Crow Police Manual; Crow Tribe of Indians Financial Management System – Policies and Procedures; REDW Audit Letter.

We now have ninety (90) days in which to review and approve the proposal and award a contract, or decline the proposal in accordance with Section 102 of the ISDEAA. Receipt of this notification is not an approval of an award and does not convey authority to proceed with contract activities. Authority to proceed will be given at a later date by the Awarding Official when a fully executed contract is negotiated with you.

The BIA OJS District V Office located in Billings, Montana will be representing the Bureau of Indian Affairs to assist the Tribe through the proposal process as we have full approving official responsibilities for law enforcement and criminal investigation programs serving tribes under the Rocky Mountain Region jurisdiction.

If you have any questions or need additional assistance in this matter, please contact me at the BIA OJS District V Office at (406) 657-5936, via email at lenora.nioce@bia.gov, or via mail at 2021 4th Ave. North, Suite 406, Billings, MT, 59101.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lenora Nioce".

Lenora Nioce
Special Agent in Charge/Approving Official

CC: Dion Killsback, Tribal Counsel, Crow Tribe of Indians
Leslie Gourneau, Awarding Official, BIA Rocky Mountain Region
Clifford Serawop, Superintendent, Northern Cheyenne Agency



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, DC 20240

SEP 28 2020

Honorable Alvin Not Afraid, Jr.
Chairman, Crow Tribe of Indians
P.O. Box 159
Crow Agency, Montana, 59022

Dear Chairman Not Afraid:

In our efforts to ensure the Crow Tribe of Indians is apprised of public safety matters on the reservation, the Bureau of Indian Affairs (BIA) Office of Justice Services (OJS) extends this invitation to the Crow Tribal Chief of Police and Tribal Leadership to participate in a weekly public safety meeting. The purpose of the weekly meeting is to create a professional setting in which the BIA OJS and the Crow Tribal Police can engage with one another on matters of public safety; discuss crime statistics, crime patterns, and information sharing; and work with the Tribe to develop strategies to address crime, fear of crime, and quality of life issues affecting citizens of the Crow Tribe Reservation.

The first meeting is scheduled for October 7, 2020 at 10:00 a.m. The meeting will be held via teleconference using our BIA OJS District V conference call line (Phone Number: 877-939-0801, Passcode: 7678407). During this initial call, we will establish a weekly schedule to include the date(s) and time(s) that these calls will commence and BIA OJS will commit to being available for each weekly call and any follow-up activities that may result from our discussions.

If you have questions regarding this matter, please contact me at the BIA OJS District V Office at (406) 657-5936, via email at lenora.nioce@bia.gov, or via mail to 2021 4th Avenue North, Suite 406, Billings, Montana, 59101.

Sincerely,

Lenora Nioce
Special Agent in Charge/Approving Official

CC: Larry Tobacco, Crow Tribal Chief of Police
Leslie Gourneau/Rose St. Goddard, Awarding Official, BIA Rocky Mountain Region
Cliff Serawop, Superintendent, Crow Agency



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, DC 20240

OCT 08 2020

Honorable Alvin Not Afraid, Jr.
Chairman, Crow Tribe of Indians
P.O. Box 159
Crow Agency, Montana, 59022

Dear Chairman Not Afraid:

The Bureau of Indian Affairs (BIA) Office of Justice Services (OJS) has completed an initial review of the Crow Tribe's combined P.L. 93-638 Indian Self-Determination and Education Assistance Act (ISDEAA) contract proposal requesting to assume the Uniform Police, Criminal Investigations, and Telecommunications programs from the BIA OJS. In accordance with 25 C.F.R. § 900.15, the Secretary of the Interior must notify the applicant Tribe in writing of any missing items required by 25 C.F.R. § 900.8, and request that the items be submitted within 15 days of receipt of the notice. Moreover, the Secretary must review the proposal to determine whether there are declination issues under section 102(a)(2) of the Act, 25 U.S.C. § 5321(a)(2). BIA OJS has identified one missing item required by § 900.8 and three (3) potential declination issues under section 102(a)(2). Please submit the items listed below no later than **October 26, 2020**:

Missing Items Required by 25 C.F.R. § 900.8:

1. The Tribe's draft proposal does not include specific standards for each program, function, service or activity (PSFA) that the Tribe is proposing to contract, as required by 25 CFR § 900.8 (g)(4). These standards are required so that BIA OJS can ascertain how the Tribe will carry out each PFSA.

Action Required: To assist the Tribe, we have attached the BIA OJS Model Annual Funding Agreement template for uniform police, criminal investigations and telecommunications, which delineates the minimum federal standards the Tribe must meet to contract the programs. Please review the attached templates and utilize them to create standards for each PFSA the Tribe is requesting to contract.

Potential Declination Issues under 25 U.S.C. § 5321(a)(2):

1. The Tribe has not demonstrated that it can fiscally manage the proposed program or function in a satisfactory manner. Specifically, the Tribe is currently on Level 1 audit sanctions. As part of its proposal, the Tribe included a June 2020 letter from REDWLLC describing the Tribe's efforts to complete its FY 2017 audit, and indicating that a reconciliation would be complete by July 15, 2020. The Tribe has not provided any further information on its audit status to BIA OJS since that letter. On September 9, 2020,

the Awarding Official for the Rocky Mountain Region informed the Tribe that the Department had not received the Tribe's FY 2017 or FY 2018 Single Audit reports, and that the Tribe would be placed on Level II sanctions if those reports were not forthcoming.

Action Required: Provide all delinquent Single Audit reports or provide an update on when BIA might receive the reports to demonstrate fiscal responsibility.

2. To provide satisfactory service to the beneficiaries of this public safety program the Tribe is proposing to contract, you must be ready to immediately assume the requested PFSA's upon approval of the Proposal. To that end, the Tribe must demonstrate that it has: (1) completed the hiring of all personnel for each program; (2) completed personnel background investigations (BIs) for all personnel, in accordance with the standards of 25 C.F.R. § 12.32; and (3) ensured that all personnel have completed the necessary training requirements, as outlined in 25 U.S.C. § 2802 (e) and 25 C.F.R. § 12.35. The Tribe must demonstrate that program personnel have fulfilled the background and training requirements before they may perform any law enforcement duties.

Action required: Provide a detailed plan on how the Tribe will complete hiring, perform pre-employment checks, adjudicate BIs, and ensure training requirements are fulfilled for all personnel in the Uniform Police, Program Management, Criminal Investigations, and Telecommunications programs.

Please note that BIs may be completed by the Tribe, by a third party, or by BIA OJS. Pursuant to 25 U.S.C. § 2802(e)(4), the Tribe may request that OJS complete the background investigations for personnel who will be working within the Uniform Police, Criminal Investigations, and Telecommunications programs under the proposed contract. If the Tribe utilizes a third party, the cost for that service may be reimbursable as a pre-award contract support cost. If the Tribe intends to use a third party to conduct the required BIs and adjudications, it must notify the Awarding Official in advance of incurring such costs under 25 U.S.C. § 5325(a)(6) [25 C.F.R. § 900.8(h)(2)].

3. The Tribe's draft proposal indicates that the Tribe will develop a Tribal Internal Affairs (IA) program. The BIA OJS maintains an Internal Affairs Division that is responsible for investigating allegations of officer misconduct involving either BIA OJS officers or officers employed by any program that receives federal funding or commissioning from BIA OJS, pursuant to 25 CFR § 12.53. The BIA OJS Internal Affairs Division is a central office oversight function that is not available for contracting under the ISDEAA. See 133 Stat. 2701 (2020). Therefore, the Tribe's request to include the Internal Affairs function would have to be declined under 25 U.S.C. § 5321(a)(2)(E): "the program, function, service or activity (or portion thereof) that is the subject of the proposal is beyond the scope of programs, functions, services or activities covered [under the ISDEAA] because the proposal includes activities that cannot lawfully be carried out by the contractor."

Action Required: Provide a revised scope of work or revised proposal which does not incorporate an Internal Affairs oversight function under the proposed contract.

As stated above, please submit the one (1) missing item and provide all responses, further clarification, and required actions necessary to remedy the three (3) items which pose the potential for declination of your request to contract the law enforcement PFSA's included within your proposal, to the BIA OJS District V Office at the address below no later than **October 26, 2020**. Once received, we will conduct a follow-up review to determine if BIA OJS can approve the proposal.

If you have questions or need additional assistance, please contact me at the BIA OJS District V Office at (406) 657-5936, via email at lenora.nioce@bia.gov, or via mail at 2021 4th Avenue North, Suite 406, Billings, Montana, 59101.

Sincerely,



Lenora Nioce
Special Agent in Charge/Approving Official

Enclosure: Model AFA for Uniform Police, Criminal Investigations, and Telecommunications

CC: Leslie Gourneau/Rose St. Goddard, Awarding Official, BIA Rocky Mountain Region
Cliff Serawop, Superintendent, Crow Agency

CROW TRIBE EXECUTIVE BRANCH

Bacheeitché Avenue
P.O. Box 159
Crow Agency (Baaxuwuwashe), Montana 59022



Alvin Not Afraid, Jr.

CHAIRMAN

Carlson Goes Ahead

VICE-CHAIRMAN

Rudolph Old Crow, Sr.

SECRETARY

Shawn Backbone

VICE-SECRETARY

October 29, 2020

Lenora E. Nioce
Acting Special Agent in Charge
BIA-OJS, District V
2021 4th Ave. No
Billings, MT 59101

RECEIVED
NOV 05 2020

BUREAU OF INDIAN AFFAIRS
OFFICE OF JUSTICE SERVICES
DISTRICT V

Re: 45 Day Extension for P.L. 93-638 Contract Proposal

Dear Special Agent:

The Crow Tribe, through the Office of the Chairman, is granting the Bureau of Indian Affairs a 45-day extension to provide a formal response to the Crow Tribe's P.L. 93-638 Contract Proposal for BIA-OJS.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alvin Not Afraid Jr.", written over a horizontal line.

Alvin Not Afraid Jr.
Chairman of the Crow Tribe of Indians

DEPARTMENT OF JUSTICE



Office of the Director
Bureau of Indian Affairs
Department of Justice
Washington, D.C.

RECEIVED
NOV 02 2020

BUREAU OF INDIAN AFFAIRS
OFFICE OF JUSTICE SERVICES
DICTIONARY



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, DC 20240

NOV 10 2020

Honorable Alvin Not Afraid
Chairman, Crow Tribal Council
P.O. Box 159
Crow Agency, MT 59022

Dear Chairman Not Afraid:

This is to acknowledge the Crow Tribe's October 29, 2020 letter to provide the Bureau of Indian Affairs (BIA) Office of Justice Services (OJS) an extension of the 45-day contract proposal review period for the pending request to contract law enforcement, criminal investigations and corrections, in accordance with requirements found at 25 C.F.R. § 900.17.

For clarification purposes, the Tribe submitted an initial contract proposal to request a law enforcement, criminal investigations and dispatch contract under the authority of the Indian Self-Determination and Education Assistance Act (ISDEAA) on September 1, 2020. The initial 90-day timeframe for the Bureau to issue either an approval or declination decision letter is November 30, 2020. The Department of the Interior Solicitor's Office received the October 29, 2020 letter that was addressed to me at the BIA OJS District V Office on October 30, 2020, and forwarded it to this office to acknowledge and process accordingly. As authorized within the letter, the Crow Tribe agrees to extend the 90-day timeframe for an additional forty-five (45) days through **January 14, 2021**.

The current status of the initial contract proposal is pending the Crow Tribe's response to our BIA OJS District V letter dated October 8, 2020, which identifies missing items and declination issues that prohibit approval of the Tribe's request. We anticipate further clarification and response from the Tribe to address all matters identified in that letter in the coming weeks.

The BIA OJS District V Office is available to discuss the proposal and we are happy to schedule a conference call to assist as needed and requested by the Tribe. If you have any questions or need further assistance in this matter, please contact me at the BIA OJS District V Office at (406) 657-5936 or via mail at 2021 4th Avenue North, Billings, Montana 59101.

Sincerely,

Lenora Nioce
Special Agent in Charge/Approving Official

CC: Leslie Gourneau, Awarding Official, BIA Rocky Mountain Region
Clifford Serawop, Superintendent, BIA Crow Agency

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CROW TRIBE EXECUTIVE BRANCH

Bacheeitché Avenue
P.O. Box 159
Crow Agency, Montana 59022

Frank White Clay
Chairman
Lawrence DeCrane
Vice-Chairman
Levi Black Eagle
Secretary
Channis D. Whiteman
Vice-Secretary

December 9, 2020

Lenora E. Nioce
Special Agency in Charge – District V
Bureau of Indian Affairs
Office of Justice Services
2021 4th Avenue North
Billings, Montana 59101

Dear Lenora,

As the new Chairman of the Crow Tribe, I am providing notice that the Crow Police Department, established during the Not Afraid administration, is being disbanded as an operational law enforcement effort. An independent law enforcement effort is not the direction that the new administration of the Crow Tribe intends to continue.

The Crow Tribe requests that the Office of Justice Services, Bureau of Indian Affairs, provide law enforcement on the Crow Reservation. However, the Crow Tribe intends to work with OJS to enhance the delivery of law enforcement services for the protection of all Crow Tribal members.

The Tribe has retained the Elk River Law Office, P.L.L.P. to assist with law enforcement matters.

Respectfully,

Frank White Clay, Chairman

Cc: Darryl LaCounte, Director
Bureau of Indian Affairs

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DEC 10 2020

BUREAU OF INDIAN AFFAIRS
OFFICE OF JUSTICE SERVICES
DISTRICT V

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United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, DC 20240

DEC 17 2020

Honorable Frank White Clay
Chairman, Crow Tribe of Indians
P.O. Box 159
Crow Agency, Montana 59022

Dear Chairman White Clay:

This is to acknowledge and respond to your December 9, 2020 letter, which provides notification to the Bureau of Indian Affairs (BIA) Office of Justice Services (OJS) that, under new administration and in your newly elected position as Chairman, the Crow Tribe has disbanded the previous administration's operational law enforcement effort and requests that BIA OJS provide law enforcement on the Crow Reservation. The letter also advises that the Crow Tribe has retained the Elk River Law Office, P.L.L.P., to assist with law enforcement matters.

We want to assure you that the BIA OJS will continue to provide law enforcement for the citizens of the Crow Tribe until such time as the Tribe chooses to assume the provision of services through submission, subsequent approval, and execution/award of a P.L. 93-638 Indian Self-Determination and Education Assistance Act (ISDEAA) contract. As discussed during our meeting with you on December 17, 2020, BIA OJS welcomes the Crow Tribe's support and intends to work with your administration on our joint endeavor to provide public safety for all citizens on the reservation. We are committed to attending weekly meetings with tribal leadership to discuss any law enforcement matters and provide weekly briefs, and we welcome the support of the Tribe in our coordinated joint efforts to improve upon the provision of law enforcement services for the benefit of the citizens of the Crow Indian Reservation.

As mentioned by your attorney, the new Crow Tribal leadership intends to further discuss whether, at this time, it is in the best interest of the Tribe to proceed with contracting the law enforcement program from BIA OJS through an ISDEAA contract or withdraw the current pending proposal. We support that decision and if it is your intent to withdraw, we request that you submit a formal letter stating that the Crow Tribe requests to withdraw the current 'pending' ISDEAA proposal submitted on September 1, 2020. As it stands, the current timeframe in which the BIA OJS must issue a decision letter to either approve or decline the pending proposal is January 14, 2021.

We look forward to working with the newly elected Crow Tribal leadership. Please feel free to reach out to Assistant Special Agent in Charge (ASAC) Brandon Satepauhoodle-Mikkanen or me should you have questions, require additional assistance in this matter, or need to reach us moving forward. We are both located at the BIA OJS District V Office and can be reached at (406) 657-5936, via email at lenora.nioce@bia.gov or brandon.satepauhoodle-mikkanen@bia.gov, or via mail at 2021 4th Ave. North, Suite 406, Billings, MT 59101.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lenora Nioce".

Lenora Nioce
Special Agent in Charge/Approving Official

CC: Elk River Law Firm, Tribal Counsel, Crow Tribe of Indians
Leslie Gourneau, Awarding Official, BIA Rocky Mountain Region
Clifford Serawop, Superintendent, Northern Cheyenne Agency

ATTACHMENT 2

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

[Regional Office/OJS District #]

PUBLIC LAW 93-638, AS AMENDED

ANNUAL FUNDING AGREEMENT

WITH THE

[TRIBE NAME]

CONTRACT NO. XXXXXXXX

INDEX OF CONTRACT PROVISIONS

SECTION A

Authority, Purpose, and Definition of Terms

- Part 1. Authority
- Part 2. Purpose
- Part 3. Definitions

SECTION B

Program and Budget

- Part 1. Program(s)
- Part 2. Program Standards
- Part 3. Contract Budget
- Part 4. Contract Amount
- Part 5. Contract Support Costs

SECTION C

Statement of Work

- Part 1. Scope of Bureau Program(s) to be Performed
- Part 2. Statement of Work
- Part 3. Contract Term
- Part 4. Non-Contracted Portion of Bureau of Indian Affairs Program(s)
- Part 5. Technical Assistance and Monitoring

SECTION D

Performance

- Part 1. Reporting Requirement
- Part 2. Audit Requirement
- Part 3. Monitoring and Records Review
- Part 4. Examination of Records
- Part 5. Mature Contract
- Part 6. Contract Termination
- Part 7. Driver's License Requirements for Non-Federal Personnel
- Part 8. Bureau of Indian Affairs' (BIA) Motor Vehicle and Commercial Vehicle Operation Policy
- Part 9. Effect on Existing Rights
- Part 10. Trust Records Management

BIA REGION /AGENCY/ OJS DISTRICT
Annual Funding Agreement FY or CY 2020
Contract No. A20AVXXXXX

Program: [TRIBE NAME] DETENTION SERVICES- (Adult and Juvenile)

Page 2 of 62

USA_0888

- Part 11. Applicable Federal Regulations
- Part 12. Sanctions for Non-Compliance

SECTION E
Administration Data

- Part 1. Awarding Official's Technical Representative
- Part 2. Contract Payment
- Part 3. Contract Revision or Amendment
- Part 4. Negotiated Indirect Cost Rate(s)
- Part 5. Disputes
- Part 6. Payment of Interest on Contractor's Claim
- Part 7. Retrocession
- Part 8. Reassumption
- Part 9. Federal Tort Claims Act (FTCA)
- Part 10. Vehicle Operation – Seatbelt Use Requirement
- Part 11. Insurance

SECTION F
Special Requirements

- Part 1. Management Systems
- Part 2. Finance System Certification
- Part 3. Record Keeping
- Part 4. Privacy Act Requirements
- Part 5. Freedom of Information

SECTION G
Other Attachments

- Attachment A – Budget w/Justification**
- Attachment B – Position Descriptions**
- Attachment C -- [INSERT]**
- Attachment D – [INSERT]**

SECTION A

Authority, Purpose and Definition of Terms

Part 1. Authority. This agreement, denoted a Self-Determination Contract (referred to in this agreement as the (“Contract”), is entered into by the Secretary of the Interior (referred to in this agreement as the “Secretary”), for and on behalf of the United States pursuant to Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) and by the authority of the [TRIBE NAME] (referred to in this agreement as the “Contractor”) and 25 C.F.R. part 900. The provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) and 25 C.F.R. part 900 are incorporated in this Contract.

Part 2. Purpose. Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the related functions, services, activities, and programs (or portions thereof) that are otherwise contractible under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor.

Part 3. Definitions. The following terms shall have the meanings set forth below throughout this Contract:

- A. **Act.** Means Public Law 93-638, The Indian Self-Determination and Education Assistance Act of 1975, as amended (ISDEAA), 25 USC 5301 *et seq.*, 88 Stat. 2203.
- B. **Annual Financial Audit.** Means an organization-wide audit as required by Public Law 104-156, The Single Audit Act Amendments of 1996, as implemented through 2 CFR part 200 subpart F.
- C. **Approving Official.** Means the Deputy Bureau Director, Office of Justice Services (OJS). However, the Deputy Bureau Director’s approval authority has been delegated to the Special Agent in Charge (SAC) in whose District the Contractor is located. The concurrence of the Deputy Bureau Director, OJS is required on decisions regarding funding, staffing, program content and the decision to reassume a law enforcement and/or detention program in accordance with Delegation of Approving Official Authority for Public Law 93-638 Contracts for Law Enforcement and Detention Services memorandum dated July 30, 2014.

- D. **Awarding Official**. Means any person who by appointment or delegation in accordance with applicable regulations has the authority to enter into and administer contracts on behalf of the United States of America and make decisions and issue findings and determinations with respect thereto. Pursuant to the Act, this person can be any Federal official, including but not limited to, contracting officers.
- E. **Awarding Official's Technical Representative (AOTR)**. Means the authorized technical representative of an Awarding Official acting within the limits of his authority.
- F. **Cognizant Federal Agency**. Means the Federal agency with authority to negotiate indirect cost rate agreements with the Contractor.
- G. **Contract**. Means a self-determination contract (or grant or cooperative agreement utilized in lieu of a contract under section 9 of the Act) entered into under title I of the Act between a tribal organization and the Secretary for the planning, conduct and administration of programs or services which are otherwise provided to Indian Tribes and their members pursuant to Federal law: *Provided* that, no contract (or grant or cooperative agreement utilized under section 9 of this Act) entered into under title I of this Act shall be construed to be a procurement contract.
- H. **Contractor**. Means an Indian Tribe or Tribal organization to which a contract has been awarded.
- I. **Contract Modification**. Means a written change to the contract document which has been mutually agreed to by the Awarding Official and the Contractor.
- J. **Contract Records**. Means records maintained to support activity under the contract. Contract records shall include, but not be limited to, the following:
- (1) The contract award documents;
 - (2) Any and all modifications to the contract;
 - (3) Financial records; and,

- (4) Records created or maintained as a result of the contract.
- K. Days.** Means, unless otherwise specified in this Contract, calendar days; except where the last day of any time period specified in this Contract falls on a Saturday, Sunday, or a Federal holiday, the period shall carry over to the next business day unless otherwise prohibited by law.
- L. Indian Tribe.** Means any Indian Tribe, Band, Nation, or other organized group, or community, including Pueblos, Rancherias, Colonies and any Alaska Native Village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- M. Indian.** Means a person who is a member of a Federally-recognized Indian Tribe.
- N. Indirect Costs.** Means costs incurred for a common or joint purpose benefiting more than one contract objective or which are not readily assignable to the contract objectives specifically benefited without effort disproportionate to the results achieved.
- O. Indirect Cost Rate.** Means the rate arrived at through negotiation between an Indian Tribe or Tribal organization and the cognizant Federal agency.
- P. Mature Contract.** Means a contract that has been continuously operated by a tribal organization for three or more years, and for which there are no significant and material audit exceptions in the most recent annual financial audit of the tribal organization. A mature contract may be for a definite or an indefinite term as requested by the Tribe or, to the extent not limited by Tribal resolution, by the Tribal organization.
- Q. Program Records.** Means records created or maintained to support activity within the contracted program. Program records shall include, but not be limited to, the following:

- (1) Application for assistance under the specific program;
 - (2) Case files, criminal statistical reports, etc.
 - (3) Correspondence;
 - (4) Financial records; and,
 - (5) Any other records established under the Contract.
- R. Reassumption.** Means rescission, in whole or in part, of a contract and assuming or resuming control or operation of the contracted program by the Secretary without consent of the Indian Tribe or Tribal organization pursuant to the notice and other procedures set forth in 25 CFR part 900 subpart P.
- S. Recontracting.** Means the renewal of a contract with a Tribal organization for the same program.
- T. Retrocession.** Means the voluntary return to the Secretary of a contracted program, in whole or in part, for any reason, before the expiration of the term of the contract.
- U. Secretary.** Means the Secretary or any authorized representative of the Secretary.
- V. Subcontracts.** Except as otherwise provided in this Contract, the term subcontracts includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this Contract.
- W. Subordinate Awarding Official's Technical Representative (SAOTR).** Means the authorized technical representative of an Awarding Official acting within the limits of his authority that assists the AOTR.
- X. Term Contract.** Means a contract (other than a mature contract) which is for a specific period of time, not to exceed three years unless otherwise agreed to by the Secretary and the Contractor. The term may not be longer than that provided by any applicable Tribal resolution which limits the period of the Contractor's authority.

- Y. Tribal Organization.** Means the recognized governing body of any Indian Tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, that, in any case where a contract is let or a grant made to an organization to perform services benefiting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the letting or making of such contract or grant.
- Z. Tribal Resolution.** Means the formal manner in which the Tribe expresses its legislative will in accordance with its organic documents. In the absence of such organic document, a written expression adopted pursuant to Tribal constitutional process and practices will be acceptable.

SECTION B Program and Budget

Part 1. **Program(s).** The Contractor shall perform that portion of the Bureau of Indian Affairs **Adult and Juvenile Detention Program, functions and services** described herein in accordance with the terms, provisions and conditions of this Contract.

Part 2. **Program Standard.** The Contractor agrees to administer the program(s), services, functions, and activities (or portions thereof) listed in Section 1 above in conformity with the following standards:

A. Purpose. The Contractor shall administer programs, services, functions and activities (or portions thereof) under this agreement in accordance with its own laws and policies which are incorporated herein by reference. The provisions of regulations promulgated to implement P.L. 93-638, as amended, and other applicable Federal regulations shall apply, unless such regulations have been waived by the Secretary. Such regulations are incorporated in this Contract by reference.

B. Intent. The Contractor shall conduct programs and services under this Contract to address Tribal priorities and needs. The program(s) to be conducted shall include any and all services authorized by law, for which funds have been appropriated to the Bureau of Indian Affairs (BIA) or made available from other agencies through the BIA. Funds made available may be utilized to acquire other resources to further the objectives of this Contract. The Contractor shall operate programs under this Contract in accordance with the following standards:

ADULT AND JUVENILE OPERATION PROGRAM STANDARDS

- Tribal and Federal court decisions, as they relate to the Tribe's criminal and civil jurisdiction.
- BIA-OJS Law Enforcement Written Directives Handbook 3rd ed. (2015).
- [TRIBE NAME] Tribal Constitution & By-Laws
- [TRIBE NAME] Tribal Comprehensive Code of Justice.
- BIA-OJS Corrections Handbook including all

Directives, updates, or future editions which may be issued during the term of the Contract.

- BIA-OJS Adult Detention Facility Guidelines (2011).
- Indian Self-Determination and Education Assistance Act, 25 U.S.C. §§ 5301 *et seq.*
- Indian Civil Rights Act, 25 U.S.C. §§ 1301 *et seq.*
- Indian Child Welfare Act 25 U.S.C. §§ 1901 *et seq.*
- Indian Alcohol and Substance Abuse Prevention and Treatment Act, 25 U.S.C. §§ 2401 *et seq.*
- 11, P.L. 101-630, 104 Stat. 4556 (Nov. 28, 1990, Indian Child Protection and Family Violence Prevention Act (ICPFVPA), 25 U.S.C. §§ 3201 *et seq.*;
- 18 U.S.C. § 1169.
- Prison Rape Elimination Act of 2003, 42 U.S.C. §§ 15601 *et seq.*
- P.L. 101-647 title II E, 104 Stat. 4789 (Nov. 29, 1990), Crime Control Act of 1990.
- P.L. 111-211 (July 29, 2010), Tribal Law and Order Act.
- P.L. 113-4 (Mar. 7, 2013), Violence Against Women Reauthorization Act of 2013.
- 42 U.S.C. 223(a)(13)(14) the Juvenile Justice and Delinquency Prevention Act of 1974) as amended.
- 25 C.F. R. parts 10 and 12 (“Indian Country Detention Facilities and Programs”, “Indian Country Law Enforcement”).
- 25 C.F.R. part 900, subpart F, Standards for Tribal or Tribal Organization Management Systems.
- 25 C.F.R. part 63, Indian Child Protection and Family Violence Prevention.
- 25 C.F.R. part 275 (“Staffing”).
- 28 C.F.R. part 31 (“Federal Schools for Indians”).
- Tribal Crisis Management Plans/Emergency Management Plans
- Facility Operations and Inspections

Part 3. **Contract Budget.** The budget for the services provided under this Contract reflects the agreements reached during contract negotiations. The contract budget includes both direct and indirect costs.

- A.** The Contractor shall request prior approval for budget revisions whenever:

- (1) The budget revision results from changes in the scope or objective of the program;
- (2) The revision requires additional funding;
- (3) The revision causes a change in the amount of indirect cost for the Contract; or,
- (4) The revision pertains to the addition of items requiring approval of the BIA.

B. All other budget revisions do not require approval.

Part 4. **Contract Amount.** The amount of funding to be provided by the BIA under this Contract for **Fiscal Year or Calendar Year [2019]** is as reflected in Attachment A to the SF-26 Award and/or SF-30 Modification/Contract document.

Part 5. **Contract Support Cost Funds (CSC).** The Secretary shall pay Contract Support Cost (CSC) funds as required by the Indian Self-Determination and Education Assistance Act of 1975, as amended, and in conformance with 13 IAM 7. Nothing in this agreement shall be construed as a waiver of the Contractor's rights under the Act.

SECTION C
Statement of Work

Part 1. Scope of Bureau Program(s) to be Performed.

A. Performance of Contract Statement of Work.

Within the limits of Federally provided funds, the Contractor shall provide all necessary personnel and services, and shall acquire supplies, materials, major and sensitive equipment and property, automated data processing equipment, motor vehicles such as passenger and light trucks, and special purpose motor vehicles through the negotiated or competitive open market or through sole source procurement in compliance with Federal rules. This shall be done in compliance with the above described management manuals and procedures and applicable Federal procurement rules which are herein incorporated into this contract by this reference

- (1) The authority to perform and carry out the terms of this statement of work shall be vested in a single tribal Corrections/Detention entity.
- (2) Such Corrections/Detention entity shall be the entity either in existence or created by **[TRIBE NAME]** as of the effective date of this Contract. The establishment of any other Corrections/Detention entity under Tribal law during the performance of this Contract shall be grounds for immediate reassumption of the Contract.

B. Funding.

- (1) The Contractor shall obtain from the BIA all such funds and other resources made available for the benefit of the Tribe for all programs to be operated and services to be delivered by the Contractor through this contract on behalf of the BIA, except for those Trust and 'Executive Direction' functions of the BIA which are considered non-contractible.
- (2) The BIA shall transfer to the Contractor all such funds and

other resources made available for the benefit of the Tribe through this Contract in the most expeditious manner authorized by law, and shall provide technical support and assistance at the request of the Contractor and as provided herein.

(3) The Contractor shall exercise full discretion over the funds made available subject only to the provisions of this Contract and Federal law.

C. **Fair and Uniform Services.** The Contractor agrees that any services or assistance provided to Indians under the Contract shall be provided in a fair and uniform manner.

Part 2. Statement of Work.

A. The purpose of this Contract is to ensure that professional, effective and efficient **Adult and Juvenile Detention Services** are provided for the [TRIBE NAME] utilizing accepted correctional techniques and practices. These services shall provide for the protection of lives and property for persons visiting or residing within the exterior boundaries of the [TRIBE NAME] Indian Reservation.

B. Services shall be provided in accordance with defined authority, procedures, and guidelines contained in Section B, Part 2, Program Standards of this Contract.

C. **The scope of this Contract only includes the detention or incarceration of individuals pursuant to the legal authority of the Tribe and its officers pursuant to the terms and conditions within this agreement. The detention of individuals on a fee for service, contractual, or other basis for other jurisdictions is not within the scope of the Contract.**

D. When operating within the scope of this Contract, the Contractor may be required to leave or operate outside of Indian country. Such requirements may include, but are not limited to:

(1) traveling from one portion of the affected Indian country to another portion of the same Indian country while in the performance of functions authorized by this Contract,

- (2) traveling to and from, and testifying in, Tribal, state, or Federal court,
 - (3) transporting offenders to and from detention facilities,
 - (4) traveling to and from Indian country to service facilities located outside Indian country,
 - (5) traveling to and from, and attending, meetings, conferences and training sessions,
- E. The Contractor shall obtain all necessary licenses, permits, training, certification, insurance and approvals required by local, state, and Federal statutes to perform all programs under this Contract.
- F. The Contractor shall comply with the provisions of the Indian Child Protection and Family Violence Prevention Act (ICPFVPA), 25 U.S.C. §§ 3201-3211 and 18 U.S.C. § 1169.

All applicants for any position, or employee, in the Contractor's adult and juvenile correctional operation, and other corrections program support staff (mandatory for those working under the Juvenile operations), whose duties and responsibilities would allow them regular contact or control over Indian children must be subject to a thorough background investigation that will capture disqualifying convictions under the ICPFVPA. See SECTION C., Part 2. Statement of Work, N. Personnel Standards, below. [25 CFR §63]

- G. The Contractor shall *assist* the BIA and other Federal enforcement officials in the secure and humane detention of inmates arrested or convicted of Federal offenses that occur on the reservation.

See SECTION C., Section 2. Statement of Work; Personnel Standards, below.

- H. **Citizen Complaints**. The Contractor will develop and maintain a reporting system, which allows any individual who comes in contact with law enforcement to report suspected or alleged officer misconduct.

- (1) For purposes of this section, the term "officer" means any

Tribal adult or juvenile correctional officer.

(2) The Deputy Bureau Director, BIA - OJS, maintains an Internal Affairs Division (IAD) that investigates all allegations of misconduct by any officer receiving funding and/or authority from the BIA.

(a) All allegations of officer misconduct must be immediately reported to IAD for review. Failure by an officer, supervisor or other Contractor personnel to report allegations of officer misconduct to IAD may itself be considered misconduct.

(b) IAD reserves the right to review and investigate all allegations of misconduct, however, dependent upon the severity of the allegations, may choose to refer the matter to the Contractor's designated point of contact for appropriate handling in accordance with the Contractor's procedures.

If the matter is referred back to the Contractor for appropriate handling, all allegations of officer misconduct must be thoroughly investigated and appropriate action taken.

(c) The Contractor shall advise citizens that they may report officer misconduct directly to the BIA OJS IAD, if that is more practical.

(d) When notifying the BIA OJS IAD of alleged or suspected officer misconduct, the Contractor should provide the following if known:

(i) name, date of birth, rank, and assigned location of the accused employee.

(ii) name, date of birth, address and telephone number of the complainant.

(ii) a summary of the incident(s) of alleged misconduct.

- (iii) any official reports prepared concerning the incident.
 - (iv) when feasible, a brief written statement signed by the complainant, summarizing the incident and the alleged misconduct.
- (e) **Allegations of Civil Rights Violations.** All allegations of civil rights violations must be reported immediately to the BIA OJS IAD.
- (i) The BIA OJS IAD will ensure that allegations are reported to the Civil Rights Division of the United States Department of Justice through established procedures. The BIA OJS IAD may also investigate the matter and make recommendations for additional action as necessary.
 - (ii) Only the Federal Bureau of Investigation (FBI) is authorized to conduct a full Civil Rights investigation. This does not preclude the Contractor or BIA from conducting a simultaneous or subsequent internal administrative investigation concerning allegations of the use of excessive force and brutality.
- (f) **Serious Incident Reports.** All serious incidents, unusual events, and emergency conditions, which may result in inquiries to the BIA, cause intense public interest, or have potential residual effects on the OJS or the BIA must be reported in the most expeditious manner available *within 24 hours* to the BIA OJS **[District #]** and Agency Superintendent.

I. **Correctional Facility Operations.**

- (1) The Contractor is to provide Corrections Operations, per the following guidance:
 - (a) Shall operate **Adult and Juvenile Corrections**

Operations.

- (b) Shall operate the facility utilizing all Mandatory Standards set forth in the following BIA Corrections Handbooks:

BIA-OJS Corrections Handbook
BIA-OJS Detention Facility Guidelines
All mandatory standards
All facility plant management standards
Model Inmate Handbook (Use for Adult)

- (c) The Contractor shall provide all necessary qualified, certified, and licensed personnel, equipment, supplies, training, and materials to perform corrections services on the [TRIBE NAME] Reservation in accordance with the standards listed in Section B, Part 2, Program Standards of this Contract.

J. Administrative Duties - Correctional Operations.

- (a) **Separation of Adults and Juveniles.** The administrator shall prohibit the confinement of juveniles under the age of eighteen within the facility unless in compliance with the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and 28 C.F.R. Part 31.

K. SAFETY

**(1) Safety / Sanitation Inspections
BIA ADF-1A-01 (Mandatory)**

The facility complies with all applicable laws and regulations of the governing jurisdiction. The following inspections are implemented:

- Weekly sanitation inspections of all facility areas by a qualified departmental staff member.
- Comprehensive and thorough monthly inspections by a qualified departmental staff member.
- At least annual inspections by qualified persons.

(2) Disposal of Material

BIA ADF-1A-02 (Mandatory)

Disposal of liquid, solid, and hazardous material complies with applicable government regulations.

(3) Vermin and Pests

BIA ADF-1A-03 (Mandatory)

Vermin and pests are controlled.

(4) Water Supply

BIA ADF-1A-05 (Mandatory)

The facility's potable water source and supply, whether owned and operated by a public water department or the facility, is certified at least annually by an independent, outside source to be in compliance with the laws and regulations of the governing jurisdiction.

(5) Emergency Plan

BIA ADF-1C-01 (Mandatory)

There is a plan that guides the facility response to emergencies. All facility personnel are trained annually in the implementation of the emergency plan. The emergency plan includes procedures to be followed in situations that threaten facility security. Such situations may include but are not limited to: riots/disturbances, hunger strikes, escapes, taking of hostages, and staff work stoppage.

(6) Evacuation Plan

BIA ADF-1C-02 (Mandatory)

An evacuation plan is used in the event of fire or major emergency. The plan is approved by a safety officer or other independent outside inspector trained in the application of national fire safety codes and is reviewed annually, updated if necessary, and reissued to the local fire jurisdiction.

(7) Immediate Release of Inmates

BIA ADF-1C-03 (Mandatory)

There is a means for the immediate release of inmates from locked areas in case of emergency and there are provisions for a backup system. The facility has exits that are properly positioned, are clear from obstruction, and are distinctly and permanently marked to ensure the timely evacuation of inmates and staff in the event of fire or other emergency. All

housing areas and places of assembly for fifty or more persons have two exits.

(8) Fire Safety Code Conformance
BIA ADF-1C-04 (Mandatory)

The facility conforms to applicable Federal, state, and/or local fire safety codes.

(9) Fire Prevention Regulations
BIA ADF-1C-05 (Mandatory)

The facility's fire prevention regulations and practices ensure the safety of staff, contractors, inmates, and visitors. The facility is inspected monthly by a qualified individual for compliance with safety and fire prevention standards. There is an annual inspection by a safety officer or other qualified independent persons.

(10) Facility Furnishings
BIA ADF-1C-06 (Mandatory)

Facility furnishings meet fire safety performance requirements.

(12) Flammable, Toxic, and Caustic Materials
BIA ADF-1C-07 (Mandatory)

Flammable, toxic, and caustic materials are controlled, used safely, and properly stored.

L. SECURITY

(1) Health Care
BIA ADF-2A-21 (Mandatory)

When an inmate is transferred to segregation for health concerns, a medical referral is made to health care personnel for assessment and review in accordance with the protocols established by the health authority.

(2) Use of Force
Restrictions on Use of Force
BIA ADF-2B-01 (Mandatory)

The use of physical force is restricted to instances of justifiable self-defense, protection of others, protection of property, prevention of escapes, to preserve and restore

facility order and then only as a last resort and in accordance with appropriate statutory authority. In no event is physical force used as punishment.

**(3) Use of Four/Five Point Restraints or Restraint Chair
BIA ADF-2B-03 (Mandatory)**

Four/five point restraint or a restraint chair is used when an inmate presents a threat to facility security and order and other types of restraints have proven ineffective. Advance approval is secured from the facility administrator/designee before an inmate is placed in a four/five point restraint or restraint chair. A medical assessment is conducted when an inmate is restrained in a four/five point restraint or restraint chair for more than two hours or the inmate complains of injuries. The following minimum procedures are followed:

- Continuous direct visual observation by staff before an assessment by the health authority or designee.
- Subsequent visual observation is made at least every 15 minutes.
- The inmate is transferred to a medical/mental health unit for emergency treatment if so indicated by the health authority following the medical assessment.
- Documentation of all decisions and actions.

**(4) Use of Firearms
BIA ADF-2B-06 (Mandatory)**

The use of firearms complies with the following requirements:

- Weapons are subjected to stringent safety regulations and inspections.
- A secure weapons locker is located outside the secure perimeter of the facility.
- Except in emergency situations, firearms and authorized weapons are permitted only in designated areas to which inmates have no access.
- Employees supervising inmates outside the facility perimeter follow procedures for the security of weapons.
- Employees are instructed to use deadly force only after other actions have been tried and found ineffective, unless the employee believes that a person's life is immediately threatened.

- Employees on duty use only firearms or other security equipment that have been approved by the facility administrator.
- Appropriate equipment is provided to facilitate safe unloading and loading of firearms.

(5) Key, Tool, and Utensil Control
BIA ADF-2D-01 (Mandatory)

Keys, tools, culinary equipment, and medical/dental instruments and supplies (syringes, needles and other sharps) are inventoried, use is controlled, and they are properly stored.

M. CARE

(1) Dietary Allowances
BIA ADF-4A-01 (Mandatory)

The facility's dietary allowances are reviewed at least annually by a qualified nutritionist or dietician to ensure that they meet the nationally recommended dietary allowances for basic nutrition for appropriate age groups. Menu evaluations are conducted at least quarterly by food service supervisory staff to verify adherence to the established basic daily servings.

(2) Food Service Facilities
BIA ADF-4A-03 (Mandatory)

There is documentation by an independent, outside source that food service facilities and equipment meet established government health and safety codes. Corrective action is taken on any deficiencies.

(3) Health Protection for Food Service
BIA ADF-4A-04 (Mandatory)

There is adequate health protection for all inmates and staff in the facility and for inmates and other persons working in food service. All persons involved in the preparation of the food receive a pre-assignment medical examination to ensure freedom from diarrhea, skin infections, and other illnesses transmissible by food or utensils.

(4) Food Service Inspection
BIA ADF-4A-05 (Mandatory)

If food services are provided by the facility, there are weekly inspections of all food services areas, including dining and food preparation areas and equipment. Water temperature is checked and recorded daily.

(5) Access to Care/ Clinical Services

BIA ADF-4C-01 (Mandatory)

At the time of orientation all inmates are informed about procedures to access health services. There is a process for all inmates to access health care services on a daily basis by means of sick call, inmate request or staff referral. When the necessary medical, dental, mental health, or substance abuse care is not available at the facility, inmates are referred to and given timely access to the needed clinical services in another appropriate health care facility. Inmates may also request access to traditional healing practitioners for medicinal services.

(6) Emergency Plan

BIA ADF-4C-03 (Mandatory)

Inmates have access to twenty-four-hour emergency health care services, including on-site first aid, basic life support, and transfer to health care facilities as necessary.

(7) Pregnancy Management

BIA ADF-4C-04 (Mandatory)

Pregnant inmates have access to obstetrical services by a qualified provider, including prenatal, pre-partum, and post-partum care.

(8) Communicable Disease and Infection Control Program

BIA ADF-4C-05 (Mandatory)

Communicable diseases are managed in accordance with a written plan developed in consultation with, and approved by, the designated health authority. The plan includes provisions for the screening, surveillance, treatment, containment, and reporting of infectious diseases. Infection control measures include the availability of personal protective equipment for staff and hand hygiene promotion throughout the facility. The plan also provides for handling bio-hazardous waste and decontaminating medical and dental equipment which must comply with applicable Tribal or Federal regulations.

(9) Chronic Care
BIA ADF-4C-06 (Mandatory)

Inmates with chronic medical conditions, such as diabetes, hypertension, and mental illness receive periodic care by a qualified health care provider in accordance with individual treatment plans that include monitoring of medications and laboratory testing.

(10) Health Screens
BIA ADF-4C-08 (Mandatory)

Intake physical and mental health screening commences upon the inmate's arrival at the facility unless there is documentation of a medical screening within the previous 90 days or the inmate is an intersystem transfer. Screening is conducted by health-trained staff or by qualified health care personnel in accordance with protocols established by the health authority.

The screening includes, at the least, the following:

- Current or past medical conditions, including mental health problems and communicable diseases
- Current medications, including psychotropic
- History of hospitalization, including inpatient psychiatric care
- Suicidal risk assessment, including suicidal ideation or history of suicidal behavior
- Use of alcohol and other drugs including potential need for detoxification
- Dental pain, swelling, or functional impairment
- Possibility of pregnancy
- Cognitive or physical impairment.

Observation of the following:

- Behavior, including state of consciousness, mental status, appearance, conduct, tremor, or sweating
- Body deformities and other physical abnormalities
- Ease of movement
- Condition of the skin, including trauma markings, bruises, lesions, jaundice, rashes, infestations, recent tattoos, and needle marks or other indications of injection drug use

- Symptoms of psychosis, depression, anxiety and/or aggression

Medical disposition of the inmate:

- Refusal of admission until inmate is medically cleared
- Cleared for general population
- Cleared for general population with prompt referral to appropriate medical or mental health care services
- Referral to appropriate medical or mental health care service for emergency treatment
- Process for observation for high risk events, such as seizures, detoxification, head wounds, and so forth

**(11) Intra-System Transfer and Health Screening
BIA ADF-4C-09 (Mandatory)**

When inmates are transferred to other facilities, copies of health information maintained in the detention records are transferred with inmates to the receiving facility. At a minimum, health information must include the following:

- A review of the inmate's medical, dental, and mental health problems
- Current medications
- Current treatment plan

**(12) Health Appraisal
BIA ADF-4C-10 (Mandatory)**

A health appraisal is completed for each inmate within 14 days after arrival at the facility in accordance with protocols established by the health authority, unless a health appraisal has been completed within the previous 90 days. The health appraisal includes the review of the previous receiving screening, a medical history and physical examination by a qualified health care provider, and an individual treatment plan.

**(13) Access to Mental Health & Substance Abuse Services
BIA ADF-4C-11 (Mandatory)**

Inmates have access to mental health, and chemical substance abuse services as clinically warranted in accordance with protocols established by the health authority that include:

- Screening for mental health problems
- Referral to outpatient services, including psychiatric

- care
- Crisis intervention and management of acute psychiatric episodes
- Stabilization of the mentally ill and prevention of psychiatric deterioration in the facility
- Referral and admission to inpatient facilities
- Informed consent for treatment.

(14) Suicide Prevention and Intervention

BIA ADF-4C-12 (Mandatory)

The facility has specific procedures, developed in consultation with the health authority, for handling intake, screening, identifying, and continually supervising the suicide-prone inmate. All staff responsible for supervising suicide-prone inmates are trained annually on program expectations.

(15) Social Detoxification

BIA ADF-4C-13 (Mandatory)

Specific criteria are established for referring symptomatic inmates suffering from withdrawal or intoxication for more specialized care at a hospital or detoxification center. A medical clearance from a healthcare provider is required upon reentry to the facility.

(16) Pharmaceuticals

BIA ADF-4C-14 (Mandatory)

Pharmaceuticals are managed in accordance with policies and procedures approved by the health authority and in compliance with Tribal and Federal laws and regulations. The policies require dispensing and administering prescribed medications by qualified personnel, adequate management of controlled medications, and provision of medications to inmates in special management units. Prescription medication must be prescribed and/or verified from a health care provider. Over-the-counter medication must be approved by the health care provider and administration documented.

(17) Health Authority

BIA ADF-4D-01 (Mandatory)

The facility has a designated health authority with responsibility for health care services pursuant to a written

agreement, contract, or job description. The health authority may be a physician, health services administrator, or health agency. When the health authority is other than a physician, final clinical judgments rest with a single, designated, responsible physician. The health authority is authorized and responsible for making decisions about the deployment of health resources and the day-to-day operations of the health services program.

(18) Provision of Treatment

BIA ADF-4D-03 (Mandatory)

Clinical decisions are the sole province of the responsible clinician and are not countermanded by non-clinicians.

(19) Personnel Qualifications/Credentials

BIA ADF-4D-04 (Mandatory)

All health care professional staff comply with applicable Tribal, state and Federal licensure, certification, or registration requirements. Verification of current credentials is on file at the facility. If inmates are assessed or treated by non-licensed health care personnel, such as traditional practitioners, the care is provided pursuant to traditional, spiritual and ceremonial practices.

(20) Emergency Response

BIA ADF-4D-05 (Mandatory)

Emergency medical care, including first aid and basic life support, is provided by all health care professionals and those health-trained correctional staff specifically designated by the facility administrator. All staff responding to medical emergencies are certified in cardiopulmonary resuscitation (CPR) in accordance with the recommendations of the certifying health organization. The facility has policies and procedures, developed in consultation with the health authority, that ensure that emergency supplies and equipment, including automatic external defibrillators, are readily available and in working order.

(21) Confidentiality

BIA ADF-4D-07 (Mandatory)

Information about an inmate's health status is confidential. Nonmedical staff only have access to specific medical

information on a “need to know” basis in order to preserve the health and safety of the specific inmate, other inmates, volunteers, visitors, or correctional staff. The active health record is maintained separately from the confinement case record and access is controlled in accordance with Tribal and Federal laws.

(22) Informed Consent

BIA ADF-4D-08 (Mandatory)

Informed consent standards of the jurisdiction are observed and documented for inmate care in a language understood by the inmate. In the case of minors, the informed consent of a parent, guardian, or a legal custodian applies, when required by law. Inmates have the right to refuse health care services.

(23) Research

BIA ADF-4D-09 (Mandatory)

The use of inmates in medical, pharmaceutical, or cosmetic experiments is prohibited. This expected practice does not preclude inmate access to investigational medications on a case-by-case basis for therapeutic purposes in accordance with Tribal and Federal regulations.

(24) Victims of Sexual Assault

BIA ADF-4D-14 (Mandatory)

Victims of sexual assault are referred under appropriate security provisions to a health care facility for treatment and gathering of evidence. If these procedures are performed in-house, the following guidelines are used:

- A history is taken by health care professionals who conduct an examination to document the extent of physical injury and to determine if referral to another medical facility is indicated. With the victim’s consent, the examination includes collection of evidence from the victim, using a kit approved by the appropriate authority.
- Provision is made for testing for sexually transmitted diseases (for example, HIV, gonorrhea, hepatitis, and other diseases) and counseling, as appropriate.
- Prophylactic treatment and follow-up for sexually transmitted diseases are offered to all victims, as

appropriate.

- Following the physical examination, there is availability of an evaluation by a mental health professional to assess the need for crisis intervention counseling and long-term follow-up.
- A report is made to the facility administrator or designee to assure separation of the victim from his or her assailant.

(25) Inmate Death/Health Care Internal Review and Quality Assurance

BIA ADF-4D-16 (Mandatory)

The health authority approves policies and procedures for identifying and evaluating major risk management events related to inmate health care, including inmate deaths, preventable adverse outcomes, and serious medication errors.

(26) Protection from Abuse

BIA ADF-6A-06 (Mandatory)

Inmates are not subjected to personal abuse, corporal punishment, personal injury, disease, property damage or harassment.

(27) Weapons Training

BIA ADF-7A-07 (Mandatory)

All personnel authorized to use firearms and less-than-lethal weapons must demonstrate competency in their use at least annually. Training includes decontamination procedures for individuals exposed to chemical agents.

N. Administrative Duties - Correctional Officers.

(1) The Contractor shall:

- (a)** Implement a policies and procedures manual that will be utilized by all personnel within the system. These policies and procedures will be reviewed and updated annually to remain functional.
- (b)** Establish a code of conduct which establishes specific guidelines for conduct on- and off-duty, impartiality, professional conduct in the performance

of duty, and acceptance of gifts or favors.

- (i) Each officer must acknowledge in writing receiving and understanding this code of conduct.
 - (ii) The acknowledgement will remain on file with the detention program manager as long as the officer is employed with the department.
 - (iii) Training will be conducted on this code of conduct and other ethics issues at least once each year.
- (c) Shall develop and maintain a method of performance evaluation for all personnel to meet the requirements of the detention program.
 - (d) Shall ensure that compensation for Tribal correctional officers is comparable to that of BIA correctional officers.
 - (e) Shall ensure that no correctional officer is permitted to work more than 12 hours in a 24-hour period, including all travel, training, and on-duty work.

(2) Training Requirements:

All Correctional Officers shall successfully complete the approved Basic Correctional Officer Training Program, conducted at the United States Indian Police Academy (USIPA), or equivalent training as authorized by the USIPA and approved by the Deputy Bureau Director, BIA - OJS.
[25 U.S.C. § 2802] [25 C.F.R. § 12]

- (a) Corrections personnel of any program receiving federal funds, regardless of whether the corrections personnel is paid with tribal or federal funds, must not perform detention/correctional officer duties until they have successfully completed the basic correctional officer training course prescribed by the Director, as indicated in the preceding paragraph.

The contractor may submit a request for evaluation of equivalency training to the USIPA to request to attend a State Police Academy or other programs whose curriculum meets or exceeds relevant federal training standards as determined by the USIPA. If the contractor's personnel receives written approval from BIA – OJS to attend a State Police Academy or other approved training site, the corrections officer is required to attend either: 1). USIPA Basic Bridge Training Program, or 2). DOJ Criminal Justice in Indian Country (CJIC) for required federal law and policy courses to receive certification.

- (b) An officer who fails to complete the basic training requirements stipulated within this section shall be immediately removed from their position. [25 C.F.R. § 12.36]
- (c) The Contractor shall ensure that all corrections personnel employed by the Contractor receive mandatory supplemental and in-service training courses prescribed by the Director, OJS.

(3) Correctional Officers – Performance Evaluations.

The Contractor shall adhere to the general requirements of Tribal personnel systems and policies for correctional officer annual performance evaluation/appraisal. If the Tribal personnel system does not contain equivalent provisions for performance evaluation/appraisals the following shall be used:

- (a) The immediate supervisor for each correctional officer shall complete an annual performance evaluation report for the officer. Each officer shall be evaluated according to standards consistent with the officer's position description and in accordance with Tribal personnel policies and procedures. Evaluation criteria may include, but are not limited to:
 - (i) Enforcement of standards, rules, and regulations governing the operations of the correctional facility and programs.

- (ii) Enforcement of standards, rules and regulations governing the confinement, safety, health, and protection of the criminal offender
- (iii) Provision of facility safety and security by providing defined inmate supervision, searches, transportation, classification, inmate counts, and ensuring fire safety, perimeter security, and compliance with inmate rules
- (iv) Provisions for admission of criminal offenders, assigned or ordered to the facility, including fingerprinting, recording personal data, and safeguarding the inmate's personal belongings
- (v) Report writing – maintaining logs and submission of written reports, as required
- (vi) Execution of legal documents
- (vii) Care and maintenance of equipment other than firearms
- (viii) Provision of preliminary interviews for physical/mental health and classification assessments
- (ix) Provision of orientation into the facility's philosophy and rules, upon admission
- (x) Coordination and supervision of inmate activities, including, but not limited to, access to medical care, courts, mail, recreation, library, work program, religious observance, food, laundry, and counseling services.
- (xi) Supervision of inmate movement, by maintaining discipline and preventing the introduction of contraband into the facility.
- (xii) Inmate instruction in housekeeping, sanitation,

proper use and care of tools and equipment used in performing unskilled or semi-skilled work inside or outside the facility

(xiii) Inmate release from the facility according to established regulations and operational descriptions

(xiv) Overall performance

(b) Performance ratings shall be documented and placed in individual official personnel folders.

O. People to Be Provided Services

The Contractor shall provide detention services to all residents of and visitors to the [FACILITY NAME] Facility in accordance with the provisions of applicable Federal and Tribal laws, U.S. Supreme Court decisions, and other relevant Federal, Tribal and state court decisions to which apply.

P. Personnel Standards

(1) The Contractor has responsibility to ensure that, in accordance with 25 C.F.R. § 12.32, a thorough background investigation **no less stringent than required of a federal officer performing the same duties** is completed for all positions and employees working or hired to work in the Contractor's detention program. This is applicable to program administration, adult and juvenile correctional officers, cooks, janitors, volunteers, and other support staff regardless of the source of funding utilized to pay salary costs. This requirement shall be met before the employee performs any law enforcement/corrections program duties.

(a) The Contractor shall comply with the provision of the Indian Child Protection and Family Violence Prevention Act (ICPFVPA), 25 U.S.C. §§ 3201-3211 and 18 U.S.C. § 1169; 25 C.F.R. Part 63.

(b) All applicants for any position, or employee, in the

Contractor's detention program, administrative, adult and juvenile correctional officers, cooks, janitors, volunteers, other support staff, and Contract personnel, whose duties and responsibilities would allow them regular contact or control over children, must be subject to a thorough background investigation that will capture disqualifying convictions as specified under the Indian Child Protection and Family Violence Prevention Act (ICPFVPA). **See Personnel Standard (2) (c) below.**

- (2) All correctional officer's employed by the Contractor must:
- (a) Be a United States citizen
 - (b) Possess a high school diploma or its equivalent
 - (c) Not have been found guilty of, or entered a plea of *nolo contendere* or guilty to, any felonious offense, or any of two or more misdemeanor offenses, under Federal, state or Tribal law involving crimes of violence, sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children
 - (d) Not have been convicted of a misdemeanor crime of domestic violence, as defined in Title 18 of the U.S. Code, Section 921(a) (33)(A) & (B), and Section 922(g)(9)
 - (e) Not have been convicted of any offense, defined in Title 18 of the U.S. Code, Sections 922(g) through (h), which would constitute a disability from possessing or receiving a firearm or ammunition
 - (f) Not have been convicted of a crime, the essential elements of which constitutes a felony
 - (g) Not have been convicted of an offense involving a child, a sex crime, or a drug felony
 - (h) Be free from physical, emotional, or mental conditions

which might adversely affect their performance as law enforcement officers

- (i) Be certified by Tribal officials as having passed a comprehensive adjudicated background investigation, **no less stringent than required of a federal officer performing the same duties**. Such investigation must be documented and available for inspection by the BIA - OJS.
- (3) For positions requiring the operation of a government-furnished motor vehicle, employees must possess a valid state motor vehicle operator's license.
- (4) All correctional officers employed by the Contractor must meet the standards listed in the BIA Corrections Handbook.
- (5) Before employment of any adult or juvenile corrections officer, a thorough background investigation shall be completed by the Contractor. Such investigations shall include, but are not limited to, Tribal, local, state, and Federal criminal history checks.
 - (a) Background investigations shall be no less stringent than required of a Federal officer performing the same duties [25 C.F.R. 12.32].
 - (i) The background investigations must be adjudicated by trained and qualified security professional.
 - (ii) The background investigations must be documented and available for inspection by the BIA.
 - (b) A thorough background investigation consists of:
 - (i) Background checks/clearances through fingerprint charts (FD-258) must be conducted through the Assistant Director, Identification Division, Federal Bureau of Investigation, Washington, D.C.

- (ii) Checks/clearances through the National Crime Information Center (NCIC), state criminal history centers and local police and court records shall also be conducted.
 - (iii) All background checks/clearances shall be recorded, documented and kept on file for each commissioned officer at the Contractor's police headquarters.
 - (iv) Careful review and documentation shall be made on each applicant's education, employment, medical and military history, previous residences, organizations and affiliations, personal references, credit record and police record, including driver's license history and status.
 - (v) Background reviews may be conducted either by a written questionnaire or by personal interview with present and past supervisors and associates who have personal knowledge of the applicant's service record and character.
- (c) The Contractor shall update the background investigations of commissioned officers every five (5) years.
- (6) **Physical Examinations: Correctional Officers.** Applicants for, and employees in, the correctional officer positions must be physically capable of performing the essential duties of the position efficiently and without hazard to themselves or to others. Failure to meet any of the required physical qualifications will usually be considered disqualifying for employment except when substantial evidence is presented that the individual can perform the essential functions of the job efficiently and without hazard to self or others, with or without reasonable accommodation. See *BIA Law enforcement Handbook (July 2008) 1-07-02, Medical Examinations*. See *BIA Corrections Handbook (January 2012) C1-07, Physical Fitness*.

- (a) **Eyes** - The distance vision must test at least 20/200 (Snellen) in each eye without corrections; at least 20/20 (Snellen) in one eye and 20/30 (Snellen) in the other eye with correction either by glasses or contact lenses. Near vision must be sufficient to read Jaeger Type 2 at 14 inches with correction by glasses or contact lenses permitted. Depth perception and ability to distinguish basic colors (color plate test or equivalent tests) are essential.
- (b) **Ears** - Without the use of a hearing aid, applicants and incumbents must demonstrate no permanent hearing loss of 35 or more decibels in either ear at the 500, 1000, 2000, and 3000 frequencies.
- (c) **Nose, Mouth and Throat** - Distinct speech and free breathing are required. The following remediable conditions must be corrected before appointment for applicants, or for incumbents, when noted in regularly scheduled physical examinations: caries, pyorrhea, pus pockets around roots, other foci of infection or Vincent's disease. The presence of any serious acute or chronic disease or functional abnormality of the eyes, ears, nose, mouth, throat or gross obesity that would interfere with the full performance of essential duties of the position will be reasons for rejection on medical grounds.
- (d) **Extremities and Spine** - Any deformity or disease which would interfere with range of motion, or dexterity, or which would affect adversely the full performance of essential duties of the position are reasons for rejections.
- (e) **Heart and Blood Vessels** - Any of the following conditions which would affect adversely the full performance of essential duties of the position are reasons for medical rejection: a history or presence of organic heart disease, compensated or not; valvular heart disease; cardiac murmurs except those of the physiologic type; diseases or abnormal condition of the heart muscle or blood vessels; angina pectoris;

cardiac arrhythmia, or persistent pulse rate of 110 or over or under 50 in the recumbent position; or persistent hypertension above 150 systolic or 90 diastolic, or below 100 systolic or 60 diastolic in the recumbent position.

- (f) **Respiratory System** - Any chronic disease or conditions affecting the respiratory system, which would impair the full performance of essential duties of the position, are reasons for rejection. Examples are conditions, which result in reduced pulmonary functions, shortness of breath, or painful respiration.
- (g) **Genito-urinary System** - Any of the following conditions which would affect performance of essential duties of the position are reasons for rejection: significant acute or chronic genito-urinary diseases or abnormalities, including enuresis and urinary incontinence; presence of albumin, sugar, pus, casts or blood in the urine, enlarged prostate; large painful varicocele or hydrocele; venereal disease. Urinalysis will be made at time of appointment and during regularly scheduled physical examinations.
- (h) **Nervous System** - Applicants and incumbents must be free from acute or chronic psychiatric condition or any mental or neurological condition, which would be a hindrance to the full performance of essential duties of the position.
- (i) **Other Defects** - Any physical defect which indicates a high probability for recurrence of symptoms that may adversely affect the full performance of essential duties of the position is reason for rejection. Examples of physical defects to be considered include: hernia, ulcer, and diabetes.
- (j) **Remediable defects or curable disease** will not exclude a person from examination, but proof that such defects have been remedied, or the disease cured, must be received before persons otherwise

qualified may be considered for appointment.

- (k) Any physical condition which would cause an applicant or an incumbent to be a hazard to himself or herself is a reason for rejection. A physical examination with subsequent evaluations by a physician is required before a decision will be made whether or not an employment commitment is to be given.

(7) **Physical Fitness Requirements - Correctional Officers**

- (a) Employees who are 40 years old or younger and who are physically active as defined in this section must take the Heart Disease Risk Profile, the RSKO (Heart Disease Risk Profile) and Physical Activity Readiness Questionnaire evaluations before entering the fitness/testing program *See BIA Corrections Handbook C1-07, Physical Fitness.*

- (i) If the RSKO indicates a score of Risk Moderate (score of 31 or less) and all answers on the Par Q are no, the employee may test and participate.

- (ii) If the RSKO indicates a score of Greater than Average (score of 32 or higher) or one or more answers on the Par Q are yes, the employee needs a physician's clearance before entering the testing and fitness program.

- (b) Employees who are pregnant regardless of age or level of fitness must receive a medical clearance before participating in the testing and fitness program.

- (c) Employees who are 40 years old or younger but not **presently active** as defined in this section must obtain a physician's screening for arduous duties and a medical examination (including blood analysis) during the 18 month period before entering the required testing program **and** must take the RSKO and Par Q evaluations immediately before taking any Physical Efficiency Battery (PEB) test.

- (i) If the RSKO indicates a score of Risk Generally Average and/or one or more of the answers on

the Par Q are yes, the employee needs a physician's clearance before entering the testing fitness program.

- (d) Employees who are 41 years old or older must obtain a medical examination (including blood analysis) and/or obtain a physician's clearance to participate immediately before entering the required testing program, and must pass a stress electrocardiogram (EKG) exam prior to taking the first PEB test, if required by a physician.
 - (i) Employees in this category must take an arduous duty medical examination every three years thereafter, but law enforcement supervisors are authorized to require and/or permit medical examinations more often than every three years for those in high-risk medical categories, i.e., employees who have high blood pressure or heart trouble, who have an inactive lifestyle, or who have short or long-term physical medical problems.
 - (ii) Supervisors can obtain the medical information needed to make such a determination under the provisions provided in the applicable personnel regulations.
- (e) These medical examinations do not satisfy the requirements for annual physical examinations without the additional requirements identified in the applicable personnel regulations.
- (f) To meet the personnel requirement that physical examination requirements be applied uniformly, results of the physical examination must be forwarded to the physician designated by the Director of the Facility, for a medical determination as to whether or not the applicant/employee meets the established physical requirements.

- (g) To avoid duplication of medical examinations, those who are in occupations with approved physical standards must have the physical examination and the fitness medical examination done at the same time. The examining physician follows the more restrictive medical standard.
- (h) An annual medical examination shall be completed for each commissioned officer to ensure fitness for duty. Medical certificates shall be placed in individual official personnel folders.

Q. Record Keeping

- (1) The Contractor shall be required to maintain a record keeping system, which will produce the following information:
 - (a) Number of detainees.
 - (b) Number of prisoners transported
 - (c) Number of prisoners' incarcerated and daily detention records
 - (d) Number of prisoner meals served
 - (e) Daily Reports
 - (f) Daily logs
 - (h) Annual facilities maintenance report
 - (i) Serious Incident Log and Reports (Supplemental Reports)
 - (j) Adult/Juvenile records
 - (k) Personal arrest and disposition records
 - (l) Evidence records/logs
 - (m) Booking logs

- (n) Payroll records
- (o) Individual background investigation records
- (p) Training records: Basic; supervisory; 40 Hour Annual Training; Annual CPR/First Aid.
- (q) Annual Codes of Ethics and Conduct; Annual Oath of Office; Annual Domestic Violence Form; Annual Confidential Disclosure; Annual Medical Exam
- (r) Inmate Welfare Check Log
- (s) Government-furnished property inventory list (Tribal)
- (t) Employee performance appraisal files
- (u) Inmate medical records/issuance of prescribed medication
- (v) Purchase orders
- (w) Vehicle operator's maintenance records
- (x) Monthly Detention Operations Reports
- (y) Annual Reports
- (z) Current Driver's License

R. Modification of Contract for Use of Innovative Methods

- (1) The Contractor may submit a written proposal to use innovative methods in carrying out the Contract. The proposal must be submitted to the Awarding Official, the appropriate District Special Agent In Charge and the District Correctional Program Specialist, for review, subsequent negotiation and, if all parties agree, modification of the Contract.
- (2) Before any innovative methods are approved and incorporated into the Contract, the Contractor must develop

policies and procedures for each such method, which must be approved by the BIA before modification to the contract is authorized and approved.

S. Performance Inspection and Evaluation.

- (1) A performance inspection and evaluation of all programs included in the Contract will be made upon request of the Contractor:
 - (a) If requested by the Contractor, such inspection and Evaluation shall be conducted by the BIA OJS District Office personnel, in accordance with the BIA Law Enforcement Handbook standards and applicable corrections handbook provisions.
 - (b) The inspection and evaluation shall be made on a date mutually agreed upon between the Contractor and the BIA OJS District Office.
 - (c) Any compliance issues shall be presented to the Contractor, the District Special Agent In Charge in whose district the Contractor is located, and the Awarding Official. Where mandatory standards have not been met, the Contractor will provide a corrective action plan to the Inspection and Evaluation team, the District Special Agent In Charge, and the Awarding Official, within the time specified by the team.
 - (d) The Contractor may request, and the District Special Agent In Charge will then be obligated to provide, technical assistance to develop and implement the corrective action plan.

This inspection and evaluation will be in addition to the annual monitoring required under this contract. See SECTION C., Part 5. B., Monitoring, below.

Part 3. Contract Term. This contract shall be for the term commencing [**October 1, XXXX/January 1, XXXX**] and ending [**September 30, XXXX/December 31, XXXX**] with annual submission of a Successor AFA

proposal [Per 25 CFR 900.12] on **July 1st/October 1st** of each successor YEAR.

Part 4. Non-Contracted Portions of the Bureau of Indian Affairs Program(s).

The Government, through the BIA, shall retain responsibility for the following (non-contracted) programs:

[IDENTIFY – IF APPLICABLE]

Part 5. Technical Assistance and Monitoring. The Government, through the BIA, shall:

A. Technical Assistance. Provide technical assistance and guidance, as needed, to the Contractor. The Awarding Official and/or the Awarding Official's Technical Representative (AOTR) will be available to provide assistance to the Contractor as needed, or upon written request of the Contractor.

B. Monitoring. The Awarding Official and/or the AOTR will monitor Contractor performance under this Contract. This monitoring function will include, but not be limited to, the following:

- (1) Periodic on-site technical assistance visits, as needed and/or requested by the Contractor.
- (2) On an annual basis, at least one (1) Official Monitoring Session, which shall be scheduled in advance of the visit.
 - (a) An Official Monitoring Session of the Corrections program specific aspects of the Contractor's program(s) shall be conducted by a team headed by the AOTR.
 - (b) Where contractual programmatic standards have not been met, the Contractor will provide a corrective action plan to the AOTR and the Awarding Official, within the time specified by the Awarding Official and the AOTR.

- (c) The Contractor can request, and the AOTR will then be obligated to provide, technical assistance to develop and implement the corrective action plan.

SECTION D Performance

Part 1. Reporting Requirement.

A. The Contractor will submit the following detention program specific reports to the Director, OJS, through the District [#] Office located in **[District Office location City]**:

- (1) **Monthly Detention Operations Report [DOMR]** – These reports shall be prepared utilizing the properly prescribed BIA OJS forms.
 - (a) These reports shall be due on the **5th** of the month following the month for which the report is due.
 - (b) Information derived from this report will be essential for programming budget requests to Congress for subsequent fiscal periods and program accountability.
- (2) An **annual statistical data report** compiled in accordance with Department of the Interior guidelines.
 - (a) These reports shall be due no later than the **5th** day of **September** in the current fiscal/calendar year.
 - (b) Information derived from this report will be essential for programming budget requests for subsequent fiscal periods.
- (3) **Serious Incident Report** - All incidents of the type and nature described below which occur in Indian country are immediately reported by the field office in charge of the incident, to the District Special Agent In Charge and District Correctional Program Specialist, and **within 24 hours** for a written report to be provided.
 - (a) **An assault by an inmate against an inmate;**
 - (b) **An assault by an Inmate against staff;**

- (c) **Sexual Assault inmate on inmate;**
- (d) **Sexual Assault staff on inmate;**
- (e) **An assault by staff against an inmate;**
- (f) **Inmate Fight;**
- (g) **Escape from Secure Confinement;**
- (h) **Escape/Walk away from unsecured setting;**
- (i) **Suicide** in a detention facility
- (j) **Attempted Suicide** in a detention facility
- (k) **Use of Force by correctional staff against an inmate;**
- (l) **A Death** occurring within a detention facility;
- (m) **Unusual or high publicity incidents**
- (n) **Medical Emergency;**
- (o) **Serious Physical Injury;**

The term serious physical injury means *physical injury which creates a substantial risk of death, or causes death, or which is likely to cause serious and protracted disfigurement, or extended impairment of the function of any organ or body limb.*

- (4) **Serious Incident Report Contents for Detention.** The following documents shall be contained in a detention Serious Incident Report Packet:
 - (a) The serious incident report;
 - (b) Custody Request Form;

- (c) Health Screening Form;
- (d) Suicide Screening Form;
- (e) Personal Property Form;
- (f) Correctional Daily Shift Logs;
- (g) Dispatch Log, if applicable, e.g. EMTs called;
- (h) Housing Roster;
- (i) Supplemental incident reports from correctional staff;
- (j) Police report, if available; and
- (k) Complaint and/or summons.

B. Quarterly Federal Financial Report (SF-425). The Contractor shall submit these reports to the Awarding Official through the AOTR. The report shall detail funds expended to date of report, balance remaining, and status of payments, clearly distinguishing between direct program and contract support cost expenditures, using Form SF 425.

- (1) These reports shall be submitted to the Awarding Official on a quarterly basis, in accordance with the fiscal year as follows: **Quarter 1: Due January 15; Quarter 2: Due April 15; Quarter 3: Due July 15 and Quarter 4/Final: Due October 15) [For Calendar Year contracts the Quarters differ]**
- (2) The fourth quarter SF-425 shall serve as a final financial status report, unless a subsequent report is submitted and designated as such.
- (3) Attached to the SF-425 shall be a detailed expenditure report that identifies the Contractor's name, contract number, the date, period for which costs are incurred, and an itemization of expenditures as referenced in the budget.

Part 2. Audit Requirement.

- A.** The Contractor agrees to arrange for, participate fully in, and respond promptly and fully to the recommendations of, an annual single organization-wide audit as prescribed by the Single Audit Act Amendments of 1996 (P.L. 104-156), as implemented by 2 CFR part 200 subpart F. The costs of such audit are allowable charges only if made in accordance with the provisions of 2 CFR part 200. Indian-owned, small, and minority business audit firms shall be afforded maximum practicable opportunity to participate in contracts awarded by the Contractor to fulfill the requirements herein. The preference requirements of section 7(b), Public Law 93-638, shall apply and are to be enforced.
- B.** If the Contractor fails to comply with the requirement for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (P.L. 104-156) - **DUE DATE** is 9 months after the audit report period ends, the BIA may take one or more of the following actions, as appropriate in the circumstances:
- (1) Temporarily withhold cash payments, indirect costs and/or contract support cost funds pending correction of the deficiency by the contractor or more severe enforcement action by the Bureau;
 - (2) Disallow (that is, deny use of funds) all or part of the cost of the activity or action not in compliance;
 - (3) Wholly or partly suspend the current Contract;
 - (4) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations, or;
 - (5) Withhold further Federal awards for the project or program.
 - (6) Take other remedies that may be legally available.
- C.** The Contractor may appeal the BIA decision for sanctions under the Disputes clause of the Contract.
- D.** Submission of Final Audit Reports.

- (1) The Contractor shall submit one (1) copy of the final audit report with Form SF-SAC (Data Collection Form) within thirty (30) days after issuance to:

**Federal Audit Clearinghouse
U.S. Bureau of the Census
1201 East Tenth Street
Jeffersonville, Indiana 47132
Attention: Single Audit Clearinghouse
WEB: <http://harvester.census.gov/sac>**

- (2) The Contractor shall also submit one additional copy of the final audit report for each funding agency that has a finding, either current or prior year, related to the grant/contracts provided by them.

- E. The Contractor must send two (2) copies of its audit reports to the Office of Internal Evaluation and Assessment to meet the reporting requirements of the ISDEAA. The address is:

**Office of Internal Evaluation and Assessment
U. S. Department of the Interior
12220 Sunrise Valley Drive
Reston, VA 20191
Email: oiea@bia.gov**

Part 3. Monitoring and Records Review.

- A. The Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Contract. The foregoing constitutes 'records' for the purposes of this clause.
- B. The Contractor's facilities or such part thereof as may be engaged in the performance of this Contract, and its records shall be subject at all reasonable times to inspection and audit by the Awarding Official or the authorized technical representatives of the Awarding Official.
- C. The Contractor shall preserve and make available records:

- (1) Until the expiration of three years from the date of final payment under this contract, or of the time period for the particular records specified in 25 CFR 900.41(a-d), whichever expires earlier; and
- (2) For such longer period, if any, as is required:
 - (a) By applicable statute;
 - (b) By other clauses of this Contract;
 - (c) If the Contract is completely or partially canceled, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement; or
 - (d) Records which relate to (A) appeals under the "Disputes" clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this Contract, or (C) costs and expenses of this Contract as to which exception has been taken by the Awarding Official or a duly authorized technical representative of the Awarding Official, shall be retained until such appeals, litigation, claims or exceptions have been disposed of.

D. The Contractor shall insert the substance of this clause, including the whole of this paragraph D., in each subcontract hereunder that is not firm-fixed-price or fixed-price with escalation. When so inserted, changes shall be made to designate the higher-tier subcontractor at the level involved in place of the Contractor; to add of the Government prime contract after a Awarding Official, and to substitute the Government prime contract in place of this Contract in (B) of paragraph C. (2) (b) above.

Part 4. Examination of Records.

A. The Contractor agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of this Contract (hereinafter collectively called records) to the extent and in such

detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this Contract.

- B.** The Contractor agrees to make available at the office of the Contractor at all reasonable times during the period set forth in subparagraph (4), below, any of the records for inspection, audit or reproduction by any authorized representative of the Comptroller General, the Secretary of the Interior and the Awarding Official.
- C.** If the Comptroller General or any authorized representative of the Comptroller General determines that audit of the amounts reimbursed under this Contract as transportation charges will be made at a place other than the office of the Contractor, the Contractor agrees to deliver, with the reimbursement voucher covering such charges, or as may be otherwise specified within two years after reimbursement of charges covered by any such voucher, to such representatives as may be designated for that purpose through the Awarding Official, such documentary evidence in support of transportation costs as may be required by the Comptroller General or any authorized representative of the Comptroller General.
- D.** Except for documentary evidence delivered to the Government pursuant to subparagraph (C), above, the Contractor shall preserve and make available records:
 - (1)** Until the expiration of three years after final payment under this Contract; and,
 - (2)** For such longer period, if any, as is required by applicable statutes, by any other clause of this Contract, or by (a) or (b) below:
 - (a)** If this Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting settlement.
 - (b)** Records which relate to:
 - (i)** Appeals under the Disputes clause of this

Contract;

- (ii) Litigation or the settlement of claims arising out of the performance of this Contract; or
 - (iii) Costs and expenses of this Contract to which exception has been taken by the Comptroller General, the Secretary of the Interior or the Awarding Official, or any of their authorized representatives, shall be retained by the Contractor until such appeals, litigation, claims or exceptions have been disposed of.
- (5) Except for documentary evidence delivered pursuant to subparagraph (3), above, and the records described in subparagraph D. (2)(b), above, the Contractor may, in fulfillment of the obligation to retain records as required by this clause, substitute photographs, micro-photographs, or other authentic reproductions of such records, after the expiration of two years following the last days of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Awarding Official with the concurrence of the Comptroller General or an authorized representative of the Comptroller General.

Part 5. Mature Contracts. This contract may be converted to "Mature Contract" status, upon the written request of the Contractor, when this Contract meets the requirements specified in P.L. 93-638, as amended, in Title I, section 4(h), restated in this contract at SECTION A, Definition of Terms, Section 1., Definitions, P.

Part 6. Contract Termination.

This Contract may be terminated through either:

- A. Retrocession as provided in P.L. 93-638, as amended, in Title I, section 105(e), and in the regulations promulgated to implement the Act, 25 CFR part 900 subpart P; or
- B. Program re-assumption as provided in P.L. 93-638, as amended, in Title I, section 109, and in the regulations promulgated to implement the Act, 25 CFR part 900 subpart P.

Part 7. Drivers License Requirements for Non-Federal Personnel.

- A.** All employees must possess a safe driving record and a valid state driver's license when operating a motor vehicle in the performance of this Contract.
- (1)** The term "safe driving record" is defined as no more than three serious moving violations and no convictions for DUI/DWI within the past three-year period.
 - (2)** The term "operator," as used in this policy means all full-time, part-time, intermittent, administratively determined, and volunteer employees of the Contractor.
 - (3)** The term "serious moving violations(s)" shall be defined as defined by the jurisdiction that cited and convicted the operator of a serious moving violation.
- B.** The requirements for employees of the Contractor to possess and maintain a current valid driver's license is a condition of employment for those individuals required to operate a motor vehicle in the performance of their duties.

Part 8. Bureau of Indian Affairs (BIA) Safe Motor Vehicle Operation Policy

The Contractor certifies that it will self-administer a motor vehicle policy that promotes the safe and prudent operations of a motor vehicle while performing duties to implement the terms of this Contract. The Contractor's policy is either as stringent as or more stringent than the May 3, 2006 Motor Vehicle Operation Policy for the BIA issued by the Associate Deputy Secretary.

Part 9. Effect on Existing Rights. Nothing in the Contract shall be construed as:

- A.** Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian Tribe; or,
- B.** Authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

Part 10. Trust Records Management. The Contractor agrees that records made or received by the Contractor which evidence the organization, functions,

policies, decisions, procedures, operations or other activities undertaken in the performance of Federal Indian trust functions will be preserved and maintained in accordance with trust regulations published in the Federal Register on January 22, 2001, and the Federal Records Act or other applicable Federal law. The Contractor agrees to work cooperatively with the Department of the Interior (Department) in records creation, maintenance and disposition training activities.

Part 11. Applicable Federal Regulations.

- A. **Self-Determination Regulations.** The regulations promulgated to implement P.L. 93-638, as amended: 25 CFR part 900 shall apply to this Contract unless, and to the extent, such regulations have been expressly waived.
- B. **Program Regulations.** The most current regulations promulgated to implement any program(s) incorporated into this Contract shall apply to the operation of such program(s) under this Contract unless, and to the extent, such regulations have been expressly waived.

Part 12. Sanctions for Non-Compliance.

- A. If the Contractor fails to comply with Federal statutes, regulations or the terms and conditions of the contract, the Awarding Official on the recommendation of the AOTR may impose any of the following additional conditions:
 - (1) Requiring payments as reimbursements rather than advance payments;
 - (2) Requiring additional, more detailed financial reports;
 - (3) Requiring additional project monitoring;
 - (4) Requiring the contractor to obtain technical or management assistance; or
 - (5) Establishing additional prior approvals.
- B. When the Awarding Official on the recommendation of the AOTR imposes additional conditions, they will notify the contractor as to:

- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;
- (3) The nature of the action needed to remove the additional requirement, if applicable;
- (4) The time allowed for completing the action if applicable, and
- (5) The method for requesting reconsideration of the additional requirements imposed.

C. If the Awarding Official determines that noncompliance cannot be remedied by imposing additional conditions, he/she may take one or more of the following actions, as appropriate in the circumstances:

- (1) Temporarily withhold cash payments pending correction of the deficiency by the Contractor or more severe enforcement action by the Awarding Official.
- (2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity not in compliance.
- (3) Wholly or partly suspend or terminate the Contract.
- (4) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations.
- (5) Withhold further Federal awards for the project or program.
- (6) Take other remedies that may be legally available.

funds advanced cannot be used for any purpose other than an authorized Bureau program expenditure, even on a temporary basis. Further, funds advanced pending disbursement for a purpose authorized under this Contract shall not be transferred to Tribal accounts, lent to such Tribal accounts, or expended for programs or purposes not specifically authorized under this Contract. Funds advanced, pending expenditure under this Contract, shall be placed in appropriate savings, checking, or investment accounts. Such funds when invested or deposited shall be subject to the following:

- (1) Advanced funds not immediately spent for program activities may be invested only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed by the United States.
- (2) If not invested, advanced funds must be deposited only into accounts that are insured by an agency or instrumentality of the United States, or must be fully collateralized to ensure protection of the funds, even in the event of a bank failure.
- (3) Interest and investment income that accrue on any funds provided for by contract become the property of the Contractor pursuant to P.L. 93-638, as amended, in Title I, Section 105(b) of the Act.

C. **Sanctions:** Failure to maintain the integrity of contract funds shall result in imposition of one or more of the following sanctions:

- (1) Pursuant to Section 5(d) of Public Law 93-638, as amended (25 USC § 5305(d)), funds paid to the Contractor and not used for the purposes for which they were paid shall be repaid to the Treasury of the United States; and,
- (2) Cancellation of Advance Payment methodology and invocation of “other payment methodologies” as provided in Section E, Section 2, above.
- (3) Sanctions shall remain in place until the Contractor provides

assurance that the impropriety which resulted in the imposition of sanctions has been rectified and will not recur.

Part 3. Contract Revision or Amendment.

- A.** This Contract may be revised or amended as required to carry out the purpose of the program, project or function being contracted. The Contractor shall submit proposed revisions through the AOTR to the Awarding Official. The Contractor (if other than the tribal governing body) shall also send copies of the proposed revision to the designated representative of the Tribal governing body at the same time as they are sent to the Awarding Official. The Awarding Official shall review the proposed revision in accordance with 25 CFR part 900 subpart E.
- B.** When the Awarding Official recommends declination of a Contractor's request to amend the contract, the matter shall be resolved as prescribed Section 102(b) of the Act and in accord with 25 CFR part 900 subpart E.

Part 4. Negotiated Indirect Cost Rates.

- A.** The allowable indirect contract support costs under this contract shall be calculated by applying negotiated indirect cost rates to bases agreed upon by the parties, as specified below.
- B.** Negotiation of indirect cost rates by the Contractor and the cognizant Federal agency shall be undertaken as promptly as practicable after the cognizant Federal agency's receipt of the Contractor's indirect cost proposal.
- C.** Acceptability of cost and cost allocation methods shall be determined in accordance with 2 CFR part 200.
- D.** The results of each negotiation shall be set forth in an Indirect Cost Negotiation Agreement. Such agreement shall become a part of this Contract by reference. The agreement shall specify:
 - (1)** The agreed indirect cost rate(s);
 - (2)** The base to which the rate(s) apply;

- (3) The periods for which the rate(s) apply; and,
 - (4) The specific items treated as exclusions or any changes in the items previously agreed to be treated as exclusions.
- E. The Contractor is to be reimbursed for all reasonable, allocable and allowable indirect costs incurred in performance of this Contract, subject to any statutory limitations applicable.
- F. Any failure by the parties to agree on any indirect cost rate(s) or applicability of the rate(s) to the bases under this provision shall be considered a dispute concerning a question of fact for decision by the Awarding Official within the meaning of the clause of this contract entitled "Disputes."

Part 5. **Disputes.** This Contract is subject to 25 CFR part 900 subpart N.

- A. All disputes arising under or relating to this Contract shall be resolved under 25 CFR part 900 subpart N.
- B. The Contractor shall proceed diligently with performance of this Contract, pending final resolution of any request for relief, claim, appeal, or action arising under the Contract, and comply with any decision of the Awarding Official pending resolution of any appeal.

Part 6. **Payment of Interest on Contractor's Claim.** If an appeal is filed by the Contractor from a final decision of the Awarding Official under the disputes clause of this Contract, denying a claim arising under the Contract, interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. The procedures specified at 25 CFR 900.228 shall be followed.

- A. Interest shall be applied only from the date payment was due, if such date is later than the filing of the appeal; and,
- B. Interest shall not be paid for any period of time that the Awarding Official determines the Contractor has unduly delayed in pursuing remedies before a board of contract appeals or a court of competent jurisdiction.

Part 7. **Retrocession.** The Contractor agrees to comply with the provisions of P.L. 93-638, as amended, in Title I, **section 105(e)**, and **25 CFR part 900**

subpart P (in the event of retrocession).

Part 8. **Reassumption.** The Contractor agrees to comply with the provisions of P.L. 93-638, as amended, in Title I, **section 109** of the Act, and **25 CFR part 900 subpart P** in the event of re-assumption.

Part 9. **Federal Tort Claims Act (FTCA):**

A. FTCA Coverage: For purposes of FTCA coverage, the Contractor and its employees are deemed to be employees of the Federal government while carrying out this contract and acting within the scope of their employment. This status is not changed by the source of the funds used by the Contractor to pay the employee's salary and benefits unless the employee receives additional compensation for performing covered services from anyone other than the Contractor. Coverage under 28 U.S.C. § 2680(h) for intentional torts is available to the extent authorized by Federal law for tribal law enforcement/correctional officers who hold a valid and current BIA-OJS certification. Certification includes successfully completing the training requirements outlined in Section C Part 2(N)(2) of this AFA and receiving a favorable rating on the adjudicated background investigation **no less stringent than required of a federal officer performing the same duties.**

B. FTCA Liaison: In accordance with the requirement in 25 CFR 900.188(a), the Contractor agrees to designate an individual to serve as the tort claims liaison with the Federal government. The tort claims liaison shall provide the assistance specified in 25 CFR 900.188(c).

Part 10. **Vehicle Operation - Seatbelt Use Requirement:**

A. Vehicle Operation. The Contractor, its employees and recipients of sub-awards who, in the course of performance of their duties, are required to operate Contractor-owned or rented vehicles, or who use personally owned motor vehicles in the performance of duties under this Contract, must have a valid motor vehicle operator's license.

B. Seatbelt Use Requirement. The Contractor, its employees and recipients of sub-awards, are encouraged to adopt and enforce on-the-job seat belt use policies and procedures for their employees

when operating Contractor-owned or rented vehicles, or when using personally owned motor vehicles, in the performance of duties under this Contract. These measures include, but are not limited to, conducting education, awareness, and other appropriate activities for their employees regarding the importance of wearing seat belts and the consequences of not wearing them.

Part 11. Insurance.

- A. Insurance:** The Contractor is encouraged to obtain insurance from an insurance provider that is licensed by the State Insurance Commission or State Insurance Board in the State in which the Contractor is located and where the work is to be performed.

**SECTION F
Special Requirements**

Part 1. Management Systems. The Contractor shall provide copies of the most recent versions of the following management system Policies and Procedures Manuals:

- A. Personnel Manual.**
 Previously submitted, and on file at the BIA.
 Attached
- B. Property Manual.**
 Previously submitted, and on file at the BIA.
 Attached
- C. Procurement Manual.**
 Previously submitted, and on file at the BIA.
 Attached
- D. Record Keeping Policy.**
 Previously submitted, and on file at the BIA.
 Attached
- E. Travel Policy.**
 Previously submitted, and on file at the BIA.
 Attached

Part 2. Finance System Certification. The Contractor may submit Certification

by a licensed accountant that the Contractor's bookkeeping and accounting procedures meet the standards of 25 CFR part 900 subpart F. The bookkeeping and accounting system shall provide for the accumulation of costs throughout the Contract term or performance period in such a manner as to facilitate audit or review of the financial records.

Check one of the following:

- Certification previously submitted, and on file at the BIA.
- Certification attached.

Part 3. Record Keeping. The Contractor agrees to keep such records as required pursuant to P.L. 93-638, as amended, Title I, Section 108 (c), Section 1(b)(7)(A), to make reports required by P.L. 93-638, as amended, in Title I, Section 5(a)(1) and (2), and (f) (1) and (2), of the Act as amended, and Section D, Part 1 of this Contract, and to make such information and reports available to the Indian clients as required by Section 5(c) of P.L. 93-638, as amended. The Contractor shall be required to maintain a record-keeping system, which will allow for the maintenance of records to facilitate retrocession or re-assumption. Such a records system, at a minimum, shall:

- A.** Provide for the creation, maintenance and safeguarding of records of lasting value, including those involving individual rights, such as permanent student records and transcripts.
- B.** Provide for orderly retirement of records used or created under the Contract. Such records shall be returned to the Bureau for disposition according to the General Records Schedules and the Bureau Records Control Schedule.

Part 4. Privacy Act Requirements. P.L. 93-638, as amended, Title I, Section 108 (b) of the Act states that records of the Contractor shall not be considered Federal records for the purposes of the Privacy Act (5 U.S.C. 552a).

Part 5. Freedom of Information. Access to records maintained by the Bureau is governed by the Freedom of Information Act (FOIA). Except for previously provided copies of Tribal records that the Bureau demonstrates are clearly required to be maintained as part of the record-keeping system of the Bureau, records of the Contractor (including archived records) shall not be considered Federal records for the purpose of the FOIA.

SECTION G

Other Attachments (Identify Attachments and include – delete the remaining)

- Attachment G-1.
- Attachment G-2.
- Attachment G-3.
- Attachment G-4.
- Attachment G-5.
- Attachment G-6.
- Attachment G-7.
- Attachment G-8.
- Attachment G-9.
- Attachment G-10.
- Attachment G-11.
- Attachment G-12.
- Attachment G-13.
- Attachment G-14.

ATTACHMENT 2

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

[Regional Office/OJS District #]

PUBLIC LAW 93-638, AS AMENDED

ANNUAL FUNDING AGREEMENT

WITH THE

[TRIBE NAME]

CONTRACT NO. XXXXXXXX

INDEX OF CONTRACT PROVISIONS

SECTION A

Authority, Purpose, and Definition of Terms

- Part 1. Authority
- Part 2. Purpose
- Part 3. Definitions

SECTION B

Program and Budget

- Part 1. Program(s)
- Part 2. Program Standards
- Part 3. Contract Budget
- Part 4. Contract Amount
- Part 5. Contract Support Costs

SECTION C

Statement of Work

- Part 1. Scope of Bureau Program(s) to be Performed
- Part 2. Statement of Work
- Part 3. Contract Term
- Part 4. Non-Contracted Portion of Bureau of Indian Affairs Program(s)
- Part 5. Technical Assistance and Monitoring

SECTION D

Performance

- Part 1. Reporting Requirement
- Part 2. Audit Requirement
- Part 3. Monitoring and Records Review
- Part 4. Examination of Records
- Part 5. Mature Contract
- Part 6. Contract Termination
- Part 7. Driver's License Requirements for Non-Federal Personnel
- Part 8. Bureau of Indian Affairs' (BIA) Motor Vehicle and Commercial Vehicle Operation Policy
- Part 9. Effect on Existing Rights
- Part 10. Trust Records Management

BIA REGION /AGENCY/ OJS DISTRICT
Annual Funding Agreement FY or CY 2020
Contract No. A20AVXXXXX
Program: [TRIBE NAME] DETENTION SERVICES- (Adult)

Page 2 of 62

- Part 11. Applicable Federal Regulations
- Part 12. Sanctions for Non-Compliance

SECTION E
Administration Data

- Part 1. Awarding Official's Technical Representative
- Part 2. Contract Payment
- Part 3. Contract Revision or Amendment
- Part 4. Negotiated Indirect Cost Rate(s)
- Part 5. Disputes
- Part 6. Payment of Interest on Contractor's Claim
- Part 7. Retrocession
- Part 8. Reassumption
- Part 9. Federal Tort Claims Act (FTCA)
- Part 10. Vehicle Operation – Seatbelt Use Requirement
- Part 11. Insurance

SECTION F
Special Requirements

- Part 1. Management Systems
- Part 2. Finance System Certification
- Part 3. Record Keeping
- Part 4. Privacy Act Requirements
- Part 5. Freedom of Information

SECTION G
Other Attachments

- Attachment A – Budget w/Justification**
- Attachment B – Position Descriptions**
- Attachment C -- [INSERT]**
- Attachment D – [INSERT]**

SECTION A

Authority, Purpose and Definition of Terms

Part 1. Authority. This agreement, denoted a Self-Determination Contract (referred to in this agreement as the (“Contract”), is entered into by the Secretary of the Interior (referred to in this agreement as the “Secretary”), for and on behalf of the United States pursuant to Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) and by the authority of the [TRIBE NAME] (referred to in this agreement as the “Contractor”) and 25 C.F.R. part 900. The provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) and 25 C.F.R. part 900 are incorporated in this Contract.

Part 2. Purpose. Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the related functions, services, activities, and programs (or portions thereof) that are otherwise contractible under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor.

Part 3. Definitions. The following terms shall have the meanings set forth below throughout this Contract:

- A. **Act.** Means Public Law 93-638, The Indian Self-Determination and Education Assistance Act of 1975, as amended (ISDEAA), 25 USC 5301 *et seq.*, 88 Stat. 2203.
- B. **Annual Financial Audit.** Means an organization-wide audit as required by Public Law 104-156, The Single Audit Act Amendments of 1996, as implemented through 2 CFR part 200 subpart F.
- C. **Approving Official.** Means the Deputy Bureau Director, Office of Justice Services (OJS). However, the Deputy Bureau Director’s approval authority has been delegated to the Special Agent in Charge (SAC) in whose District the Contractor is located. The concurrence of the Deputy Bureau Director, OJS is required on decisions regarding funding, staffing, program content and the decision to reassume a law enforcement and/or detention program in accordance with Delegation of Approving Official Authority for Public Law 93-638 Contracts for Law Enforcement and Detention Services memorandum dated July 30, 2014.

- D. **Awarding Official**. Means any person who by appointment or delegation in accordance with applicable regulations has the authority to enter into and administer contracts on behalf of the United States of America and make decisions and issue findings and determinations with respect thereto. Pursuant to the Act, this person can be any Federal official, including but not limited to, contracting officers.
- E. **Awarding Official's Technical Representative (AOTR)**. Means the authorized technical representative of an Awarding Official acting within the limits of his authority.
- F. **Cognizant Federal Agency**. Means the Federal agency with authority to negotiate indirect cost rate agreements with the Contractor.
- G. **Contract**. Means a self-determination contract (or grant or cooperative agreement utilized in lieu of a contract under section 9 of the Act) entered into under title I of the Act between a tribal organization and the Secretary for the planning, conduct and administration of programs or services which are otherwise provided to Indian Tribes and their members pursuant to Federal law: *Provided* that, no contract (or grant or cooperative agreement utilized under section 9 of this Act) entered into under title I of this Act shall be construed to be a procurement contract.
- H. **Contractor**. Means an Indian Tribe or Tribal organization to which a contract has been awarded.
- I. **Contract Modification**. Means a written change to the contract document which has been mutually agreed to by the Awarding Official and the Contractor.
- J. **Contract Records**. Means records maintained to support activity under the contract. Contract records shall include, but not be limited to, the following:
- (1) The contract award documents;
 - (2) Any and all modifications to the contract;
 - (3) Financial records; and,

- (4) Records created or maintained as a result of the contract.
- K. Days.** Means, unless otherwise specified in this Contract, calendar days; except where the last day of any time period specified in this Contract falls on a Saturday, Sunday, or a Federal holiday, the period shall carry over to the next business day unless otherwise prohibited by law.
- L. Indian Tribe.** Means any Indian Tribe, Band, Nation, or other organized group, or community, including Pueblos, Rancherias, Colonies and any Alaska Native Village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- M. Indian.** Means a person who is a member of a Federally-recognized Indian Tribe.
- N. Indirect Costs.** Means costs incurred for a common or joint purpose benefiting more than one contract objective or which are not readily assignable to the contract objectives specifically benefited without effort disproportionate to the results achieved.
- O. Indirect Cost Rate.** Means the rate arrived at through negotiation between an Indian Tribe or Tribal organization and the cognizant Federal agency.
- P. Mature Contract.** Means a contract that has been continuously operated by a tribal organization for three or more years, and for which there are no significant and material audit exceptions in the most recent annual financial audit of the tribal organization. A mature contract may be for a definite or an indefinite term as requested by the Tribe or, to the extent not limited by Tribal resolution, by the Tribal organization.
- Q. Program Records.** Means records created or maintained to support activity within the contracted program. Program records shall include, but not be limited to, the following:

- (1) Application for assistance under the specific program;
 - (2) Case files, criminal statistical reports, etc.
 - (3) Correspondence;
 - (4) Financial records; and,
 - (5) Any other records established under the Contract.
- R. Reassumption.** Means rescission, in whole or in part, of a contract and assuming or resuming control or operation of the contracted program by the Secretary without consent of the Indian Tribe or Tribal organization pursuant to the notice and other procedures set forth in 25 CFR part 900 subpart P.
- S. Recontracting.** Means the renewal of a contract with a Tribal organization for the same program.
- T. Retrocession.** Means the voluntary return to the Secretary of a contracted program, in whole or in part, for any reason, before the expiration of the term of the contract.
- U. Secretary.** Means the Secretary or any authorized representative of the Secretary.
- V. Subcontracts.** Except as otherwise provided in this Contract, the term subcontracts includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this Contract.
- W. Subordinate Awarding Official's Technical Representative (SAOTR).** Means the authorized technical representative of an Awarding Official acting within the limits of his authority that assists the AOTR.
- X. Term Contract.** Means a contract (other than a mature contract) which is for a specific period of time, not to exceed three years unless otherwise agreed to by the Secretary and the Contractor. The term may not be longer than that provided by any applicable Tribal resolution which limits the period of the Contractor's authority.

- Y. Tribal Organization.** Means the recognized governing body of any Indian Tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, that, in any case where a contract is let or a grant made to an organization to perform services benefiting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the letting or making of such contract or grant.
- Z. Tribal Resolution.** Means the formal manner in which the Tribe expresses its legislative will in accordance with its organic documents. In the absence of such organic document, a written expression adopted pursuant to Tribal constitutional process and practices will be acceptable.

SECTION B
Program and Budget

Part 1. **Program(s).** The Contractor shall perform that portion of the Bureau of Indian Affairs **Adult Detention Program, functions and services** described herein in accordance with the terms, provisions and conditions of this Contract.

Part 2. **Program Standard.** The Contractor agrees to administer the program(s), services, functions, and activities (or portions thereof) listed in Section 1 above in conformity with the following standards:

A. Purpose. The Contractor shall administer programs, services, functions and activities (or portions thereof) under this agreement in accordance with its own laws and policies which are incorporated herein by reference. The provisions of regulations promulgated to implement P.L. 93-638, as amended, and other applicable Federal regulations shall apply, unless such regulations have been waived by the Secretary. Such regulations are incorporated in this Contract by reference.

B. Intent. The Contractor shall conduct programs and services under this Contract to address Tribal priorities and needs. The program(s) to be conducted shall include any and all services authorized by law, for which funds have been appropriated to the Bureau of Indian Affairs (BIA) or made available from other agencies through the BIA. Funds made available may be utilized to acquire other resources to further the objectives of this Contract. The Contractor shall operate programs under this Contract in accordance with the following standards:

ADULT AND JUVENILE OPERATION PROGRAM STANDARDS

- Tribal and Federal court decisions, as they relate to the Tribe's criminal and civil jurisdiction.
- BIA-OJS Law Enforcement Written Directives Handbook 3rd Ed. (2015).
- **[TRIBE NAME]** Tribal Constitution & By-Laws
- **[TRIBE NAME]** Tribal Comprehensive Code of Justice.
- BIA-OJS Corrections Handbook including all

Directives, updates, or future editions which may be issued during the term of the Contract.

- BIA-OJS Adult Detention Facility Guidelines (2011).
- Indian Self-Determination and Education Assistance Act, 25 U.S.C. §§ 5301 *et seq.*
- Indian Civil Rights Act, 25 U.S.C. §§ 1301 *et seq.*
- Indian Alcohol and Substance Abuse Prevention and Treatment Act, 25 U.S.C. §§ 2401 *et seq.*
- 11, P.L. 101-630, 104 Stat.4556 (Nov. 28, 1990, Indian Child Protection and Family Violence Prevention Act (ICPFVPA), 25 U.S.C. §§ 3201 *et seq.*;
- 18 U.S.C. § 1169.
- Prison Rape Elimination Act of 2003, 42 U.S.C. §§ 15601 *et seq.*
- P.L. 101-647 title II E, 104 Stat. 4789 (Nov. 29, 1990), Crime Control Act of 1990.
- P.L. 111-211 (July 29, 2010), Tribal Law and Order Act.
- P.L. 113-4 (Mar. 7, 2013), Violence Against Women Reauthorization Act of 2013.
- 25 C.F. R. parts 10 and 12 (“Indian Country Detention Facilities and Programs”, “Indian Country Law Enforcement”).
- 25 C.F.R. part 900, subpart F, Standards for Tribal or Tribal Organization Management Systems.
- 25 C.F.R. part 63, Indian Child Protection and Family Violence Prevention.
- 25 C.F.R. part 275 (“Staffing”).
- Facility Operations and Inspections - Tribal or B.I.A./I.H.S. Facility Inspection Reports, Requirements and Safety Plans.
- BIA Detentions Standards Requirement -Tribal Crisis Management Plans/Emergency Management Plans.

Part 3. **Contract Budget.** The budget for the services provided under this Contract reflects the agreements reached during contract negotiations. The contract budget includes both direct and indirect costs.

A. The Contractor shall request prior approval for budget revisions whenever:

(1) The budget revision results from changes in the scope or

objective of the program;

- (2) The revision requires additional funding;
- (3) The revision causes a change in the amount of indirect cost for the Contract; or,
- (4) The revision pertains to the addition of items requiring approval of the BIA.

B. All other budget revisions do not require approval.

Part 4. **Contract Amount.** The amount of funding to be provided by the BIA under this Contract for **Fiscal Year or Calendar Year [2019]** is as reflected In Attachment A to the SF-26 Award and/or SF-30 Modification/Contract document.

Part 5. **Contract Support Cost Funds (CSC).** The Secretary shall pay Contract Support Cost (CSC) funds as required by the Indian Self-Determination and Education Assistance Act of 1975, as amended, and in conformance with 13 IAM 7. Nothing in this agreement shall be construed as a waiver of the Contractor's rights under the Act.

SECTION C
Statement of Work

Part 1. Scope of Bureau Program(s) to be Performed.

A. Performance of Contract Statement of Work.

Within the limits of Federally provided funds, the Contractor shall provide all necessary personnel and services, and shall acquire supplies, materials, major and sensitive equipment and property, automated data processing equipment, motor vehicles such as passenger and light trucks, and special purpose motor vehicles through the negotiated or competitive open market or through sole source procurement in compliance with Federal rules. This shall be done in compliance with the above described management manuals and procedures and applicable Federal procurement rules which are herein incorporated into this contract by this reference

- (1) The authority to perform and carry out the terms of this statement of work shall be vested in a single tribal Corrections/Detention entity.
- (2) Such Corrections/Detention entity shall be the entity either in existence or created by **[TRIBE NAME]** as of the effective date of this Contract. The establishment of any other Corrections/Detention entity under Tribal law during the performance of this Contract shall be grounds for immediate reassumption of the Contract.

B. Funding.

- (1) The Contractor shall obtain from the BIA all such funds and other resources made available for the benefit of the Tribe for all programs to be operated and services to be delivered by the Contractor through this contract on behalf of the BIA, except for those Trust and 'Executive Direction' functions of the BIA which are considered non-contractible.
- (2) The BIA shall transfer to the Contractor all such funds and other resources made available for the benefit of the Tribe through this Contract in the most expeditious manner

authorized by law, and shall provide technical support and assistance at the request of the Contractor and as provided herein.

- (3) The Contractor shall exercise full discretion over the funds made available subject only to the provisions of this Contract and Federal law.

- C. **Fair and Uniform Services**. The Contractor agrees that any services or assistance provided to Indians under the Contract shall be provided in a fair and uniform manner.

Part 2. Statement of Work.

- A. The purpose of this Contract is to ensure that professional, effective and efficient **Adult Detention Services** are provided for the **[TRIBE NAME]** utilizing accepted correctional techniques and practices. These services shall provide for the protection of lives and property for persons visiting or residing within the exterior boundaries of the **[TRIBE NAME]** Indian Reservation.
- B. Services shall be provided in accordance with defined authority, procedures, and guidelines contained in Section B, Part 2, Program Standards of this Contract.
- C. **The scope of this Contract only includes the detention or incarceration of individuals pursuant to the legal authority of the Tribe and its officers pursuant to the terms and conditions within this agreement. The detention of individuals on a fee for service, contractual, or other basis for other jurisdictions is not within the scope of the Contract.**
- D. When operating within the scope of this Contract, the Contractor may be required to leave or operate outside of Indian country. Such requirements may include, but are not limited to:
 - (1) traveling from one portion of the affected Indian country to another portion of the same Indian country while in the performance of functions authorized by this Contract,
 - (2) traveling to and from, and testifying in, Tribal, state, or Federal court,

- (3) transporting offenders to and from detention facilities,
 - (4) traveling to and from Indian country to service facilities located outside Indian country,
 - (5) traveling to and from, and attending, meetings, conferences and training sessions,
- E. The Contractor shall obtain all necessary licenses, permits, training, certification, insurance and approvals required by local, state, and Federal statutes to perform all programs under this Contract.
- F. The Contractor shall comply with the provisions of the Indian Child Protection and Family Violence Prevention Act (ICPFVPA), 25 U.S.C. §§ 3201-3211 and 18 U.S.C. § 1169.

All applicants for any position, or employee, in the Contractor's adult and juvenile correctional operation, and other corrections program support staff (mandatory for those working under the Juvenile operations), whose duties and responsibilities would allow them regular contact or control over Indian children must be subject to a thorough background investigation that will capture disqualifying convictions under the ICPFVPA. See SECTION C., Part 2. Statement of Work, N. Personnel Standards, below. [25 CFR §63]

- G. The Contractor shall *assist* the BIA and other Federal enforcement officials in the secure and humane detention of inmates arrested or convicted of Federal offenses that occur on the reservation.

See SECTION C., Section 2. Statement of Work; Personnel Standards, below.

- H. **Citizen Complaints**. The Contractor will develop and maintain a reporting system, which allows any individual who comes in contact with law enforcement to report suspected or alleged officer misconduct.

- (1) For purposes of this section, the term "officer" means any Tribal adult or juvenile correctional officer.

(2) The Deputy Bureau Director, BIA - OJS, maintains an Internal Affairs Division (IAD) that investigates all allegations of misconduct by any officer receiving funding and/or authority from the BIA.

(a) All allegations of officer misconduct must be immediately reported to IAD for review. Failure by an officer, supervisor or other Contractor personnel to report allegations of officer misconduct to IAD may itself be considered misconduct.

(b) IAD reserves the right to review and investigate all allegations of misconduct, however, dependent upon the severity of the allegations, may choose to refer the matter to the Contractor's designated point of contact for appropriate handling in accordance with the Contractor's procedures.

If the matter is referred back to the Contractor for appropriate handling, all allegations of officer misconduct must be thoroughly investigated and appropriate action taken.

(c) The Contractor shall advise citizens that they may report officer misconduct directly to the BIA OJS IAD, if that is more practical.

(d) When notifying the BIA OJS IAD of alleged or suspected officer misconduct, the Contractor should provide the following if known:

(i) name, date of birth, rank, and assigned location of the accused employee.

(ii) name, date of birth, address and telephone number of the complainant.

(ii) a summary of the incident(s) of alleged misconduct.

(iii) any official reports prepared concerning the incident.

- (iv) when feasible, a brief written statement signed by the complainant, summarizing the incident and the alleged misconduct.
- (e) **Allegations of Civil Rights Violations.** All allegations of civil rights violations must be reported immediately to the BIA OJS IAD.
 - (i) The BIA OJS IAD will ensure that allegations are reported to the Civil Rights Division of the United States Department of Justice through established procedures. The BIA OJS IAD may also investigate the matter and make recommendations for additional action as necessary.
 - (ii) Only the Federal Bureau of Investigation (FBI) is authorized to conduct a full Civil Rights investigation. This does not preclude the Contractor or BIA from conducting a simultaneous or subsequent internal administrative investigation concerning allegations of the use of excessive force and brutality.
- (f) **Serious Incident Reports.** All serious incidents, unusual events, and emergency conditions, which may result in inquiries to the BIA, cause intense public interest, or have potential residual effects on the OJS or the BIA must be reported in the most expeditious manner available *within 24 hours* to the BIA OJS **[District #_]** and Agency Superintendent.

I. **Correctional Facility Operations.**

- (1) The Contractor is to provide Corrections Operations, per the following guidance:
 - (a) Shall operate **Adult Corrections Operations.**
 - (b) Shall operate the facility utilizing all Mandatory

Standards set forth in the following BIA
Corrections Handbooks:

BIA-OJS Corrections Handbook
BIA-OJS Detention Facility Guidelines
All mandatory standards
All facility plant management requirements
Model Inmate Handbook (Use for Adult)

- (c) The Contractor shall provide all necessary qualified, certified, and licensed personnel, equipment, supplies, training, and materials to perform corrections services on the **[TRIBE NAME]** Reservation in accordance with the standards listed in Section B, Part 2, Program Standards of this Contract.

J. Administrative Duties - Correctional Operations.

- (a) **Separation of Adults and Juveniles.** The administrator shall prohibit the confinement of juveniles under the age of eighteen within the Adult facility unless in compliance with the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and 28 C.F.R. Part 31.

K. SAFETY

(1) **Safety / Sanitation Inspections**
BIA ADF-1A-01 (Mandatory)

The facility complies with all applicable laws and regulations of the governing jurisdiction. The following inspections are implemented:

- Weekly sanitation inspections of all facility areas by a qualified departmental staff member.
- Comprehensive and thorough monthly inspections by a qualified departmental staff member.
- At least annual inspections by qualified persons.

(2) **Disposal of Material**
BIA ADF-1A-02 (Mandatory)

Disposal of liquid, solid, and hazardous material complies with applicable government regulations.

- (3) **Vermin and Pests**
BIA ADF-1A-03 (Mandatory)
Vermin and pests are controlled.
- (4) **Water Supply**
BIA ADF-1A-05 (Mandatory)
The facility's potable water source and supply, whether owned and operated by a public water department or the facility, is certified at least annually by an independent, outside source to be in compliance with the laws and regulations of the governing jurisdiction.
- (5) **Emergency Plan**
BIA ADF-1C-01 (Mandatory)
There is a plan that guides the facility response to emergencies. All facility personnel are trained annually in the implementation of the emergency plan. The emergency plan includes procedures to be followed in situations that threaten facility security. Such situations may include but are not limited to: riots/disturbances, hunger strikes, escapes, taking of hostages, and staff work stoppage.
- (6) **Evacuation Plan**
BIA ADF-1C-02 (Mandatory)
An evacuation plan is used in the event of fire or major emergency. The plan is approved by a safety officer or other independent outside inspector trained in the application of national fire safety codes and is reviewed annually, updated if necessary, and reissued to the local fire jurisdiction.
- (7) **Immediate Release of Inmates**
BIA ADF-1C-03 (Mandatory)
There is a means for the immediate release of inmates from locked areas in case of emergency and there are provisions for a backup system. The facility has exits that are properly positioned, are clear from obstruction, and are distinctly and permanently marked to ensure the timely evacuation of inmates and staff in the event of fire or other emergency. All housing areas and places of assembly for fifty or more persons have two exits.

- (8) Fire Safety Code Conformance**
BIA ADF-1C-04 (Mandatory)
The facility conforms to applicable Federal, state, and/or local fire safety codes.
- (9) Fire Prevention Regulations**
BIA ADF-1C-05 (Mandatory)
The facility's fire prevention regulations and practices ensure the safety of staff, contractors, inmates, and visitors. The facility is inspected monthly by a qualified individual for compliance with safety and fire prevention standards. There is an annual inspection by a safety officer or other qualified independent persons.
- (10) Facility Furnishings**
BIA ADF-1C-06 (Mandatory)
Facility furnishings meet fire safety performance requirements.
- (12) Flammable, Toxic, and Caustic Materials**
BIA ADF-1C-07 (Mandatory)
Flammable, toxic, and caustic materials are controlled, used safely, and properly stored.

L. SECURITY

- (1) Health Care**
BIA ADF-2A-21 (Mandatory)
When an inmate is transferred to segregation for health concerns, a medical referral is made to health care personnel for assessment and review in accordance with the protocols established by the health authority.
- (2) Use of Force**
Restrictions on Use of Force
BIA ADF-2B-01 (Mandatory)
The use of physical force is restricted to instances of justifiable self-defense, protection of others, protection of property, prevention of escapes, to preserve and restore facility order and then only as a last resort and in accordance with appropriate statutory authority. In no event is physical

force used as punishment.

**(3) Use of Four/Five Point Restraints or Restraint Chair
BIA ADF-2B-03 (Mandatory)**

Four/five point restraint or a restraint chair is used when an inmate presents a threat to facility security and order and other types of restraints have proven ineffective. Advance approval is secured from the facility administrator/designee before an inmate is placed in a four/five point restraint or restraint chair. A medical assessment is conducted when an inmate is restrained in a four/five point restraint or restraint chair for more than two hours or the inmate complains of injuries. The following minimum procedures are followed:

- Continuous direct visual observation by staff before an assessment by the health authority or designee.
- Subsequent visual observation is made at least every 15 minutes.
- The inmate is transferred to a medical/mental health unit for emergency treatment if so indicated by the health authority following the medical assessment.
- Documentation of all decisions and actions.

**(4) Use of Firearms
BIA ADF-2B-06 (Mandatory)**

The use of firearms complies with the following requirements:

- Weapons are subjected to stringent safety regulations and inspections.
- A secure weapons locker is located outside the secure perimeter of the facility.
- Except in emergency situations, firearms and authorized weapons are permitted only in designated areas to which inmates have no access.
- Employees supervising inmates outside the facility perimeter follow procedures for the security of weapons.
- Employees are instructed to use deadly force only after other actions have been tried and found ineffective, unless the employee believes that a person's life is immediately threatened.
- Employees on duty use only firearms or other security equipment that have been approved by the facility

administrator.

- Appropriate equipment is provided to facilitate safe unloading and loading of firearms.

**(5) Key, Tool, and Utensil Control
BIA ADF-2D-01 (Mandatory)**

Keys, tools, culinary equipment, and medical/dental instruments and supplies (syringes, needles and other sharps) are inventoried, use is controlled, and they are properly stored.

M. CARE

**(1) Dietary Allowances
BIA ADF-4A-01 (Mandatory)**

The facility's dietary allowances are reviewed at least annually by a qualified nutritionist or dietician to ensure that they meet the nationally recommended dietary allowances for basic nutrition for appropriate age groups. Menu evaluations are conducted at least quarterly by food service supervisory staff to verify adherence to the established basic daily servings.

**(2) Food Service Facilities
BIA ADF-4A-03 (Mandatory)**

There is documentation by an independent, outside source that food service facilities and equipment meet established government health and safety codes. Corrective action is taken on any deficiencies.

**(3) Health Protection for Food Service
BIA ADF-4A-04 (Mandatory)**

There is adequate health protection for all inmates and staff in the facility and for inmates and other persons working in food service. All persons involved in the preparation of the food receive a pre-assignment medical examination to ensure freedom from diarrhea, skin infections, and other illnesses transmissible by food or utensils.

**(4) Food Service Inspection
BIA ADF-4A-05 (Mandatory)**

If food services are provided by the facility, there are weekly inspections of all food services areas, including dining and

food preparation areas and equipment. Water temperature is checked and recorded daily.

(5) Access to Care/ Clinical Services
BIA ADF-4C-01 (Mandatory)

At the time of orientation all inmates are informed about procedures to access health services. There is a process for all inmates to access health care services on a daily basis by means of sick call, inmate request or staff referral. When the necessary medical, dental, mental health, or substance abuse care is not available at the facility, inmates are referred to and given timely access to the needed clinical services in another appropriate health care facility. Inmates may also request access to traditional healing practitioners for medicinal services.

(6) Emergency Plan
BIA ADF-4C-03 (Mandatory)

Inmates have access to twenty-four-hour emergency health care services, including on-site first aid, basic life support, and transfer to health care facilities as necessary.

(7) Pregnancy Management
BIA ADF-4C-04 (Mandatory)

Pregnant inmates have access to obstetrical services by a qualified provider, including prenatal, pre-partum, and post-partum care.

(8) Communicable Disease and Infection Control Program
BIA ADF-4C-05 (Mandatory)

Communicable diseases are managed in accordance with a written plan developed in consultation with, and approved by, the designated health authority. The plan includes provisions for the screening, surveillance, treatment, containment, and reporting of infectious diseases. Infection control measures include the availability of personal protective equipment for staff and hand hygiene promotion throughout the facility. The plan also provides for handling bio-hazardous waste and decontaminating medical and dental equipment which must comply with applicable Tribal or Federal regulations.

(9) Chronic Care

BIA ADF-4C-06 (Mandatory)

Inmates with chronic medical conditions, such as diabetes, hypertension, and mental illness receive periodic care by a qualified health care provider in accordance with individual treatment plans that include monitoring of medications and laboratory testing.

(10) Health Screens

BIA ADF-4C-08 (Mandatory)

Intake physical and mental health screening commences upon the inmate's arrival at the facility unless there is documentation of a medical screening within the previous 90 days or the inmate is an intersystem transfer. Screening is conducted by health-trained staff or by qualified health care personnel in accordance with protocols established by the health authority.

The screening includes, at the least, the following:

- Current or past medical conditions, including mental health problems and communicable diseases
- Current medications, including psychotropic
- History of hospitalization, including inpatient psychiatric care
- Suicidal risk assessment, including suicidal ideation or history of suicidal behavior
- Use of alcohol and other drugs including potential need for detoxification
- Dental pain, swelling, or functional impairment
- Possibility of pregnancy
- Cognitive or physical impairment.

Observation of the following:

- Behavior, including state of consciousness, mental status, appearance, conduct, tremor, or sweating
- Body deformities and other physical abnormalities
- Ease of movement
- Condition of the skin, including trauma markings, bruises, lesions, jaundice, rashes, infestations, recent tattoos, and needle marks or other indications of injection drug use
- Symptoms of psychosis, depression, anxiety and/or aggression

Medical disposition of the inmate:

- Refusal of admission until inmate is medically cleared
- Cleared for general population
- Cleared for general population with prompt referral to appropriate medical or mental health care services
- Referral to appropriate medical or mental health care service for emergency treatment
- Process for observation for high risk events, such as seizures, detoxification, head wounds, and so forth

**(11) Intra-System Transfer and Health Screening
BIA ADF-4C-09 (Mandatory)**

When inmates are transferred to other facilities, copies of health information maintained in the detention records are transferred with inmates to the receiving facility. At a minimum, health information must include the following:

- A review of the inmate's medical, dental, and mental health problems
- Current medications
- Current treatment plan

**(12) Health Appraisal
BIA ADF-4C-10 (Mandatory)**

A health appraisal is completed for each inmate within 14 days after arrival at the facility in accordance with protocols established by the health authority, unless a health appraisal has been completed within the previous 90 days. The health appraisal includes the review of the previous receiving screening, a medical history and physical examination by a qualified health care provider, and an individual treatment plan.

**(13) Access to Mental Health & Substance Abuse Services
BIA ADF-4C-11 (Mandatory)**

Inmates have access to mental health, and chemical substance abuse services as clinically warranted in accordance with protocols established by the health authority that include:

- Screening for mental health problems
- Referral to outpatient services, including psychiatric care
- Crisis intervention and management of acute

- psychiatric episodes
- Stabilization of the mentally ill and prevention of psychiatric deterioration in the facility
- Referral and admission to inpatient facilities
- Informed consent for treatment.

(14) Suicide Prevention and Intervention
BIA ADF-4C-12 (Mandatory)

The facility has specific procedures, developed in consultation with the health authority, for handling intake, screening, identifying, and continually supervising the suicide-prone inmate. All staff responsible for supervising suicide-prone inmates are trained annually on program expectations.

(15) Social Detoxification
BIA ADF-4C-13 (Mandatory)

Specific criteria are established for referring symptomatic inmates suffering from withdrawal or intoxication for more specialized care at a hospital or detoxification center. A medical clearance from a healthcare provider is required upon reentry to the facility.

(16) Pharmaceuticals
BIA ADF-4C-14 (Mandatory)

Pharmaceuticals are managed in accordance with policies and procedures approved by the health authority and in compliance with Tribal and Federal laws and regulations. The policies require dispensing and administering prescribed medications by qualified personnel, adequate management of controlled medications, and provision of medications to inmates in special management units. Prescription medication must be prescribed and/or verified from a health care provider. Over-the-counter medication must be approved by the health care provider and administration documented.

(17) Health Authority
BIA ADF-4D-01 (Mandatory)

The facility has a designated health authority with responsibility for health care services pursuant to a written agreement, contract, or job description. The health authority

may be a physician, health services administrator, or health agency. When the health authority is other than a physician, final clinical judgments rest with a single, designated, responsible physician. The health authority is authorized and responsible for making decisions about the deployment of health resources and the day-to-day operations of the health services program.

(18) Provision of Treatment

BIA ADF-4D-03 (Mandatory)

Clinical decisions are the sole province of the responsible clinician and are not countermanded by non-clinicians.

(19) Personnel Qualifications/Credentials

BIA ADF-4D-04 (Mandatory)

All health care professional staff comply with applicable Tribal, state and Federal licensure, certification, or registration requirements. Verification of current credentials is on file at the facility. If inmates are assessed or treated by non-licensed health care personnel, such as traditional practitioners, the care is provided pursuant to traditional, spiritual and ceremonial practices.

(20) Emergency Response

BIA ADF-4D-05 (Mandatory)

Emergency medical care, including first aid and basic life support, is provided by all health care professionals and those health-trained correctional staff specifically designated by the facility administrator. All staff responding to medical emergencies are certified in cardiopulmonary resuscitation (CPR) in accordance with the recommendations of the certifying health organization. The facility has policies and procedures, developed in consultation with the health authority, that ensure that emergency supplies and equipment, including automatic external defibrillators, are readily available and in working order.

(21) Confidentiality

BIA ADF-4D-07 (Mandatory)

Information about an inmate's health status is confidential. Nonmedical staff only have access to specific medical information on a "need to know" basis in order to preserve

the health and safety of the specific inmate, other inmates, volunteers, visitors, or correctional staff. The active health record is maintained separately from the confinement case record and access is controlled in accordance with Tribal and Federal laws.

(22) Informed Consent

BIA ADF-4D-08 (Mandatory)

Informed consent standards of the jurisdiction are observed and documented for inmate care in a language understood by the inmate. In the case of minors, the informed consent of a parent, guardian, or a legal custodian applies, when required by law. Inmates have the right to refuse health care services.

(23) Research

BIA ADF-4D-09 (Mandatory)

The use of inmates in medical, pharmaceutical, or cosmetic experiments is prohibited. This expected practice does not preclude inmate access to investigational medications on a case-by-case basis for therapeutic purposes in accordance with Tribal and Federal regulations.

(24) Victims of Sexual Assault

BIA ADF-4D-14 (Mandatory)

Victims of sexual assault are referred under appropriate security provisions to a health care facility for treatment and gathering of evidence. If these procedures are performed in-house, the following guidelines are used:

- A history is taken by health care professionals who conduct an examination to document the extent of physical injury and to determine if referral to another medical facility is indicated. With the victim's consent, the examination includes collection of evidence from the victim, using a kit approved by the appropriate authority.
- Provision is made for testing for sexually transmitted diseases (for example, HIV, gonorrhea, hepatitis, and other diseases) and counseling, as appropriate.
- Prophylactic treatment and follow-up for sexually transmitted diseases are offered to all victims, as appropriate.

- Following the physical examination, there is availability of an evaluation by a mental health professional to assess the need for crisis intervention counseling and long-term follow-up.
- A report is made to the facility administrator or designee to assure separation of the victim from his or her assailant.

(25) Inmate Death/Health Care Internal Review and Quality Assurance

BIA ADF-4D-16 (Mandatory)

The health authority approves policies and procedures for identifying and evaluating major risk management events related to inmate health care, including inmate deaths, preventable adverse outcomes, and serious medication errors.

(26) Protection from Abuse

BIA ADF-6A-06 (Mandatory)

Inmates are not subjected to personal abuse, corporal punishment, personal injury, disease, property damage or harassment.

(27) Weapons Training

BIA ADF-7A-07 (Mandatory)

All personnel authorized to use firearms and less-than-lethal weapons must demonstrate competency in their use at least annually. Training includes decontamination procedures for individuals exposed to chemical agents.

N. Administrative Duties - Correctional Officers.

(1) The Contractor shall:

- (a)** Implement a policies and procedures manual that will be utilized by all personnel within the system. These policies and procedures will be reviewed and updated annually to remain functional.
- (b)** Establish a code of conduct which establishes specific guidelines for conduct on- and off-duty, impartiality, professional conduct in the performance of duty, and acceptance of gifts or favors.

- (i) Each officer must acknowledge in writing receiving and understanding this code of conduct.
 - (ii) The acknowledgement will remain on file with the detention program manager as long as the officer is employed with the department.
 - (iii) Training will be conducted on this code of conduct and other ethics issues at least once each year.
- (c) Shall develop and maintain a method of performance evaluation for all personnel to meet the requirements of the detention program.
 - (d) Shall ensure that compensation for Tribal correctional officers is comparable to that of BIA correctional officers.
 - (e) Shall ensure that no correctional officer is permitted to work more than 12 hours in a 24-hour period, including all travel, training, and on-duty work.
- (2) **Training Requirements:**
 All Correctional Officers shall successfully complete the approved Basic Correctional Officer Training Program, conducted at the United States Indian Police Academy (USIPA), or equivalent training as authorized by the USIPA and approved by the Deputy Bureau Director, BIA - OJS.
 [25 U.S.C. § 2802] [25 C.F.R. § 12]
- (a) Corrections personnel of any program receiving federal funds, regardless of whether the corrections personnel is paid with tribal or federal funds, must not perform detention/correctional officer duties until they have successfully completed the basic correctional officer training course prescribed by the Director, as indicated in the preceding paragraph.

The contractor may submit a request for evaluation of

equivalency training to the USIPA to request to attend a State Police Academy or other programs whose curriculum meets or exceeds relevant federal training standards as determined by the USIPA. If the contractor's personnel receives written approval from BIA – OJS to attend a State Police Academy or other approved training site, the corrections officer is required to attend either: 1). USIPA Basic Bridge Training Program, or 2). DOJ Criminal Justice in Indian Country (CJIC) for required federal law and policy courses to receive certification.

- (b) An officer who fails to complete the basic training requirements stipulated within this section shall be immediately removed from their position. [25 C.F.R. § 12.36]
- (c) The Contractor shall ensure that all corrections personnel employed by the Contractor receive mandatory supplemental and in-service training courses prescribed by the Director, OJS.

(3) Correctional Officers – Performance Evaluations.

The Contractor shall adhere to the general requirements of Tribal personnel systems and policies for correctional officer annual performance evaluation/appraisal. If the Tribal personnel system does not contain equivalent provisions for performance evaluation/appraisals the following shall be used:

- (a) The immediate supervisor for each correctional officer shall complete an annual performance evaluation report for the officer. Each officer shall be evaluated according to standards consistent with the officer's position description and in accordance with Tribal personnel policies and procedures. Evaluation criteria may include, but are not limited to:
 - (i) Enforcement of standards, rules, and regulations governing the operations of the correctional facility and programs.

- (ii) Enforcement of standards, rules and regulations governing the confinement, safety, health, and protection of the criminal offender
- (iii) Provision of facility safety and security by providing defined inmate supervision, searches, transportation, classification, inmate counts, and ensuring fire safety, perimeter security, and compliance with inmate rules
- (iv) Provisions for admission of criminal offenders, assigned or ordered to the facility, including fingerprinting, recording personal data, and safeguarding the inmate's personal belongings
- (v) Report writing – maintaining logs and submission of written reports, as required
- (vi) Execution of legal documents
- (vii) Care and maintenance of equipment other than firearms
- (viii) Provision of preliminary interviews for physical/mental health and classification assessments
- (ix) Provision of orientation into the facility's philosophy and rules, upon admission
- (x) Coordination and supervision of inmate activities, including, but not limited to, access to medical care, courts, mail, recreation, library, work program, religious observance, food, laundry, and counseling services.
- (xi) Supervision of inmate movement, by maintaining discipline and preventing the introduction of contraband into the facility.
- (xii) Inmate instruction in housekeeping, sanitation, proper use and care of tools and equipment

used in performing unskilled or semi-skilled work inside or outside the facility

(xiii) Inmate release from the facility according to established regulations and operational descriptions

(xiv) Overall performance

(b) Performance ratings shall be documented and placed in individual official personnel folders.

O. People to Be Provided Services

The Contractor shall provide detention services to all residents of and visitors to the [FACILITY NAME] Facility in accordance with the provisions of applicable Federal and Tribal laws, U.S. Supreme Court decisions, and other relevant Federal, Tribal and state court decisions to which apply.

P. Personnel Standards

(1) The Contractor has responsibility to ensure that, in accordance with 25 C.F.R. § 12.32, a thorough background investigation **no less stringent than required of a federal officer performing the same duties** is completed for all positions and employees working or hired to work in the Contractor's detention program. This is applicable to program administration, adult and juvenile correctional officers, cooks, janitors, volunteers, and other support staff regardless of the source of funding utilized to pay salary costs. This requirement shall be met before the employee performs any law enforcement/corrections program duties.

(a) The Contractor shall comply with the provision of the Indian Child Protection and Family Violence Prevention Act (ICPFVPA), 25 U.S.C. §§ 3201-3211 and 18 U.S.C. § 1169; 25 C.F.R. Part 63.

(b) All applicants for any position, or employee, in the Contractor's detention program, administrative, adult

and juvenile correctional officers, cooks, janitors, volunteers, other support staff, and Contract personnel, whose duties and responsibilities would allow them regular contact or control over children, must be subject to a thorough background investigation that will capture disqualifying convictions as specified under the Indian Child Protection and Family Violence Prevention Act (ICPFVPA). See **Personnel Standard (2) (c) below.**

- (2) All correctional officer's employed by the Contractor must:
- (a) Be a United States citizen
 - (b) Possess a high school diploma or its equivalent
 - (c) Not have been found guilty of, or entered a plea of *nolo contendere* or guilty to, any felonious offense, or any of two or more misdemeanor offenses, under Federal, state or Tribal law involving crimes of violence, sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children
 - (d) Not have been convicted of a misdemeanor crime of domestic violence, as defined in Title 18 of the U.S. Code, Section 921(a) (33)(A) & (B), and Section 922(g)(9)
 - (e) Not have been convicted of any offense, defined in Title 18 of the U.S. Code, Sections 922(g) through (h), which would constitute a disability from possessing or receiving a firearm or ammunition
 - (f) Not have been convicted of a crime, the essential elements of which constitutes a felony
 - (g) Not have been convicted of an offense involving a child, a sex crime, or a drug felony
 - (h) Be free from physical, emotional, or mental conditions which might adversely affect their performance as law

enforcement officers

(i) Be certified by Tribal officials as having passed a comprehensive adjudicated background investigation, **no less stringent than required of a federal officer performing the same duties**. Such investigation must be documented and available for inspection by the BIA - OJS.

(3) For positions requiring the operation of a government-furnished motor vehicle, employees must possess a valid state motor vehicle operator's license.

(4) All correctional officers employed by the Contractor must meet the standards listed in the BIA Corrections Handbook.

(5) Before employment of any adult corrections officer, a thorough background investigation shall be completed by the Contractor. Such investigations shall include, but are not limited to, Tribal, local, state, and Federal criminal history checks.

(a) Background investigations shall be no less stringent than required of a Federal officer performing the same duties [25 C.F.R. 12.32].

(i) The background investigations must be adjudicated by trained and qualified security professional.

(ii) The background investigations must be documented and available for inspection by the BIA.

(b) A thorough background investigation consists of:

(i) Background checks/clearances through fingerprint charts (FD-258) must be conducted through the Assistant Director, Identification Division, Federal Bureau of Investigation, Washington, D.C.

- (ii) Checks/clearances through the National Crime Information Center (NCIC), state criminal history centers and local police and court records shall also be conducted.
 - (iii) All background checks/clearances shall be recorded, documented and kept on file for each commissioned officer at the Contractor's police headquarters.
 - (iv) Careful review and documentation shall be made on each applicant's education, employment, medical and military history, previous residences, organizations and affiliations, personal references, credit record and police record, including driver's license history and status.
 - (v) Background reviews may be conducted either by a written questionnaire or by personal interview with present and past supervisors and associates who have personal knowledge of the applicant's service record and character.
- (c) The Contractor shall update the background investigations of commissioned officers every five (5) years.
- (6) **Physical Examinations: Correctional Officers.**
 Applicants for, and employees in, the correctional officer positions must be physically capable of performing the essential duties of the position efficiently and without hazard to themselves or to others. Failure to meet any of the required physical qualifications will usually be considered disqualifying for employment except when substantial evidence is presented that the individual can perform the essential functions of the job efficiently and without hazard to self or others, with or without reasonable accommodation. See *BIA Law enforcement Handbook (July 2008) 1-07-02, Medical Examinations*. See *BIA Corrections Handbook (January 2012) C1-07, Physical Fitness*.
- (a) **Eyes** - The distance vision must test at least 20/200

(Snellen) in each eye without corrections; at least 20/20 (Snellen) in one eye and 20/30 (Snellen) in the other eye with correction either by glasses or contact lenses. Near vision must be sufficient to read Jaeger Type 2 at 14 inches with correction by glasses or contact lenses permitted. Depth perception and ability to distinguish basic colors (color plate test or equivalent tests) are essential.

- (b) **Ears** - Without the use of a hearing aid, applicants and incumbents must demonstrate no permanent hearing loss of 35 or more decibels in either ear at the 500, 1000, 2000, and 3000 frequencies.
- (c) **Nose, Mouth and Throat** - Distinct speech and free breathing are required. The following remediable conditions must be corrected before appointment for applicants, or for incumbents, when noted in regularly scheduled physical examinations: caries, pyorrhea, pus pockets around roots, other foci of infection or Vincent's disease. The presence of any serious acute or chronic disease or functional abnormality of the eyes, ears, nose, mouth, throat or gross obesity that would interfere with the full performance of essential duties of the position will be reasons for rejection on medical grounds.
- (d) **Extremities and Spine** - Any deformity or disease which would interfere with range of motion, or dexterity, or which would affect adversely the full performance of essential duties of the position are reasons for rejections.
- (e) **Heart and Blood Vessels** - Any of the following conditions which would affect adversely the full performance of essential duties of the position are reasons for medical rejection: a history or presence of organic heart disease, compensated or not; valvular heart disease; cardiac murmurs except those of the physiologic type; diseases or abnormal condition of the heart muscle or blood vessels; angina pectoris; cardiac arrhythmia, or persistent pulse rate of 110 or

over or under 50 in the recumbent position; or persistent hypertension above 150 systolic or 90 diastolic, or below 100 systolic or 60 diastolic in the recumbent position.

- (f) **Respiratory System** - Any chronic disease or conditions affecting the respiratory system, which would impair the full performance of essential duties of the position, are reasons for rejection. Examples are conditions, which result in reduced pulmonary functions, shortness of breath, or painful respiration.
- (g) **Genito-urinary System** - Any of the following conditions which would affect performance of essential duties of the position are reasons for rejection: significant acute or chronic genito-urinary diseases or abnormalities, including enuresis and urinary incontinence; presence of albumin, sugar, pus, casts or blood in the urine, enlarged prostate; large painful varicocele or hydrocele; venereal disease. Urinalysis will be made at time of appointment and during regularly scheduled physical examinations.
- (h) **Nervous System** - Applicants and incumbents must be free from acute or chronic psychiatric condition or any mental or neurological condition, which would be a hindrance to the full performance of essential duties of the position.
- (i) **Other Defects** - Any physical defect which indicates a high probability for recurrence of symptoms that may adversely affect the full performance of essential duties of the position is reason for rejection. Examples of physical defects to be considered include: hernia, ulcer, and diabetes.
- (j) **Remediable defects or curable disease** will not exclude a person from examination, but proof that such defects have been remedied, or the disease cured, must be received before persons otherwise qualified may be considered for appointment.

- (k) Any physical condition which would cause an applicant or an incumbent to be a hazard to himself or herself is a reason for rejection. A physical examination with subsequent evaluations by a physician is required before a decision will be made whether or not an employment commitment is to be given.

(7) **Physical Fitness Requirements - Correctional Officers**

- (a) Employees who are 40 years old or younger and who are physically active as defined in this section must take the Heart Disease Risk Profile, the RISKQ (Heart Disease Risk Profile) and Physical Activity Readiness Questionnaire evaluations before entering the fitness/testing program *See BIA Corrections Handbook C1-07, Physical Fitness.*
 - (i) If the RISKQ indicates a score of Risk Moderate (score of 31 or less) and all answers on the Par Q are no, the employee may test and participate.
 - (ii) If the RISKQ indicates a score of Greater than Average (score of 32 or higher) or one or more answers on the Par Q are yes, the employee needs a physician's clearance before entering the testing and fitness program.
- (b) Employees who are pregnant regardless of age or level of fitness must receive a medical clearance before participating in the testing and fitness program.
- (c) Employees who are 40 years old or younger but not **presently active** as defined in this section must obtain a physician's screening for arduous duties and a medical examination (including blood analysis) during the 18 month period before entering the required testing program **and** must take the RISKQ and Par Q evaluations immediately before taking any Physical Efficiency Battery (PEB) test.
 - (i) If the RISKQ indicates a score of Risk Generally Average and/or one or more of the answers on the Par Q are yes, the employee needs a

physician's clearance before entering the testing fitness program.

- (d) Employees who are 41 years old or older must obtain a medical examination (including blood analysis) and/or obtain a physician's clearance to participate immediately before entering the required testing program, and must pass a stress electrocardiogram (EKG) exam prior to taking the first PEB test, if required by a physician.
 - (i) Employees in this category must take an arduous duty medical examination every three years thereafter, but law enforcement supervisors are authorized to require and/or permit medical examinations more often than every three years for those in high-risk medical categories, i.e., employees who have high blood pressure or heart trouble, who have an inactive lifestyle, or who have short or long-term physical medical problems.
 - (ii) Supervisors can obtain the medical information needed to make such a determination under the provisions provided in the applicable personnel regulations.
- (e) These medical examinations do not satisfy the requirements for annual physical examinations without the additional requirements identified in the applicable personnel regulations.
- (f) To meet the personnel requirement that physical examination requirements be applied uniformly, results of the physical examination must be forwarded to the physician designated by the Director of the Facility, for a medical determination as to whether or not the applicant/employee meets the established physical requirements.
- (g) To avoid duplication of medical examinations, those

who are in occupations with approved physical standards must have the physical examination and the fitness medical examination done at the same time. The examining physician follows the more restrictive medical standard.

- (h) An annual medical examination shall be completed for each commissioned officer to ensure fitness for duty. Medical certificates shall be placed in individual official personnel folders.

Q. Record Keeping

- (1) The Contractor shall be required to maintain a record keeping system, which will produce the following information:
 - (a) Number of detainees.
 - (b) Number of prisoners transported
 - (c) Number of prisoners' incarcerated and daily detention records
 - (d) Number of prisoner meals served
 - (e) Daily Reports
 - (f) Daily logs
 - (h) Annual facilities maintenance report and Inspections
 - (i) Serious Incident Log and Reports (Supplemental Reports)
 - (j) Adult records
 - (k) Personal arrest and disposition records
 - (l) Evidence records/logs
 - (m) Booking logs

- (n) Payroll records
- (o) Individual background investigation records
- (p) Training records: Basic; supervisory; 40 Hour Annual Training; Annual CPR/First Aid.
- (q) Annual Codes of Ethics and Conduct; Annual Oath of Office; Annual Domestic Violence Form; Annual Confidential Disclosure; Annual Medical Exam
- (r) Inmate Welfare Check Log
- (s) Government-furnished property inventory list (Tribal)
- (t) Employee performance appraisal files
- (u) Inmate medical records/issuance of prescribed medication
- (v) Purchase orders
- (w) Vehicle operator's maintenance records
- (x) Monthly Detention Operations Reports
- (y) Annual Reports
- (z) Current Driver's License

R. Modification of Contract for Use of Innovative Methods

- (1) The Contractor may submit a written proposal to use innovative methods in carrying out the Contract. The proposal must be submitted to the Awarding Official, the appropriate District Special Agent In Charge and the District Correctional Program Specialist, for review, subsequent negotiation and, if all parties agree, modification of the Contract.
- (2) Before any innovative methods are approved and incorporated into the Contract, the Contractor must develop policies and procedures for each such method, which must be

approved by the BIA before modification to the contract is authorized and approved.

S. Performance Inspection and Evaluation.

- (1) A performance inspection and evaluation of all programs included in the Contract will be made upon request of the Contractor:
 - (a) If requested by the Contractor, such inspection and Evaluation shall be conducted by the BIA OJS District Office personnel, in accordance with the BIA Law Enforcement Handbook standards and applicable corrections handbook provisions.
 - (b) The inspection and evaluation shall be made on a date mutually agreed upon between the Contractor and the BIA OJS District Office.
 - (c) Any compliance issues shall be presented to the Contractor, the District Special Agent In Charge in whose district the Contractor is located, and the Awarding Official. Where mandatory standards have not been met, the Contractor will provide a corrective action plan to the Inspection and Evaluation team, the District Special Agent In Charge, and the Awarding Official, within the time specified by the team.
 - (d) The Contractor may request, and the District Special Agent In Charge will then be obligated to provide, technical assistance to develop and implement the corrective action plan.

This inspection and evaluation will be in addition to the annual monitoring required under this contract. See SECTION C., Part 5. B., Monitoring, below.

Part 3. Contract Term. This contract shall be for the term commencing [October 1, XXXX/January 1, XXXX] and ending [September 30, XXXX/December 31, XXXX] with annual submission of a Successor AFA proposal [Per 25 CFR 900.12] on **July 1st/October 1st** of each successor

YEAR.

Part 4. Non-Contracted Portions of the Bureau of Indian Affairs Program(s).

The Government, through the BIA, shall retain responsibility for the following (non-contracted) programs:

[IDENTIFY – IF APPLICABLE]

Part 5. Technical Assistance and Monitoring. The Government, through the BIA, shall:

A. Technical Assistance. Provide technical assistance and guidance, as needed, to the Contractor. The Awarding Official and/or the Awarding Official's Technical Representative (AOTR) will be available to provide assistance to the Contractor as needed, or upon written request of the Contractor.

B. Monitoring. The Awarding Official and/or the AOTR will monitor Contractor performance under this Contract. This monitoring function will include, but not be limited to, the following:

(1) Periodic on-site technical assistance visits, as needed and/or requested by the Contractor.

(2) On an annual basis, at least one (1) Official Monitoring Session, which shall be scheduled in advance of the visit.

(a) An Official Monitoring Session of the Corrections program specific aspects of the Contractor's program(s) shall be conducted by a team headed by the AOTR.

(b) Where contractual programmatic standards have not been met, the Contractor will provide a corrective action plan to the AOTR and the Awarding Official, within the time specified by the Awarding Official and the AOTR.

(c) The Contractor can request, and the AOTR will then be obligated to provide, technical assistance to develop and implement the corrective action plan.

SECTION D Performance

Part 1. Reporting Requirement.

A. The Contractor will submit the following detention program specific reports to the Director, OJS, through the District [#] Office located in **[District Office location City]**:

- (1) **Monthly Detention Operations Report [DOMR]** – These reports shall be prepared utilizing the properly prescribed BIA OJS forms.
 - (a) These reports shall be due on the **5th** of the month following the month for which the report is due.
 - (b) Information derived from this report will be essential for programming budget requests to Congress for subsequent fiscal periods and program accountability.
- (2) An **annual statistical data report** compiled in accordance with Department of the Interior guidelines.
 - (a) These reports shall be due no later than the **5th** day of **September** in the current fiscal/calendar year.
 - (b) Information derived from this report will be essential for programming budget requests for subsequent fiscal periods.
- (3) **Serious Incident Report** - All incidents of the type and nature described below which occur in Indian country are immediately reported by the field office in charge of the incident, to the District Special Agent In Charge and District Correctional Program Specialist, and **within 24 hours** for a written report to be provided.
 - (a) **An assault by an inmate against an inmate;**
 - (b) **An assault by an Inmate against staff;**

- (c) **Sexual Assault inmate on inmate;**
- (d) **Sexual Assault staff on inmate;**
- (e) **An assault by staff against an inmate;**
- (f) **Inmate Fight;**
- (g) **Escape from Secure Confinement;**
- (h) **Escape/Walk away from unsecured setting;**
- (i) **Suicide** in a detention facility
- (j) **Attempted Suicide** in a detention facility
- (k) **Use of Force by correctional staff against an inmate;**
- (l) **A Death** occurring within a detention facility;
- (m) **Unusual or high publicity incidents**
- (n) **Medical Emergency;**
- (o) **Serious Physical Injury;**

The term serious physical injury means *physical injury which creates a substantial risk of death, or causes death, or which is likely to cause serious and protracted disfigurement, or extended impairment of the function of any organ or body limb.*

- (4) **Serious Incident Report Contents for Detention.** The following documents shall be contained in a detention Serious Incident Report Packet:
 - (a) The serious incident report;
 - (b) Custody Request Form;

- (c) Health Screening Form;
- (d) Suicide Screening Form;
- (e) Personal Property Form;
- (f) Correctional Daily Shift Logs;
- (g) Dispatch Log, if applicable, e.g. EMTs called;
- (h) Housing Roster;
- (i) Supplemental incident reports from correctional staff;
- (j) Police report, if available; and
- (k) Complaint and/or summons.

B. Quarterly Federal Financial Report (SF-425). The Contractor shall submit these reports to the Awarding Official through the AOTR. The report shall detail funds expended to date of report, balance remaining, and status of payments, clearly distinguishing between direct program and contract support cost expenditures, using Form SF 425.

- (1) These reports shall be submitted to the Awarding Official on a quarterly basis, in accordance with the fiscal year as follows: **Quarter 1: Due January 15; Quarter 2: Due April 15; Quarter 3: Due July 15 and Quarter 4/Final: Due October 15) [For Calendar Year contracts the Quarters differ]**
- (2) The fourth quarter SF-425 shall serve as a final financial status report, unless a subsequent report is submitted and designated as such.
- (3) Attached to the SF-425 shall be a detailed expenditure report that identifies the Contractor's name, contract number, the date, period for which costs are incurred, and an itemization of expenditures as referenced in the budget.

Part 2. Audit Requirement.

- A.** The Contractor agrees to arrange for, participate fully in, and respond promptly and fully to the recommendations of, an annual single organization-wide audit as prescribed by the Single Audit Act Amendments of 1996 (P.L. 104-156), as implemented by 2 CFR part 200 subpart F. The costs of such audit are allowable charges only if made in accordance with the provisions of 2 CFR part 200. Indian-owned, small, and minority business audit firms shall be afforded maximum practicable opportunity to participate in contracts awarded by the Contractor to fulfill the requirements herein. The preference requirements of section 7(b), Public Law 93-638, shall apply and are to be enforced.
- B.** If the Contractor fails to comply with the requirement for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (P.L. 104-156) - **DUE DATE** is 9 months after the audit report period ends, the BIA may take one or more of the following actions, as appropriate in the circumstances:
- (1) Temporarily withhold cash payments, indirect costs and/or contract support cost funds pending correction of the deficiency by the contractor or more severe enforcement action by the Bureau;
 - (2) Disallow (that is, deny use of funds) all or part of the cost of the activity or action not in compliance;
 - (3) Wholly or partly suspend the current Contract;
 - (4) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations, or;
 - (5) Withhold further Federal awards for the project or program.
 - (6) Take other remedies that may be legally available.
- C.** The Contractor may appeal the BIA decision for sanctions under the Disputes clause of the Contract.
- D.** Submission of Final Audit Reports.

- (1) The Contractor shall submit one (1) copy of the final audit report with Form SF-SAC (Data Collection Form) within thirty (30) days after issuance to:

**Federal Audit Clearinghouse
U.S. Bureau of the Census
1201 East Tenth Street
Jeffersonville, Indiana 47132
Attention: Single Audit Clearinghouse
WEB: <http://harvester.census.gov/sac>**

- (2) The Contractor shall also submit one additional copy of the final audit report for each funding agency that has a finding, either current or prior year, related to the grant/contracts provided by them.

- E. The Contractor must send two (2) copies of its audit reports to the Office of Internal Evaluation and Assessment to meet the reporting requirements of the ISDEAA. The address is:

**Office of Internal Evaluation and Assessment
U. S. Department of the Interior
12220 Sunrise Valley Drive
Reston, VA 20191
Email: oiea@bia.gov**

Part 3. Monitoring and Records Review.

- A. The Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Contract. The foregoing constitutes 'records' for the purposes of this clause.
- B. The Contractor's facilities or such part thereof as may be engaged in the performance of this Contract, and its records shall be subject at all reasonable times to inspection and audit by the Awarding Official or the authorized technical representatives of the Awarding Official.
- C. The Contractor shall preserve and make available records:

- (1) Until the expiration of three years from the date of final payment under this contract, or of the time period for the particular records specified in 25 CFR 900.41(a-d), whichever expires earlier; and
- (2) For such longer period, if any, as is required:
 - (a) By applicable statute;
 - (b) By other clauses of this Contract;
 - (c) If the Contract is completely or partially canceled, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement; or
 - (d) Records which relate to (A) appeals under the "Disputes" clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this Contract, or (C) costs and expenses of this Contract as to which exception has been taken by the Awarding Official or a duly authorized technical representative of the Awarding Official, shall be retained until such appeals, litigation, claims or exceptions have been disposed of.

D. The Contractor shall insert the substance of this clause, including the whole of this paragraph D., in each subcontract hereunder that is not firm-fixed-price or fixed-price with escalation. When so inserted, changes shall be made to designate the higher-tier subcontractor at the level involved in place of the Contractor; to add of the Government prime contract after a Awarding Official, and to substitute the Government prime contract in place of this Contract in (B) of paragraph C. (2) (b) above.

Part 4. Examination of Records.

A. The Contractor agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of this Contract (hereinafter collectively called records) to the extent and in such

detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this Contract.

- B.** The Contractor agrees to make available at the office of the Contractor at all reasonable times during the period set forth in subparagraph (4), below, any of the records for inspection, audit or reproduction by any authorized representative of the Comptroller General, the Secretary of the Interior and the Awarding Official.
- C.** If the Comptroller General or any authorized representative of the Comptroller General determines that audit of the amounts reimbursed under this Contract as transportation charges will be made at a place other than the office of the Contractor, the Contractor agrees to deliver, with the reimbursement voucher covering such charges, or as may be otherwise specified within two years after reimbursement of charges covered by any such voucher, to such representatives as may be designated for that purpose through the Awarding Official, such documentary evidence in support of transportation costs as may be required by the Comptroller General or any authorized representative of the Comptroller General.
- D.** Except for documentary evidence delivered to the Government pursuant to subparagraph (C), above, the Contractor shall preserve and make available records:
 - (1)** Until the expiration of three years after final payment under this Contract; and,
 - (2)** For such longer period, if any, as is required by applicable statutes, by any other clause of this Contract, or by (a) or (b) below:
 - (a)** If this Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting settlement.
 - (b)** Records which relate to:
 - (i)** Appeals under the Disputes clause of this

Contract;

- (ii) Litigation or the settlement of claims arising out of the performance of this Contract; or
 - (iii) Costs and expenses of this Contract to which exception has been taken by the Comptroller General, the Secretary of the Interior or the Awarding Official, or any of their authorized representatives, shall be retained by the Contractor until such appeals, litigation, claims or exceptions have been disposed of.
- (5) Except for documentary evidence delivered pursuant to subparagraph (3), above, and the records described in subparagraph D. (2)(b), above, the Contractor may, in fulfillment of the obligation to retain records as required by this clause, substitute photographs, micro-photographs, or other authentic reproductions of such records, after the expiration of two years following the last days of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Awarding Official with the concurrence of the Comptroller General or an authorized representative of the Comptroller General.

Part 5. Mature Contracts. This contract may be converted to "Mature Contract" status, upon the written request of the Contractor, when this Contract meets the requirements specified in P.L. 93-638, as amended, in Title I, section 4(h), restated in this contract at SECTION A, Definition of Terms, Section 1., Definitions, P.

Part 6. Contract Termination.

This Contract may be terminated through either:

- A. Retrocession as provided in P.L. 93-638, as amended, in Title I, section 105(e), and in the regulations promulgated to implement the Act, 25 CFR part 900 subpart P; or
- B. Program re-assumption as provided in P.L. 93-638, as amended, in Title I, section 109, and in the regulations promulgated to implement the Act, 25 CFR part 900 subpart P.

Part 7. Drivers License Requirements for Non-Federal Personnel.

- A.** All employees must possess a safe driving record and a valid state driver's license when operating a motor vehicle in the performance of this Contract.
- (1)** The term "safe driving record" is defined as no more than three serious moving violations and no convictions for DUI/DWI within the past three-year period.
 - (2)** The term "operator," as used in this policy means all full-time, part-time, intermittent, administratively determined, and volunteer employees of the Contractor.
 - (3)** The term "serious moving violations(s)" shall be defined as defined by the jurisdiction that cited and convicted the operator of a serious moving violation.
- B.** The requirements for employees of the Contractor to possess and maintain a current valid driver's license is a condition of employment for those individuals required to operate a motor vehicle in the performance of their duties.

Part 8. Bureau of Indian Affairs (BIA) Safe Motor Vehicle Operation Policy

The Contractor certifies that it will self-administer a motor vehicle policy that promotes the safe and prudent operations of a motor vehicle while performing duties to implement the terms of this Contract. The Contractor's policy is either as stringent as or more stringent than the May 3, 2006 Motor Vehicle Operation Policy for the BIA issued by the Associate Deputy Secretary.

Part 9. Effect on Existing Rights. Nothing in the Contract shall be construed as:

- A.** Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian Tribe; or,
- B.** Authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

Part 10. Trust Records Management. The Contractor agrees that records made or received by the Contractor which evidence the organization, functions,

policies, decisions, procedures, operations or other activities undertaken in the performance of Federal Indian trust functions will be preserved and maintained in accordance with trust regulations published in the Federal Register on January 22, 2001, and the Federal Records Act or other applicable Federal law. The Contractor agrees to work cooperatively with the Department of the Interior (Department) in records creation, maintenance and disposition training activities.

Part 11. Applicable Federal Regulations.

- A. **Self-Determination Regulations.** The regulations promulgated to implement P.L. 93-638, as amended: 25 CFR part 900 shall apply to this Contract unless, and to the extent, such regulations have been expressly waived.
- B. **Program Regulations.** The most current regulations promulgated to implement any program(s) incorporated into this Contract shall apply to the operation of such program(s) under this Contract unless, and to the extent, such regulations have been expressly waived.

Part 12. Sanctions for Non-Compliance.

- A. If the Contractor fails to comply with Federal statutes, regulations or the terms and conditions of the contract, the Awarding Official on the recommendation of the AOTR may impose any of the following additional conditions:
 - (1) Requiring payments as reimbursements rather than advance payments;
 - (2) Requiring additional, more detailed financial reports;
 - (3) Requiring additional project monitoring;
 - (4) Requiring the contractor to obtain technical or management assistance; or
 - (5) Establishing additional prior approvals.
- B. When the Awarding Official on the recommendation of the AOTR imposes additional conditions, they will notify the contractor as to:

- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;
- (3) The nature of the action needed to remove the additional requirement, if applicable;
- (4) The time allowed for completing the action if applicable, and
- (5) The method for requesting reconsideration of the additional requirements imposed.

C. If the Awarding Official determines that noncompliance cannot be remedied by imposing additional conditions, he/she may take one or more of the following actions, as appropriate in the circumstances:

- (1) Temporarily withhold cash payments pending correction of the deficiency by the Contractor or more severe enforcement action by the Awarding Official.
- (2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity not in compliance.
- (3) Wholly or partly suspend or terminate the Contract.
- (4) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations.
- (5) Withhold further Federal awards for the project or program.
- (6) Take other remedies that may be legally available.

SECTION E
Administration Data

Part 1. Awarding Officials Technical Representative.

- A. _____, Special Agent in Charge, OJS District X,** is designated as the authorized technical representative of the Awarding Official (AOTR) for this Contract.
- B. _____, Corrections Program Specialist** is designated as the authorized subordinate technical representative (SAOTR) of the Awarding Official for this Contract.

Part 2. Contract Payment. For performing this Contract, the Contractor shall be reimbursed for its reasonable, allocable and allowable direct and indirect costs, not to exceed the total budgeted amount of the Contract. The total budget amount of this Contract is stated in Item 15F of the SF-26, Award/Contract or, if amended, as stated in Item 14 of the SF-30, Amendment of Solicitation/Modification of Contract.

- A. Payment System:** Contract payments shall be made to the Contractor through the Automated Standard Application for Payments (ASAP) system. As such, the Contractor must have a current DUNS # and maintain an active registration in the Central Contractor Registry (CCR). [Reference www.sam.gov]
- B. Use of Funds Advanced:** Funds advanced to the Contractor shall be used only for purposes authorized under this Contract. The

funds advanced cannot be used for any purpose other than an authorized Bureau program expenditure, even on a temporary basis. Further, funds advanced pending disbursement for a purpose authorized under this Contract shall not be transferred to Tribal accounts, lent to such Tribal accounts, or expended for programs or purposes not specifically authorized under this Contract. Funds advanced, pending expenditure under this Contract, shall be placed in appropriate savings, checking, or investment accounts. Such funds when invested or deposited shall be subject to the following:

- (1) Advanced funds not immediately spent for program activities may be invested only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed by the United States.
- (2) If not invested, advanced funds must be deposited only into accounts that are insured by an agency or instrumentality of the United States, or must be fully collateralized to ensure protection of the funds, even in the event of a bank failure.
- (3) Interest and investment income that accrue on any funds provided for by contract become the property of the Contractor pursuant to P.L. 93-638, as amended, in Title I, Section 105(b) of the Act.

C. **Sanctions:** Failure to maintain the integrity of contract funds shall result in imposition of one or more of the following sanctions:

- (1) Pursuant to Section 5(d) of Public Law 93-638, as amended (25 USC § 5305(d)), funds paid to the Contractor and not used for the purposes for which they were paid shall be repaid to the Treasury of the United States; and,
- (2) Cancellation of Advance Payment methodology and invocation of “other payment methodologies” as provided in Section E, Section 2, above.
- (3) Sanctions shall remain in place until the Contractor provides

assurance that the impropriety which resulted in the imposition of sanctions has been rectified and will not recur.

Part 3. Contract Revision or Amendment.

- A.** This Contract may be revised or amended as required to carry out the purpose of the program, project or function being contracted. The Contractor shall submit proposed revisions through the AOTR to the Awarding Official. The Contractor (if other than the tribal governing body) shall also send copies of the proposed revision to the designated representative of the Tribal governing body at the same time as they are sent to the Awarding Official. The Awarding Official shall review the proposed revision in accordance with 25 CFR part 900 subpart E.
- B.** When the Awarding Official recommends declination of a Contractor's request to amend the contract, the matter shall be resolved as prescribed Section 102(b) of the Act and in accord with 25 CFR part 900 subpart E.

Part 4. Negotiated Indirect Cost Rates.

- A.** The allowable indirect contract support costs under this contract shall be calculated by applying negotiated indirect cost rates to bases agreed upon by the parties, as specified below.
- B.** Negotiation of indirect cost rates by the Contractor and the cognizant Federal agency shall be undertaken as promptly as practicable after the cognizant Federal agency's receipt of the Contractor's indirect cost proposal.
- C.** Acceptability of cost and cost allocation methods shall be determined in accordance with 2 CFR part 200.
- D.** The results of each negotiation shall be set forth in an Indirect Cost Negotiation Agreement. Such agreement shall become a part of this Contract by reference. The agreement shall specify:
 - (1)** The agreed indirect cost rate(s);
 - (2)** The base to which the rate(s) apply;

- (3) The periods for which the rate(s) apply; and,
 - (4) The specific items treated as exclusions or any changes in the items previously agreed to be treated as exclusions.
- E. The Contractor is to be reimbursed for all reasonable, allocable and allowable indirect costs incurred in performance of this Contract, subject to any statutory limitations applicable.
- F. Any failure by the parties to agree on any indirect cost rate(s) or applicability of the rate(s) to the bases under this provision shall be considered a dispute concerning a question of fact for decision by the Awarding Official within the meaning of the clause of this contract entitled "Disputes."

Part 5. **Disputes.** This Contract is subject to 25 CFR part 900 subpart N.

- A. All disputes arising under or relating to this Contract shall be resolved under 25 CFR part 900 subpart N.
- B. The Contractor shall proceed diligently with performance of this Contract, pending final resolution of any request for relief, claim, appeal, or action arising under the Contract, and comply with any decision of the Awarding Official pending resolution of any appeal.

Part 6. **Payment of Interest on Contractor's Claim.** If an appeal is filed by the Contractor from a final decision of the Awarding Official under the disputes clause of this Contract, denying a claim arising under the Contract, interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. The procedures specified at 25 CFR 900.228 shall be followed.

- A. Interest shall be applied only from the date payment was due, if such date is later than the filing of the appeal; and,
- B. Interest shall not be paid for any period of time that the Awarding Official determines the Contractor has unduly delayed in pursuing remedies before a board of contract appeals or a court of competent jurisdiction.

Part 7. **Retrocession.** The Contractor agrees to comply with the provisions of P.L. 93-638, as amended, in Title I, **section 105(e)**, and **25 CFR part 900**

subpart P (in the event of retrocession).

Part 8. **Reassumption.** The Contractor agrees to comply with the provisions of P.L. 93-638, as amended, in Title I, **section 109** of the Act, and **25 CFR part 900 subpart P** in the event of re-assumption.

Part 9. **Federal Tort Claims Act (FTCA):**

A. FTCA Coverage: For purposes of FTCA coverage, the Contractor and its employees are deemed to be employees of the Federal government while carrying out this contract and acting within the scope of their employment. This status is not changed by the source of the funds used by the Contractor to pay the employee's salary and benefits unless the employee receives additional compensation for performing covered services from anyone other than the Contractor. Coverage under 28 U.S.C. § 2680(h) for intentional torts is available to the extent authorized by Federal law for tribal law enforcement/correctional officers who hold a valid and current BIA-OJS certification. Certification includes successfully completing the training requirements outlined in Section C Part 2(N)(2) of this AFA and receiving a favorable rating on the adjudicated background investigation **no less stringent than required of a federal officer performing the same duties.**

B. FTCA Liaison: In accordance with the requirement in 25 CFR 900.188(a), the Contractor agrees to designate an individual to serve as the tort claims liaison with the Federal government. The tort claims liaison shall provide the assistance specified in 25 CFR 900.188(c).

Part 10. **Vehicle Operation - Seatbelt Use Requirement:**

A. Vehicle Operation. The Contractor, its employees and recipients of sub-awards who, in the course of performance of their duties, are required to operate Contractor-owned or rented vehicles, or who use personally owned motor vehicles in the performance of duties under this Contract, must have a valid motor vehicle operator's license.

B. Seatbelt Use Requirement. The Contractor, its employees and recipients of sub-awards, are encouraged to adopt and enforce on-the-job seat belt use policies and procedures for their employees

when operating Contractor-owned or rented vehicles, or when using personally owned motor vehicles, in the performance of duties under this Contract. These measures include, but are not limited to, conducting education, awareness, and other appropriate activities for their employees regarding the importance of wearing seat belts and the consequences of not wearing them.

Part 11. Insurance.

- A. Insurance:** The Contractor is encouraged to obtain insurance from an insurance provider that is licensed by the State Insurance Commission or State Insurance Board in the State in which the Contractor is located and where the work is to be performed.

**SECTION F
Special Requirements**

Part 1. Management Systems. The Contractor shall provide copies of the most recent versions of the following management system Policies and Procedures Manuals:

- A. Personnel Manual.**
 Previously submitted, and on file at the BIA.
 Attached
- B. Property Manual.**
 Previously submitted, and on file at the BIA.
 Attached
- C. Procurement Manual.**
 Previously submitted, and on file at the BIA.
 Attached
- D. Record Keeping Policy.**
 Previously submitted, and on file at the BIA.
 Attached
- E. Travel Policy.**
 Previously submitted, and on file at the BIA.
 Attached

Part 2. Finance System Certification. The Contractor may submit Certification

by a licensed accountant that the Contractor's bookkeeping and accounting procedures meet the standards of 25 CFR part 900 subpart F. The bookkeeping and accounting system shall provide for the accumulation of costs throughout the Contract term or performance period in such a manner as to facilitate audit or review of the financial records.

Check one of the following:

- Certification previously submitted, and on file at the BIA.
- Certification attached.

Part 3. Record Keeping. The Contractor agrees to keep such records as required pursuant to P.L. 93-638, as amended, Title I, Section 108 (c), Section 1(b)(7)(A), to make reports required by P.L. 93-638, as amended, in Title I, Section 5(a)(1) and (2), and (f) (1) and (2), of the Act as amended, and Section D, Part 1 of this Contract, and to make such information and reports available to the Indian clients as required by Section 5(c) of P.L. 93-638, as amended. The Contractor shall be required to maintain a record-keeping system, which will allow for the maintenance of records to facilitate retrocession or re-assumption. Such a records system, at a minimum, shall:

- A.** Provide for the creation, maintenance and safeguarding of records of lasting value, including those involving individual rights, such as permanent student records and transcripts.
- B.** Provide for orderly retirement of records used or created under the Contract. Such records shall be returned to the Bureau for disposition according to the General Records Schedules and the Bureau Records Control Schedule.

Part 4. Privacy Act Requirements. P.L. 93-638, as amended, Title I, Section 108 (b) of the Act states that records of the Contractor shall not be considered Federal records for the purposes of the Privacy Act (5 U.S.C. 552a).

Part 5. Freedom of Information. Access to records maintained by the Bureau is governed by the Freedom of Information Act (FOIA). Except for previously provided copies of Tribal records that the Bureau demonstrates are clearly required to be maintained as part of the record-keeping system of the Bureau, records of the Contractor (including archived records) shall not be considered Federal records for the purpose of the FOIA.

SECTION G

Other Attachments (Identify Attachments and include – delete the remaining)

- Attachment G-1.
- Attachment G-2.
- Attachment G-3.
- Attachment G-4.
- Attachment G-5.
- Attachment G-6.
- Attachment G-7.
- Attachment G-8.
- Attachment G-9.
- Attachment G-10.
- Attachment G-11.
- Attachment G-12.
- Attachment G-13.
- Attachment G-14.

**DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS**

[Regional Office/OJS District #]

PUBLIC LAW 93-638, AS AMENDED

ANNUAL FUNDING AGREEMENT

WITH THE

[TRIBE NAME]

CONTRACT NO. A19AV00XXX

INDEX OF CONTRACT PROVISIONS

SECTION A

Authority, Purpose, and Definition of Terms

- Part 1. Authority
- Part 2. Purpose
- Part 3. Definitions

SECTION B

Program and Budget

- Part 1. Program(s)
- Part 2. Program Standard
- Part 3. Contract Budget
- Part 4. Contract Amount
- Part 5. Contract Support Cost Funds

SECTION C

Statement of Work

- Part 1. Scope of Bureau Program(s) to be Performed
- Part 2. Statement of Work
- Part 3. Contract Term
- Part 4. Non-Contracted Portion of Bureau of Indian Affairs Program(s)
- Part 5. Technical Assistance and Monitoring

SECTION D

Performance

- Part 1. Reporting Requirement
- Part 2. Audit Requirement
- Part 3. Monitoring and Records Review
- Part 4. Examination of Records
- Part 5. Mature Contract
- Part 6. Contract Termination
- Part 7. Driver's License Requirements for Non-Federal Personnel
- Part 8. Bureau of Indian Affairs' (BIA) Motor Vehicle and Commercial Vehicle Operation Policy
- Part 9. Effect on Existing Rights
- Part 10. Trust Records Management
- Part 11. Applicable Federal Regulations
- Part 12. Sanctions for Non-Compliance

SECTION E
Administration Data

- Part 1. Awarding Official's Technical Representative
- Part 2. Contract Payment
- Part 3. Contract Revision or Amendment
- Part 4. Negotiated Indirect Cost Rate(s)
- Part 5. Disputes
- Part 6. Payment of Interest on Contractor's Claim
- Part 7. Retrocession
- Part 8. Reassumption
- Part 9. Federal Tort Claims Act (FTCA)
- Part 10. Vehicle Operation – Seatbelt Use Requirement
- Part 11. Insurance

SECTION F
Special Requirements

- Part 1. Management Systems
- Part 2. Finance System Certification
- Part 3. Record Keeping
- Part 4. Privacy Act Requirements
- Part 5. Freedom of Information

SECTION G
[ATTACHMENTS]

- Attachment A – Budget w/Justification**
- Attachment B – Position Descriptions**
- Attachment C -- [INSERT]**
- Attachment D – [INSERT]**

SECTION A

Authority, Purpose and Definition of Terms

Part 1. **Authority.** This agreement, denoted a Self-Determination Contract (referred to in this agreement as the (“Contract”), is entered into by the Secretary of the Interior (referred to in this agreement as the “Secretary”), for and on behalf of the United States pursuant to Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) and by the authority of the [TRIBE NAME] (referred to in this agreement as the “Contractor”) and 25 C.F.R. part 900. The provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) and 25 C.F.R. part 900 are incorporated in this Contract.

Part 2. **Purpose.** Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the related functions, services, activities, and programs (or portions thereof) that are otherwise contractible under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor.

Part 3. **Definitions.** The following terms shall have the meanings set forth below throughout this Contract:

A. **Act.** Means Public Law 93-638, The Indian Self-Determination and Education Assistance Act of 1975, as amended (25 USC 5301 et seq., 88 Stat. 2203).

B. **Annual Financial Audit.** Means an organization-wide audit as required by Public Law 104-156, The Single Audit Act Amendments of 1996, as implemented through 2 C.F.R. part 200 subpart F.

C. **Approving Official.** Means the Deputy Bureau Director, Office of Justice Services (OJS). However, the Deputy Bureau Director’s approval authority has been delegated to the Special Agent in Charge (SAC) in whose District the Contractor is located. The concurrence of the Deputy Bureau Director, OJS is required on decisions regarding funding, staffing, program content and the decision to reassume a law enforcement and/or detention program in accordance with Delegation of Approving Official Authority for Public Law 93-638 Contracts for Law Enforcement and Detention Services memorandum dated July 30, 2014.

D. **Awarding Official.** Means any person who by appointment or delegation in accordance with applicable regulations has the

authority to enter into and administer contracts on behalf of the United States of America and make decisions and issue findings and determinations with respect thereto. Pursuant to the Act, this person can be any Federal official, including but not limited to, contracting officers.

- E. **Awarding Official's Technical Representative (AOTR)**. Means the authorized technical representative of an Awarding Official acting within the limits of his authority.
- F. **Cognizant Federal Agency**. Means the Federal agency that has authority to negotiate indirect cost rates with the Contractor.
- G. **Contract**. Means a self-determination contract (or grant or cooperative agreement utilized in lieu of a contract under section 9 of the Act) entered into under title I of the Act between a tribal organization and the Secretary for the planning, conduct and administration of programs or services which are otherwise provided to Indian Tribes and their members pursuant to Federal law: *Provided* that, no contract (or grant or cooperative agreement utilized under section 9 of this Act) entered into under title I of this Act shall be construed to be a procurement contract.
- H. **Contractor**. Means an Indian Tribe or Tribal organization to which a contract has been awarded.
- I. **Contract Modification**. A written change to the contract document which has been mutually agreed to by the Awarding Official and the Contractor.
- J. **Contract Records**. Records maintained to support activity under the contract. Contract records shall include, but not be limited to, the following:
 - (1) The contract award documents;
 - (2) Any and all modifications to the contract;
 - (3) Financial records; and,
 - (4) Records created or maintained as a result of the contract.
- K. **Days**. Means, unless otherwise specified in this Contract, calendar days; except where the last day of any time period specified in this Contract falls on a Saturday, Sunday, or a Federal holiday, the

period shall carry over to the next business day unless otherwise prohibited by law.

- L. **Indian Tribe.** Means any Indian Tribe, Band, Nation, or other organized group, or community, including Pueblos, Rancherias, Colonies and any Alaska Native Village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- M. **Indian.** Means a person who is a member of a federally-recognized Indian Tribe.
- N. **Indirect Costs.** Means costs incurred for a common or joint purpose benefiting more than one contract objective or which are not readily assignable to the contract objectives specifically benefited without effort disproportionate to the results achieved.
- O. **Indirect Cost Rate.** Means the rate arrived at through negotiation between an Indian Tribe or Tribal organization and the cognizant Federal agency.
- P. **Mature Contract.** Means a contract that has been continuously operated by a Tribal organization for three or more years, and for which there are no significant and material audit exceptions in the most recent annual financial audit of the tribal organization. A mature contract may be for a definite or an indefinite term as requested by the Tribe or, to the extent not limited by Tribal resolution, by the Tribal organization.
- Q. **Program Records.** Records created or maintained to support activity within the contracted program. Program records shall include, but not be limited to, the following:
 - (1) Application for assistance under the specific program;
 - (2) Case files, criminal statistical reports, etc.
 - (3) Correspondence;
 - (4) Financial records; and,
 - (5) Any other records established under the Contract.

- R. **Reassumption**. Means rescission, in whole or in part, of a contract and assuming or resuming control or operation of the contracted program by the Secretary without consent of the Indian Tribe or Tribal organization pursuant to the notice and other procedures set forth in 25 CFR part 900 subpart P.
- S. **Recontracting**. Means the renewal of a contract with a Tribal organization for the same program.
- T **Retrocession**. Means the voluntary return to the Secretary of a contracted program, in whole or in part, for any reason, before the expiration of the term of the contract.
- U. **Secretary**. Means the Secretary or any authorized representative of the Secretary.
- V. **Subcontracts**. Except as otherwise provided in this Contract, the term “subcontracts” includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this Contract.
- W. **Subordinate Awarding Official's Technical Representative (SAOTR)**. Means the authorized technical representative of an Awarding Official acting who assists the AOTR.
- X. **Term Contract**. Means a contract (other than a mature contract) which is for a specific period of time, not to exceed three years unless otherwise agreed to by the Secretary and the Contractor. The term may not be longer than that provided by any applicable Tribal resolution which limits the period of the Contractor’s authority.
- Y. **Tribal Organization**. Means the recognized governing body of any Indian Tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, that, in any case where a contract is let or a grant made to an organization to perform services benefiting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the letting or making of such contract or grant.

- Z. **Tribal Resolution.** Means the formal manner in which the Tribe expresses its legislative will in accordance with its organic documents. In the absence of such organic document, a written expression adopted pursuant to Tribal constitutional process and practices will be acceptable.

SECTION B Program and Budget

Part 1. **Program(s).** The Contractor shall perform that portion of the Bureau of Indian Affairs (BIA) Law Enforcement Services, including uniformed police, criminal investigations, law enforcement radio communication and dispatch, and any other law enforcement services specified or described herein, in accordance with the terms, provisions and conditions of this Contract and applicable laws and regulations.

Part 2. **Program Standard.** The Contractor agrees to administer the program(s), services, functions, and activities (or portions thereof) listed in Section 1 above in conformity with the following standards:

- A. Purpose.** The Contractor shall administer programs, services, functions and activities (or portions thereof) under this agreement in accordance with its own laws and policies which are incorporated herein by reference. The provisions of regulations promulgated to implement P.L. 93-638, as amended, and other applicable Federal Regulations shall apply, unless such regulations have been waived by the Secretary. Such regulations are incorporated in this agreement by reference.
- B. Intent.** The Contractor shall conduct programs and services under this Contract to address Tribal priorities and needs as determined by the Tribe. The program(s) to be conducted shall include any and all services authorized by law, for which funds have been appropriated to the BIA or made available from other agencies through the BIA. Funds made available may be utilized to acquire other resources to further the objectives of this agreement. The Contractor shall operate programs under this Contract in accordance with the following standards:

UNIFORMED POLICE PROGRAM STANDARDS

- [] Tribe of _____ Constitution
- [] Tribe of _____ Law and Order Code
- 25 CFR Part 12 [Most recent edition]
- 25 C.F.R. part 900 subpart F, Standards for Tribal or Tribal Organization Management Systems [Most recent edition]
- 25 C.F.R. part 63, Indian Child Protection and Family Violence Prevention [Most recent edition]
- Tribal, Federal, and state court decisions, as they relate to the Tribe's criminal and civil jurisdiction

- The Indian Civil Rights Act, 25 U.S.C. § 1301 *et seq.*
- *40 Indian Affairs Manual*
- *Bureau of Indian Affairs' Office of Justice Services Law Enforcement Handbook* including all Directives, updates, or future editions which may be issued during the term of the Contract.
- Indian Child Protection and Family Violence Prevention Act (ICPFVPA), 25 U.S.C. §§ 3201-3211 and 18 U.S.C. § 1169
- Other statutory requirements, as applicable

CRIMINAL INVESTIGATIONS PROGRAM STANDARDS

- [] Tribe of _____ Constitution
- [] Tribe of _____ Law and Order Code
- 25 C.F. R. part 12 [Most recent edition]
- 25 C.F.R. part 900 subpart F, Standards for Tribal or Tribal Organization Management Systems [Most recent edition]
- 25 C.F.R. part 63, Indian Child Protection and Family Violence Prevention [Most recent edition]
- Tribal, Federal, and state court decisions, as they relate to the Tribe's criminal and civil jurisdiction
- The Indian Civil Rights Act, 25 U.S.C. § 1301 *et seq.*
- *40 Indian Affairs Manual*
- *Bureau of Indian Affairs' Office of Justice Services Law Enforcement Handbook* including all Directives, updates, or future editions which may be issued during the term of the Contract.
- The Memorandum of Understanding Between the United States Department of the Interior, Bureau of Indian Affairs, and the United States Department of Justice, Federal Bureau of Investigation (1993)
- The relevant United States Attorney's Guidelines
- Other statutory requirements, as applicable

LAW ENFORCEMENT RADIO COMMUNICATION AND DISPATCH

- The Indian Civil Rights Act, 25 U.S.C. § 1301 *et seq.*
- 25 C.F. R. part 12 [Most recent edition]
- 25 C.F.R. part 900 subpart F, Standards for Tribal or Tribal Organization Management Systems [Most recent edition]
- 25 C.F.R. part 63, Indian Child Protection and Family Violence Prevention [Most recent edition]

- All mandatory standards in the *Bureau of Indian Affairs' Office of Justice Services Law Enforcement Handbook* including all Directives, updates, or future editions which may be issued during the term of the Contract
- Indian Child Protection and Family Violence Prevention Act (ICPFVPA), 25 U.S.C. §§ 3201-3211 and 18 U.S.C. § 1169
- Other statutory requirements, as applicable

Part 3. **Contract Budget.** The budget for the services provided under this Contract reflects the agreements reached during contract negotiations. The contract budget includes both direct and indirect costs.

- A.** The Contractor shall request prior approval for budget revisions whenever:
- (1) The budget revision results from changes in the scope or objective of the program;
 - (2) The revision requires additional funding;
 - (3) The revision causes a change in the amount of indirect costs for the contract; or
 - (4) The revision pertains to the addition of items requiring approval of the BIA.
- B.** All other budget revisions do not require approval.

Part 4. **Contract Amount.** The amount of funding to be provided by the BIA under this Agreement for **Fiscal Year or Calendar Year [2019]** is as reflected in Attachment A to the SF-26 Award and/or SF-30 Modification/Contract document.

Part 5. **Contract Support Cost Funds (CSF).** The Secretary shall pay Contract Support Cost (CSC) funds as required by the Indian Self-Determination and Education Assistance Act of 1975, as amended, and in conformance with 13 IAM, Chapter 7. Nothing in this agreement shall be construed as a waiver of the Contractor's rights under the Act.

SECTION C
Statement of Work

Part 1. Scope of Bureau Program(s) to be Performed.

A. Performance of Contract Statement of Work.

Within the limits of Federally provided funds, the Contractor shall provide all necessary personnel and services, and shall acquire supplies, materials, major and sensitive equipment and property, automated data processing equipment, motor vehicles such as passenger and light trucks, and special purpose motor vehicles through the negotiated or competitive open market or through sole source procurement in compliance with Federal rules. This shall be done in compliance with the above described management manuals and procedures and applicable Federal procurement rules which are herein incorporated into this contract by this reference.

- (1) The authority to perform and carry out the terms of this statement of work shall be vested in a single Tribal governmental law enforcement entity.
- (2) Such law enforcement entity shall be the entity, either in existence or created by the **TRIBE NAME**, as of the effective date of this Contract.
- (3) Should any second or competing Tribal law enforcement entity come into existence under color of Tribal law within the **TRIBE/Reservation** during the term of this Contract, such occurrence shall constitute a material breach of this Contract and shall be sufficient grounds for reassumption of the contracted programs, by the BIA OJS.

B. Funding.

- (1) The Contractor shall obtain from the BIA all such funds and other resources made available for the benefit of the Tribe for all programs to be operated and services to be delivered by the Contractor through this contract on behalf of the BIA, except for those 'Trust' and 'Executive Direction' functions of the BIA which are considered non-contractible.
- (2) The BIA shall transfer to the Contractor all such funds and other resources made available for the benefit of the Tribe through this contract in the most expeditious manner

authorized by law and shall provide technical support and assistance at the request of the Contractor and as provided herein.

- (3) The Contractor shall exercise full discretion over the funds made available subject only to the provisions of this contract and Federal law.

C. **Fair and Uniform Services.** The Contractor agrees that any services or assistance provided to Indians under the Contract shall be provided in a fair and uniform manner.

Part 2. Statement of Work.

- A. The purpose of this contact is to ensure professional, effective and efficient law enforcement services utilizing accepted law enforcement techniques and practices. These services shall provide for the protection of lives and property, pursuant to enforcing all applicable Federal and Tribal laws, for persons visiting or residing within the exterior boundaries of the Tribe's reservations and trust lands.
- B. Additionally, the law enforcement services included in this statement of work shall include:
 - (1) Maintaining continual law enforcement and prevention services to all reservation and trust properties 24 hours per day and 7 days per week.
 - (2) Enforcement of all Tribal criminal and traffic laws, including all Tribal Ordinances.
 - (3) Enforcement of applicable Game and Fish laws or Ordinances.
 - (4) The protection of all private, public, and government property on the reservation and trust properties.
 - (5) The implementation of programs to prevent crime and delinquency.
 - (6) Answering citizens' complaints or any other law enforcement services agreed upon, in writing, by the Contractor and Awarding Official.

- (7) Providing patrol services on and off roadways and in the communities within the boundaries of the reservation and trust properties.
- (8) As directed by Tribal General Counsel, service of all court processes without undue delay.
- (9) Writing case reports, preparing cases for court, and testifying in courts of competent jurisdiction.
- (10) Delivering prisoners to state and Federal courts.
- (11) Enforcing all applicable Federal laws on the **[TRIBE NAME]** Tribe's reservation and trust lands, including, but not limited to 18 U.S.C. §§ 1151-1170, subject to Section D(2)(S) of this contract.

C. Services shall be provided in accordance with defined authority, procedures, and guidelines contained in the:

- (1) **[TRIBE NAME]** Constitution
- (2) All laws of the **[TRIBE NAME]**
- (3) 25 C.F.R. part 12
- (4) 25 C.F.R. part 900 subpart F, Standards for Tribal or Tribal Organization Management Systems
- (5) 25 C.F.R. part 63, Indian Child Protection and Family Violence Prevention
- (6) Tribal, Federal, and state court decisions, as they relate to the Tribe's criminal and civil jurisdiction
- (7) *40 Indian Affairs Manual*
- (8) All standards within the ***Bureau of Indian Affairs' Office of Justice Services Law Enforcement Handbook*** including all Directives, updates, or future editions which may be issued during the term of the Contract.

D. When operating within the scope of this Contract, the Contractor may be required to leave or operate outside of Indian country. The scope of work of this Contract includes such work outside of Indian

country in certain circumstances. Such circumstances may include, but are not limited to:

- (1) Traveling from one portion of the affected Indian country to another portion of the same Indian country while in the performance of functions authorized by this Contract.
- (2) Traveling to and from, and testifying in Tribal, state, or Federal court, and administrative hearings or proceedings.
- (3) Transporting offenders to and from detention facilities.
- (4) Traveling to and from Indian country to service facilities located outside Indian country.
- (5) Traveling to and from, and attending meetings, conferences, training sessions, police ceremonial events, and any other matters of official law enforcement duties.
- (6) Interviewing victims, witnesses, and suspects involved, or alleged to be involved, in offenses committed in Indian country.

E. The Contractor shall obtain all necessary licenses, permits, training, certification, insurance and approvals required by local, state, and Federal statutes to perform all programs under this Contract.

F. The Contractor shall be responsible for the enforcement of all civil and criminal laws of the **[TRIBE NAME]**.

(1) Tribal officers and criminal investigators operating under this agreement who have completed appropriate training at the United States Indian Police Academy (IPA), or equivalent training site approved by BIA - OJS Director, and received a favorable adjudicated background investigation **no less stringent than required of a federal officer performing the same duties** are authorized to enforce Title 18, Chapter 53 of the United States Code and investigate violations thereunder once certified by the BIA – OJS.

(2) Subject to the limitations set forth elsewhere in this Section, the Contractor shall also enforce:

(a) All civil and criminal laws of the **[TRIBE NAME]**

(b) Applicable Tribal Resolutions and Ordinances enacted by the [TRIBE NAME];

G. The Contractor shall comply with the provisions of the Indian Child Protection and Family Violence Prevention Act (ICPFVPA), 25 U.S.C. §§ 3201-3211 and 18 U.S.C. § 1169.

All applicants for any position, or employee, in the Contractor's uniformed police, criminal investigations, law enforcement radio communication and dispatch, and other law enforcement support staff, whose duties and responsibilities would allow them regular contact or control over children must be subject to a thorough background investigation that will capture disqualifying convictions under the ICPFVPA. See SECTION C., Part 2. Statement of Work, N. Personnel Standards, below.

H. The Contractor shall assist the BIA and other Federal, Tribal, and state law enforcement officials in the investigation of Tribal or Federal offenses that occur on the [TRIBE NAME] reservation and trust lands.

I. **Citizen Complaints**. The Contractor will develop and maintain a reporting system, which allows any individual who interacts with law enforcement to report suspected or alleged officer misconduct.

(1) For purposes of this section, the term "officer" means any Tribal uniformed police officer, Tribal criminal investigator, or Tribal law enforcement radio communication dispatcher.

(2) The Deputy Bureau Director, BIA - OJS, maintains an Internal Affairs Division (IAD) that investigates all allegations of misconduct by any officer receiving funding and/or authority from the BIA.

(a) All allegations of officer misconduct must be immediately reported to IAD for review. Failure by an officer, supervisor or other Contractor personnel to report allegations of officer misconduct to IAD may itself be considered misconduct.

(b) IAD reserves the right to review and investigate all allegations of misconduct, however, dependent upon the severity of the allegations, may choose to refer the matter to the Contractor's designated point of

contact for appropriate handling in accordance with the Contractor's procedures.

If the matter is referred back to the Contractor for appropriate handling, all allegations of officer misconduct must be thoroughly investigated and appropriate action taken.

- (c) The Contractor shall advise citizens that they may report officer misconduct directly to the BIA OJS IAD, if that is more practical.
- (d) When notifying the BIA OJS IAD of alleged or suspected officer misconduct, the Contractor should provide the following if known:
 - (i) name, date of birth, rank, and assigned location of the accused employee.
 - (ii) name, date of birth, address and telephone number of the complainant.
 - (ii) a summary of the incident(s) of alleged misconduct.
 - (iii) any official reports prepared concerning the incident.
 - (iv) when feasible, a brief written statement signed by the complainant, summarizing the incident and the alleged misconduct.
- (e) **Allegations of Civil Rights Violations.** All allegations of civil rights violations must be reported immediately to the BIA - OJS IAD.
 - (i) The BIA - OJS IAD will ensure that allegations are reported to the Civil Rights Division of the United States Department of Justice through established procedures. The BIA - OJS IAD may also investigate the matter and make recommendations for additional action as necessary.

- (ii) Only the Federal Bureau of Investigation (FBI) is authorized to conduct a full Civil Rights investigation. This does not preclude the Contractor or BIA from conducting a simultaneous or subsequent internal administrative investigation concerning allegations of the use of excessive force and brutality.
- (f) **Serious Incident Reports.** All serious incidents, unusual events, and emergency conditions, which may result in inquiries to the BIA, cause intense public interest, or have potential residual effects on the BIA or the BIA - OJS must be reported in the most expeditious manner available *within 24 hours* to the BIA - OJS [**District #_**] and Agency Superintendent.

J. Uniformed Police/Patrol.

- (1) **Vehicles.** The Contractor shall assure that all uniformed police patrol vehicles are in good working condition; an operator/maintenance record book is kept current; and the vehicles are equipped with appropriate safety and law enforcement supplies, which include, but are not limited to:
 - (a) An emergency vehicle light package meeting nationally accepted standards and applicable state law. Minimum emergency light requires: an overhead light bar with rotating or strobe lights clearly visible from 360 degrees; or strobe lights mounted on the vehicle in such a manner as to be visible from 360 degrees.
 - (b) A multi-frequency two-way radio with external speaker.
 - (c) Bumper or grill-mounted siren that meets nationally-accepted standards.
 - (d) Vehicle security screen separating the driver's compartment from the rear passenger compartment.

- (e) Should officers be required to maintain their shotgun in the driver's compartment of the vehicle, the shotgun must be secured through use of a locking bracket.
 - (f) Police Patrol Vehicles must be marked vehicles and must be marked with decals in a standardized fashion that ensure the vehicles are readily identifiable as law enforcement service vehicles.
- (2) **Equipment and Uniforms.** The Contractor shall provide all uniformed law enforcement officers with the following items and ensure that officers are trained and qualified with the weapons and equipment being carried, that weapons and equipment are in good condition and are worn or carried when performing normal police functions:
- (a) Handgun and shotgun, as described in Section 1-22 of the BIA OJS Law Enforcement Handbook.
 - (b) Belt, holster, handcuff case and cartridge/magazine case.
 - (c) Handcuffs with keys.
 - (d) Minimum of three complete uniforms, to include seasonal uniforms.
 - (e) Hat (seasonal) and breast badge.
 - (f) Body armor
 - (g) Intermediate weapons, such as batons and chemical agents.
- (3) **Duties and Responsibilities.** The Contractor shall ensure that the Patrol Division of Law Enforcement (Uniformed Police) performs is in compliance with the following duties and responsibilities.

A tribal police officer operating under this agreement who has completed appropriate training from the United States Indian Police Academy (IPA), or equivalent training site approved by BIA-OJS Director, and received a favorable adjudicated background investigation **no less stringent than required of a federal officer/special agent**

performing the same duties are authorized to enforce Title 18, Chapter 53 of the United States Code and investigate violations thereunder once certified by the BIA - OJS.

The Contractor shall:

- (a) Enforce the civil and criminal laws of the **[TRIBE NAME]**, and **assist** in enforcement of Federal and State laws which the Contractor has the legal authority to enforce.
- (b) Promptly investigate and report vehicle accidents and complete proper accident reports.
- (c) Maintain safe roads, within the exterior boundaries of the reservation and the Tribe's trust lands, through traffic checks; and report hazardous conditions contributing to accidents on roads.
- (d) Ensure that law enforcement personnel receive training to enhance their capabilities and job skills through participation in prescribed mandatory supplemental and in-service training courses.
- (e) Create and maintain positive police-community relationships through activities that are conducted and implemented on a daily basis, including, but not limited to:
 - (i) Community activities, sponsored by, or coordinated for, police involvement that promote the concept of protecting and serving the community.
 - (ii) Providing assistance to citizens on a non-law enforcement basis, on interventions aimed at reducing crime, through such programs as Neighborhood Watch.
- (f) Carry out patrol duties and ensure protection of life, property, and crime prevention.
- (g) Provide services in various types of emergencies, including carrying out the functions and duties required by any inter-tribal mutual aid and assistance

agreements (or compacts) to which the [TRIBE NAME] is a party.

- (h) Provide road safety, accident prevention, and traffic control, within the exterior boundaries of the Contractor's reservation or trust lands.
- (i) Ensure that uniforms, when worn, positively identify the wearer as a law enforcement officer. Badge, nameplate, and Tribal patch shall be visible at all times. Uniforms of all law enforcement personnel shall be plainly distinguishable from the uniforms of any non-law enforcement personnel working on the reservation. Each officer shall be issued a standard identification card bearing a photograph of the officer.

(4) **Training Requirements:** The Contractor shall ensure that all employed law enforcement officers, *prior to the performance of law enforcement duties*, have successfully completed the approved Basic Police Officer Training Program conducted at the U.S Indian Police Academy (USIPA), or equivalent training which meets appropriate Peace Officer Standards of Training (POST) in the state in which the Tribe is located and is supplemented by instruction regarding Federal sources of authority and jurisdiction, Federal crimes, Federal rules of criminal procedure, and constitutional law to bridge the gap between state training and Federal requirements. [25 U.S.C. § 2802] [25 C.F.R. § 12]

(a) Law enforcement personnel of any program receiving federal funds, regardless of whether the law enforcement personnel is paid with tribal or federal funds, *must not* perform law enforcement duties until they have successfully completed a basic law enforcement training course which meets or exceeds the requirements stated in the preceding paragraph. Training requirements may be fulfilled through successful completion at any of the following:

- I. Basic Law Enforcement Training Course at the USIPA; or
- II. A State or tribal police academy, a State, regional, local or tribal college or university, other academy that meets the appropriate

Peace Officer Standards of Training. This training is acceptable to meet federal training requirements only when it is supplemented by instruction regarding federal sources of authority and jurisdiction, federal crimes, federal rules of criminal procedure, and constitutional law to bridge the gap between state training and federal requirements. The supplemental training can only be achieved through successful completion of one of the following federal courses: a). USIPA Basic Law Enforcement Training Course; or b). USIPA Bridge Training program; or c). the Criminal Jurisdiction in Indian Country (CJIC) training course.

(b) A newly hired police officer who has a break in law enforcement service for three (3) years or more, is required to complete re-certification training in accordance with the first paragraph above through either option provided in (a).

All of which must be documented and available to BIA - OJS for certification review. Failure to complete basic training requirements will result in removal from a law enforcement position. [25 C.F.R. § 12.36]

(c) The contractor will ensure police officers complete the required forty (40) hours of in-service law enforcement training annually and will include, but not be limited to training on Ethics, Conduct, and EEO, Legal updates (search and seizure, laws of arrest), Use of force and deadly force policy, Defensive equipment use, Arrest techniques, other subjects identified as an individual need. The officer must hold current certifications or be re-certified in first aid and CPR annually.

(d) The contractor will ensure that all sworn law enforcement officers attend the mandatory federal requirement for firearms training and qualification exercises every six (6) months and achieve a qualifying score during these exercises with the weapons normally carried on duty.

(e) The contractor will ensure the Firearms Training includes mandatory refresher training on OJS Use of Force policy, the rendering of appropriate medical aid after any use

of force is conducted. The contractor will ensure copies of these policies are provided to all sworn officers during training.

(f) The contractor will ensure officers do not carry any firearms with which they have not passed a qualification course within the previous six (6) months. Officers will not carry, or be assigned to use, any intermediate weapon until trained in its proper use and associated safety procedures. Qualification with intermediate weapons must be maintained to continue to carry such weapons.

(g) The contractor will ensure all officers will qualify on the approved Indian Police Academy FLETC Practical Pistol Course (PPC) in March and September of each year with the same make and model handgun(s) carried as duty weapon(s), using the type of IPA approved ammunition and the reloading method routinely used in the field. A minimum score of 70 percent is needed to qualify.

(h) The contractor will ensure all officers complete IPA approved training and demonstrate proficiency and knowledge of the weapon before a rifle, shotgun, or semi-automatic weapon is issued and carried. Re-qualification using an IPA approved course of fire, with a minimum score of 70 percent, is required in March and September of each year.

(i) The contractor will ensure officers are authorized to carry only those intermediate force (less than lethal force) weapons which have been approved by the BIA - OJS Deputy Bureau Director, and then only after receiving training in the proper use, precautions, and actions to be taken following use associated with each of these weapons. When qualification is required, this qualification will be maintained in order to continue to carry the issued less-than-lethal weapon(s). Training on intermediate (less-than-lethal) weapons will be conducted at least bi-annually. BIA - OJS approved Intermediate force weapons approved for use are Expandable baton, Chemical Agent (OC), and Electronic Control Device.

(j) The Deputy Director, OJS may refuse to issue, or may suspend or revoke a police officer's/special agent's certification when it is determined that the officer/special

agent has; 1) Failed to maintain firearms qualification or complete the 40 hour mandatory in-service training requirements; 2) Committed acts that constitute dishonesty or fraud; 3) Been convicted of, pled guilty to or entered a plea of no contest to any felony charge or any violation of federal, or state law or a local ordinance relating to aggravated assault, theft, driving while under the influence of intoxicating liquor or drugs, controlled substances or any law or ordinance involving moral turpitude; knowingly made any false statement in his/her application for certification.

(k) Administrative procedures for suspension or revocation of a police officer's/special agent's certification shall include notice and an opportunity for the affected police officer/special agent to be heard if submitted to the Deputy Director, OJS.

(l) Before, or within one year after, promotion or appointment to a supervisory enforcement position, an employee must complete an approved Supervisory Law Enforcement Officer Training Program conducted at the IPA, or equivalent training, as determined and authorized by the IPA and the Deputy Bureau Director, OJS.

(m) An officer who is serving in a supervisory position and fails to complete the requisite training within one year must be transferred to a non-supervisory position.

Dispatcher/Telecommunication Operators:

The Contractor shall ensure that newly employed Dispatcher/Telecommunication Operators successfully complete the USIPA approved Basic Telecommunication Officer Training Program.

1. Dispatcher/Telecommunication Operators of any program funded by the BIA will not perform the duties of the position until they have completed a USIPA approved Basic Telecommunication Officer Training Program prescribed by the Deputy Bureau Director, OJS.

2. A Dispatcher/Telecommunication Operator who fails to complete the USIPA approved Basic Telecommunication Officer Training Program within

one year will be removed from the position immediately.

(5) Administrative Duties – Uniformed Police. The Contractor:

- (a)** Shall introduce amendments, laws, resolutions and ordinances through the governing body of the **[TRIBE NAME]** that are necessary for the effective enforcement of laws or provision of public safety.
- (b)** Shall ensure that all law enforcement personnel employed by the Contractor receive mandatory supplemental and in-service training courses prescribed by the Deputy Bureau Director, OJS. The number of training hours for law enforcement personnel shall be equal to or greater than the number required for BIA OJS law enforcement personnel.
- (c)** Shall identify officers that qualify for specialized training and process applications so that those officers receive necessary training to implement new programs and improve existing programs.
- (d)** Shall implement a manual of policies and procedures that will be utilized by all personnel within the system. These policies and procedures shall be reviewed and updated annually to remain functional.
- (e)** Shall establish a Code of Conduct that establishes specific guidelines for conduct on and off duty, impartiality, professional conduct in the performance of duty and acceptance of gifts or favors.
 - (i)** Each officer must acknowledge in writing receiving and understanding this code of conduct on an annual basis.
 - (ii)** The acknowledgement will remain on file with the law enforcement program manager as long as the officer is employed with the department.

- (iii) Training will be conducted on this code of conduct and other ethics issues at least once each year.
 - (f) Shall develop and maintain a method of performance evaluation for all personnel to meet the requirements of the law enforcement program.
 - (g) Shall conduct or facilitate seminars and other educational services that teach and allow communications with various groups or individuals.
 - (h) Shall implement programs to deal effectively with social problems, gangs, drugs, domestic abuse and child abuse that affect the community and law enforcement.
 - (i) Shall ensure that compensation for Tribal uniformed police officers is comparable to that of BIA uniform police officers.
 - (j) Shall ensure that no uniformed police officer is permitted to work more than 12 hours in a 24-hour period, including all travel, training, and on-duty police work.
- (6) **Uniformed Police - Performance Evaluations.** The Contractor shall adhere to the general requirements of Tribal personnel systems and policies for officer annual performance evaluation/appraisal. If the Tribal personnel system does not contain equivalent provisions for performance evaluation/appraisals the following shall be used:
- (a) The immediate supervisor for each commissioned/ sworn law enforcement officer shall complete an annual performance evaluation report for the officer. Each officer shall be evaluated according to standards consistent with the officer's position description and in accordance with Tribal personnel policies and procedures. Evaluation criteria may include, but are not limited to:
 - (i) Investigations

- (ii) Arrests
- (iii) Court appearances
- (iv) Crime prevention
- (v) Knowledge of law
- (vi) Firearms
- (vii) Patrol
- (viii) Physical fitness
- (ix) Public relations
- (x) Report writing
- (xi) Execution of legal documents
- (xii) Care and maintenance of equipment other than firearms.
- (xiii) Overall performance.

(b) Performance ratings shall be documented and placed in individual official personnel folders.

(7) **Court Services.** Court orders, warrants, and subpoenas that are submitted to the [TRIBE NAME] Police Department shall be served on those individuals, or executed, as directed by such notification. The Tribal officers shall serve only those court orders, warrants, and subpoenas which they have lawful authority to serve or execute.

K. Criminal Investigations.

(1) Criminal investigation services shall be provided in accordance with defined authority, procedures, and guidelines contained in Section B, Part 2 of this AFA.

(2) **Duties and Responsibilities.** The Contractor shall be responsible for the enforcement and investigation of all civil and criminal laws of the [TRIBE NAME].

- (i) Tribal criminal investigators operating under this agreement who have completed 1). Appropriate training at the United States Indian Police Academy (IPA), or equivalent training site approved by BIA OJS Director; and 2). Basic Criminal Investigator Training program conducted at the Department of Homeland Security's FLETC, or an equivalent course approved in writing by the BIA OJS Director; and received a favorable adjudicated background investigation **no less stringent than required of a federal officer/special agent performing the same duties** are authorized to enforce Title 18, Chapter 53 of the United States Code and investigate violations thereunder once commissioned by the BIA - OJS.
- (j) Upon meeting the required certification criteria, the Contractor's criminal investigators shall be authorized to enforce the following statutes:
 - (i) Indian Country Crimes Act, 18 U.S.C. § 1152
 - (ii) Major Crimes Act, 18 U.S.C. § 1153
 - (iii) Assimilative Crimes Act, 18 U.S.C. § 13
 - (iv) Other statutes contained in Title 18, Chapter 53, of the United States Code
 - (v) Other Federal statutes delineated within the BIA - OJS certification.
- (c) Subject to the limitations set forth in this SECTION C. Statement of Work, the Contractor shall enforce the following:
 - (i) The civil and criminal laws of the **[TRIBE NAME]**
 - (ii) Applicable Tribal Resolutions and Ordinances;
 - (iii) Federal statutes applicable in Indian Country;
 - (iv) **[TRIBE NAME]** Statutes which the Contractor has the legal authority to enforce.

(3) Administrative Duties – Criminal Investigator.

- (a) Criminal investigators must be certified Peace Officers (See requirements outlined above at J(4)(a & b) and satisfactorily completed the basic Criminal Investigator course provided by the Department of Homeland Security at the Federal Law Enforcement Training Center (FLETC) or an equivalent course approved by the Deputy Bureau Director, BIA – OJS. Criminal Investigators shall receive a minimum of 40 hours in-service training annually to keep abreast of developments in the field of criminal investigations. [See 1993 MOU, IV. GENERAL PROVISIONS (4) (b)]
- (b) Compensation for the Contractor’s criminal investigators must be comparable to that of BIA criminal investigators. [See 1993 MOU, IV. GENERAL PROVISIONS (4) (c)]
- (c) Criminal Investigators must be United States Citizens, who possess a high school diploma or its equivalent, and are free from physical, emotional, or mental conditions which might adversely affect their performance as law enforcement officers. [See 1993 MOU, IV. GENERAL PROVISIONS (4) (d) & (e) & (h)]
- (d) Before promotion or appointment to a criminal investigator or similar position and prior to carrying out criminal investigator duties, an officer shall satisfactorily complete the basic Criminal Investigator Training Program conducted at FLETC, or an equivalent course approved by the BIA - OJS Deputy Bureau Director. [See 1993 MOU, IV. GENERAL PROVISIONS (4) (b)]
- (e) Criminal investigators must maintain all records and files that pertain to criminal investigations, as required by the appropriate United States Attorney's Office and Tribal guidelines. [See 1993 MOU, IV. GENERAL PROVISIONS (4)]
- (f) Appropriate procedures shall be devised to provide adequate supervision of Criminal Investigators by qualified personnel to ensure that investigative tasks are properly completed. [See 1993 MOU, IV. GENERAL PROVISIONS (4) (j)]

- (g) The Tribe agrees and BIA - OJS shall ensure that an audit and evaluation of the overall contracted criminal investigations program is conducted every two years. *[See 1993 MOU, IV. GENERAL PROVISIONS (4) (n)]*
- (h) The Contractor shall establish appropriate procedures with respect to the storage, transportation and destruction of, and access to, case files, evidence, and related documents and other material, with particular attention directed to the confidentiality requirements of 18 U.S.C. § 3509 (d) and Rule 6 (e) of the Federal Rules of Criminal Procedure. Criminal investigators shall follow these procedures at all times. Access to such material will be for official use only. *[See 1993 MOU, IV. GENERAL PROVISIONS (4) (l)]*
- (i) The Contractor shall assure that any individual who is performing duties as a Criminal Investigator complies with the standards applicable to BIA Criminal Investigators, as set forth in the 1993 Memorandum of Understanding Between the United States Department of the Interior, Bureau of Indian Affairs and the United States Department of Justice, Federal Bureau of Investigation and the *BIA Law Enforcement Services Handbook*, as updated. *[See 1993 MOU, IV. GENERAL PROVISIONS (5)]*
- (j) The Contractor shall immediately notify the BIA or FBI when it receives information indicating that a violation of a law, within the investigative jurisdiction of the BIA or FBI, has occurred. If either agency declines to investigate a matter within the jurisdiction of both agencies, the other agency shall be notified. *[See 1993 MOU, IV. GENERAL PROVISIONS (6)]*
- (k) The FBI shall be the agency primarily responsible for the use of sensitive investigative techniques such as the non-consensual interception of wire, oral, or electronic communications and undercover operations involving any sensitive circumstances (as defined in the Attorney General's Guidelines for the FBI's Undercover Operations), and the investigation of organized crime matters. *[See 1993 MOU, IV. GENERAL PROVISIONS (7)]*

- (l) The Contractor shall be responsible for all expenses related to criminal investigations undertaken by the Contractor, including but not limited to salaries, equipment, travel, training, background investigations, autopsies and other related expenses arising during both the investigation stage and litigation stage of any case or matter covered by the contract. *[See 1993 MOU, IV. GENERAL PROVISIONS (4) (m)]*
- (m) The Contractor shall establish a Code of Conduct that establishes specific guidelines for conduct on and off duty, impartiality, professional conduct in the performance of duty, and acceptance of gifts or favors.
 - (i) Each officer must acknowledge in writing receiving and understanding this code of conduct.
 - (ii) The acknowledgement will remain on file with the law enforcement program manager as long as the officer is employed by the Contractor.
 - (iii) Training will be conducted on this code of conduct and other ethics issues at least once each year.
- (n) The Contractor shall ensure that no criminal investigator is permitted to work more than 12 hours in a 24-hour period, including all travel, training, and on-duty criminal investigative work.
- (4) **Training Requirements:** Before promotion or appointment to criminal investigator or similar position, an officer or newly hired investigator shall satisfactorily complete the basic Criminal Investigator Training Program conducted at the Department of the Homeland Security's FLETC, or an equivalent course approved by the BIA - OJS Director.
 - (a) Criminal investigators of any program funded by the BIA *must not* perform criminal investigative duties until they have completed a prescribed basic criminal investigative training course.

(b) Every effort shall be made to provide this training immediately upon or prior to entry on duty, but requisite training standards shall be achieved prior to the official conduct of criminal investigations duties and fully certified/credentialed as a Tribal CI.

(5) **Criminal Investigators – Performance Evaluations.** The Contractor shall adhere to the general requirements of Tribal personnel systems and policies for officer annual performance evaluation/appraisal. If the Tribal personnel system does not contain equivalent provisions for performance evaluation/appraisals the following shall be used:

(a) The immediate supervisor for each commissioned criminal investigator shall complete an annual performance evaluation report for the officer. Each criminal investigator shall be evaluated according to standards consistent with the officer's position description and in accordance with tribal personnel policies and procedures. Evaluation criteria for criminal investigators may include, but are not limited to:

- (i) Investigations
- (ii) Arrests
- (iii) Court appearances
- (iv) Crime prevention
- (v) Knowledge of law
- (vi) Firearms
- (vii) Physical fitness
- (viii) Public relations
- (ix) Report writing
- (x) Execution of legal documents

(xi) Care and maintenance of equipment other than firearms.

(xii) Overall performance.

(b) Performance ratings shall be documented and placed in individual official personnel folders.

(6) **Court Services.** Court orders, warrants, and subpoenas that are submitted to the [TRIBE NAME] shall be served on those individuals, or executed, as directed by such notification. The Contractor's officers/agents shall serve only those court orders, warrants, and subpoenas that they have lawful authority to serve or execute.

L. **Law Enforcement Radio Communication and Dispatch.**

The law enforcement radio communications and dispatch function provides for operation of a police communication system that monitors incoming and outgoing information related to police business. If law enforcement radio communications and dispatch is provided by an outside entity (county, city, etc.), a memorandum of agreement containing essentially the same language as that listed below shall be entered into between the Contractor and the law enforcement agency providing the service.

{CHECK APPLICABLE BOX}:

The Contractor has contracted, but will not directly provide, the Radio Communications and Dispatch Operations, the Contractor shall enter into a memorandum of agreement with the appropriate local law enforcement entity to provide radio communication and dispatch services for the contracted program. Such agreement shall become an attachment to this Contract.

The BIA OJS shall provide law enforcement radio communications and dispatch services for the Contractor, at no cost to the Contractor.

The Contractor shall directly operate and provide the radio communication and dispatch services.

(1) Law enforcement radio communication and dispatch services shall be provided in accordance with defined

authority, procedures, and guidelines contained in Section B, Part 2 of this AFA.

- (2) **Administrative Duties – Radio Communications and Dispatch.** The Contractor shall:
- (a) Operate a law enforcement radio communications and dispatch system, which automatically tracks calls for service and is compliant with the National Incident Based Reporting System.
 - (b) Dispatch reported emergencies to the respective or appropriate law enforcement personnel or agency.
 - (c) Maintain all confidential information received or accessible by the law enforcement radio communications and dispatch personnel.
 - (d) Maintain accurate law enforcement files, records, and logs.
 - (e) Implement a manual of policies and procedures that will be utilized by all personnel within the system. These policies and procedures will be reviewed and updated annually to remain functional.
 - (f) Develop and maintain a method of performance evaluation for all personnel to meet the requirements of the law enforcement program.
 - (g) Ensure that compensation for Tribal radio communication and dispatch officers is comparable to that of BIA radio communication and dispatch officers.
 - (h) Ensure that no dispatch officer is permitted to work more than 12 hours in a 24-hour period, including all travel, training, and on-duty work.
- (3) **Training Requirements:** All employed telecommunications/dispatcher officers shall successfully complete the approved Basic Telecommunications Officer Training Program conducted at the IPA, or equivalent training, as determined by the IPA and the Deputy Bureau Director, OJS.

- (a) Communication/dispatcher personnel of any program funded by the BIA must not perform communication or dispatcher duties until they have completed a basic law enforcement training course prescribed by the Deputy Bureau Director, OJS.
- (b) Communications/dispatcher personnel who fail to complete the training required by this paragraph shall immediately be removed from the law enforcement position.
- (c) The Contractor shall ensure that all communications/dispatcher personnel receive mandatory supplemental and in-service training courses prescribed by the Deputy Bureau Director, OJS.

(4) **Law Enforcement Dispatcher – Performance Evaluations.**

The Contractor shall adhere to the general requirements of Tribal personnel systems and policies for communication/dispatcher annual performance evaluation/appraisal. If the Tribal personnel system does not contain equivalent provisions for performance evaluation/appraisals, the following shall be used:

- (a) The immediate supervisor for each communications/dispatcher officer shall complete an annual performance evaluation report for the officer. Each officer shall be evaluated according to standards consistent with the officer's position description and in accordance with Tribal personnel policies and procedures. Evaluation criteria may include, but are not limited to:
 - (i) Has professional appearance and demeanor with the public;
 - (ii) Maintains accurate service logs as prescribed by policy;
 - (iii) Applies proper protocol and procedures;
 - (iv) Has knowledge of the Federal Communications Commission regulations

pertaining to proper radio procedure and discipline;

(v) Can operate National Crime Information Center computer terminal;

(vi) Has knowledge of standardized operating procedures, rules, and methods to operate law enforcement telecommunication equipment, with emphasis on radio;

(vii) Has skill in record keeping, filing, and report writing;

(viii) Has skill in interacting effectively and professionally with the public, supervisor, and co-workers;

(ix) Overall performance.

(b) Performance ratings shall be documented and placed in individual official personnel folders.

M. People to Be Provided Services

The Contractor shall provide law enforcement services to all residents of and visitors to the **[NAME TRIBE]** reservation and trust lands, in accordance with the provisions of applicable Federal and Tribal laws, U.S. Supreme Court decisions, and other applicable Federal and Tribal case law.

N. Personnel Standards

(1) The Contractor will be responsible to ensure that, in accordance with 25 C.F.R. § 12.32, a thorough background investigation **no less stringent than required of a federal officer performing the same duties** is completed on applicants for all law enforcement positions authorized to carry out the duties as authorized by this contract. Requirements shall be met before the law enforcement officer's performance of any law enforcement duties.

(a) The Contractor shall comply with the provision of the Indian Child Protection and Family Violence

Prevention Act (ICPFVPA), 25 U.S.C. §§ 3201-3211 and 18 U.S.C. § 1169; 25 C.F.R. Part 63.

- (b) All applicants for any position, or employee, in the Contractor's law enforcement programs, including uniformed police, criminal investigators, radio communication/dispatch officers, law enforcement assistants, volunteers, janitors, and other support staff for law enforcement operations, whose duties and responsibilities would allow them regular contact or control over children, must be subject to a thorough background investigation that will capture disqualifying convictions as specified under the Indian Child Protection and Family Violence Prevention Act (ICPFVPA). See Personnel Standard (2) (c) below.
- (2) Any law enforcement officer (uniformed police, criminal investigator, dispatcher) employed by the Contractor must:

 - (a) Be a United States citizen;
 - (b) Possess a high school diploma or its equivalent;
 - (c) Not have been found guilty of, or entered a plea of *nolo contendere* or guilty to, any felonious offense, or two or more misdemeanor offenses, under Federal, state or Tribal law involving: crimes of violence, sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children;
 - (d) Not have been convicted of a misdemeanor crime of domestic violence, as defined in Title 18 of the United States Code, §§ 921(a)(33)(A) & (B) and § 922(g)(9);
 - (e) Not have been convicted of any offense, defined in Title 18 of the United States Code, Sections 922(g) through (h), which would constitute a disability from possessing or receiving a firearm or ammunition;
 - (f) Not have been convicted of a crime, the essential elements of which constitute a felony;
 - (g) Not have been convicted of an offense involving a child, a sex crime, or a drug felony;

- (h) Be free from physical, emotional, or mental conditions which might adversely affect their performance as law enforcement officers;
 - (i) Be certified by designated Tribal officials as having passed a comprehensive background investigation **no less stringent than required of a federal officer performing the same duties**. Such investigation must be documented and available for inspection by the BIA - OJS.
- (3) Persons appointed to sworn law enforcement positions must:
- (a) Be at least 21 years of age upon initial appointment to a law enforcement position; and
 - (b) Have documentation of duty weapons qualification if required to carry a duty weapon, which qualification must be current, meaning that it has not been longer than six months since the most recent qualification. **[See BIA Law Enforcement Handbook, Section 1-22 and 1-23]**
- (4) For positions requiring the operation of a government-furnished motor vehicle, employees must possess a valid state motor vehicle operator's license.
- (5) All law enforcement officers employed by the Contractor must meet the standards listed in the *BIA – OJS Law Enforcement Handbook*.
- (6) Before employment of any sworn law enforcement officer, a thorough background investigation which has been adjudicated and a favorable rating issued **no less stringent than required of a federal officer performing the same duties** shall be completed by the Contractor. Such investigation shall include, but are not limited to, Tribal, local, state, and Federal criminal history checks.
- (a) Background investigations as stipulated above shall comply with the following:

- (i) The background investigations must be adjudicated by trained and qualified security professionals.
 - (ii) The background investigations must be documented and available for inspection by the BIA.
- (b) A thorough background investigation consists of:
 - (i) Background checks/clearances through fingerprint charts (FD-258) must be conducted through the Assistant Director, Identification Division, Federal Bureau of Investigation, Washington, D.C. 20537.
 - (ii) Checks/clearances through the National Crime Information Center (NCIC), state criminal history centers and local police and court records, including Tribal courts, shall be conducted.
 - (iii) All background checks/clearances shall be recorded, documented and kept on file for each commissioned officer at the Contractor's police headquarters.
 - (iv) Careful review and documentation shall be made on each law enforcement applicant's education, employment, medical and military history, previous residences, organizations and affiliations, personal references, credit record and police record, including driver's license history and status.
 - (v) Background reviews may be conducted either by a written questionnaire or by personal interview with present and past supervisors and associates who have personal knowledge of the applicant's service record and character.
- (c) The Contractor shall update the background investigations of commissioned officers every five (5) years.

- (7) **Physical Examinations: Uniformed Police, Criminal Investigators, Correctional Officers.** Applicants for, and employees in, the uniformed police, criminal investigator, and correctional officer positions must be physically capable of performing the essential duties of the position efficiently and without hazard to themselves or to others. Failure to meet any of the required physical qualifications will usually be considered disqualifying for employment except when substantial evidence is presented that the individuals can perform the essential functions of the job efficiently and without hazard to themselves or others, with or without reasonable accommodation. **[See BIA Law Enforcement Services Handbook]**
- (a) **Eyes** – the distance vision must test at least 20/200 (Snellen) in each eye without corrections; at least 20/20 (Snellen) in one eye and 20/30 (Snellen) in the other eye with correction either by glasses or contact lenses. Near vision must be sufficient to read Jaeger Type 2 at 14 inches with correction by glasses or contact lenses permitted. Depth perception and ability to distinguish basic colors (color plate test or equivalent tests) are essential.
- (b) **Ears** – Without the use of a hearing aid, applicants and incumbents must demonstrate no permanent hearing loss of 35 or more decibels in either ear at the 500, 1000, 2000, and 3000 frequencies.
- (c) **Nose, Mouth and Throat** - Distinct speech and free breathing are required. The following remediable conditions must be corrected before appointment for applicants, or for incumbents, when noted in regularly scheduled physical examinations: caries, pyorrhea, pus pockets around roots, other foci of infection or Vincent's disease. The presence of any serious acute or chronic disease or functional abnormality of the eyes, ears, nose, mouth, throat or gross obesity that would interfere with the full performance of essential duties of the position will be reasons for rejection on medical grounds.
- (d) **Extremities and Spine** – Any deformity or disease which would interfere with range of motion, or dexterity, or which would affect adversely the full

performance of essential duties of the position are reasons for rejections.

- (e) **Heart and Blood Vessels** – Any of the following conditions which would affect adversely the full performance of essential duties of the position are reasons for medical rejection: a history or presence of organic heart disease, compensated or not; valvular heart disease; cardiac murmurs except those of the physiologic type; diseases or abnormal condition of the heart muscle or blood vessels; angina pectoris; cardiac arrhythmia, or persistent pulse rate of 110 or over or under 50 in the recumbent position; or persistent hypertension above 150 systolic or 90 diastolic, or below 100 systolic or 60 diastolic in the recumbent position.
- (f) **Respiratory System** – Any chronic disease or conditions affecting the respiratory system, which would impair the full performance of essential duties of the position, are reasons for rejection. Examples are conditions which result in reduced pulmonary functions, shortness of breath, or painful respiration.
- (g) **Genito-urinary System.** Any of the following conditions which would affect performance of essential duties of the position are reasons for rejection: significant acute or chronic genito-urinary diseases or abnormalities, including enuresis and urinary incontinence; presence of albumin, sugar, pus, casts or blood in the urine, enlarged prostate; large painful varicocele or hydrocele; venereal disease. Urinalysis will be made at time of appointment and during regularly scheduled physical examinations.
- (h) **Nervous System** – Applicants and incumbents must be free from acute or chronic psychiatric condition or any mental or neurological condition, which would be a hindrance to the full performance of essential duties of the position.
- (i) **Other Defects:** Any physical defect which indicates a high probability for recurrence of symptoms that may adversely affect the full performance of essential

duties of the position is reason for rejection. Examples of physical defects to be considered include: hernia, ulcer, and diabetes.

- (j) Remediable defects or curable disease will not exclude a person from examination, but proof that such defects have been remedied, or the disease cured, must be received before persons otherwise qualified may be considered for appointment.
- (k) Any physical condition which would cause an applicant or an incumbent to be a hazard to himself or herself is a reason for rejection. A physical examination with subsequent evaluations by a physician is required before a decision will be made whether or not an employment commitment is to be given.
- (l) Applicants and employees must pass a Physical Efficiency Battery (PEB) developed by the Federal Law Enforcement Training Center.

(8) **Physical Fitness Requirements for Uniformed Police, Criminal Investigators, and Correctional Officers**

- (a) Employees who are 40 years old or younger and who are physically active as defined in this section must take the Heart Disease Risk Profile, the RSKO (Heart Disease Risk Profile) and Physical Activity Readiness Questionnaire evaluations before entering the fitness/testing program (**See *BIA Law Enforcement Services Handbook***).
 - (i) If the RSKO indicates a score of "Risk Moderate" (score of 31 or less) and all answers on the Par Q are no, the employee may test and participate.
 - (ii) If the RSKO indicates a score of "Greater than Average" (score of 32 or higher) or one or more answers on the Par Q are yes, the employee needs a physician's clearance before entering the testing and fitness program.

- (b) Employees who are pregnant regardless of age or level of fitness must receive a medical clearance before participating in the testing and fitness program.
- (c) Employees who are 40 years old or younger but not **presently active** as defined in this section must obtain a physician's screening for arduous duties and a medical examination (including blood analysis) during the 18 month period before entering the required testing program **and** must take the RSKO and Par Q evaluations immediately prior to taking any Physical Efficiency Battery (PEB) test.
 - (i) If the RSKO indicates a score of "Risk Generally Average" and/or one or more of the answers on the Par Q are yes, the employee needs a physician's clearance before entering the testing and fitness program.
 - (ii) The PEB is offered by the Federal Law Enforcement Training Center.
- (d) Employees who are 41 years old or older must obtain a medical examination (including blood analysis) and/or obtain a physician's clearance to participate immediately before entering the required testing program and must pass a stress electrocardiogram (EKG) exam before taking the first PEB test, if required by a physician.
 - (i) Employees in this category must take an arduous duty medical examination every three years thereafter, but law enforcement supervisors are authorized to require and/or permit medical examinations more often than every three years for those in high-risk medical categories, i.e., employees who have high blood pressure or heart trouble, who have an inactive lifestyle, or who have short or long-term physical medical problems.
 - (ii) Supervisors can obtain the medical information needed to make such a determination under the provisions provided in the applicable personnel regulations.

- (e) These medical examinations do not satisfy the requirements for annual physical examinations without the additional requirements identified in the applicable personnel regulations.
 - (g) To meet the personnel requirement that physical examination requirements be applied uniformly, results of the physical examination must be forwarded to the physician designated by the Director, for a medical determination as to whether or not the applicant/employee meets the established physical requirements.
 - (h) To avoid duplication of medical examinations, those who are in occupations with approved physical standards must have the physical examination and the fitness medical examination done at the same time. The examining physician follows the more restrictive medical standard.
- (9) An annual medical examination shall be completed for each commissioned officer to ensure fitness for duty. Medical certificates shall be placed in individual official personnel folders.

O. Record Keeping

- (1) The Contractor shall maintain a record keeping system, which will produce the following information:
 - (a) Number of Tribal arrests;
 - (b) Number of Federal misdemeanor or felony arrests (if the Contractor's employees are authorized to enforce Federal law);
 - (c) Number of traffic accidents and other pertinent information;
 - (d) Number of calls for service;
 - (e) Types of calls for service;

- (f) Number of Federal felonies investigated, if the Contractor's employees are authorized, under a BIA Special Law Enforcement Commission, to investigate violations of Federal law;
 - (g) Number of court services (including warrants, subpoenas, court orders);
 - (h) Number of prisoners transported;
 - (i) Number of prisoners incarcerated and daily detention records;
 - (j) Number of prisoner meals served;
 - (k) Police investigative reports;
 - (l) Radio logs;
 - (m) Annual facilities maintenance report;
- (2) The Contractor shall also be responsible for maintaining and securing the following law enforcement records and shall make them available for inspection:
- (a) Dispatcher logs;
 - (b) Daily officer reports;
 - (c) Case Reports, including arrests, investigations, and incident records;
 - (d) Juvenile records;
 - (e) Personal arrest and disposition records;
 - (f) Evidence records/logs;
 - (g) Booking logs;
 - (h) Payroll records;
 - (i) Reports of all traffic accidents investigated;
 - (j) Individual background investigation records;

- (k) Training records;
- (l) Codes of Conduct;
- (m) Jailor logs (inmate checks);
- (n) Government-furnished property inventory list (Tribal);
- (o) Employee performance appraisal files;
- (p) Inmate medical records/issuance of prescribed medication;
- (q) Purchase orders;
- (r) Firearms qualification records;
- (s) Vehicle operator's maintenance records;
- (t) Community policing activities;
- (u) Serious Incident Report logs;
- (v) Other law enforcement records as specified in SECTION D., Section 1., A. (1) – (4).

P. Procedures for Modifying Contract to Include Innovative Methods.

- (1) The Contractor may propose innovative methods for performing the Contract. Examples of innovative methods, not already authorized by this Contract, include canine units; use of airplanes and helicopters; special response teams, otherwise known as SWAT teams; use of specialized equipment, such as fully automatic machine guns; other specialized law enforcement units or programs; non-secure detention by home monitoring and use of ankle bracelets; or carrying firearms during transport of prisoners.
- (2) Before implementing any such innovative methods, The Contractor shall provide written proposals to the Awarding Official and the appropriate Special Agent in Charge, BIA - OJS, for review, negotiation and, if both parties agree, modification of the contract.

- (3) Any innovative methods intended to replace procedures expressly provided for in the Contract shall be approved by the Deputy Bureau Director, BIA – OJS through the appropriate District Special Agent in Charge (Approving Official) before the Contract is modified to incorporate such methods.
- (4) Before any innovative methods are approved and incorporated into the Contract, the Contractor must develop policies and procedures for each such method, which must be approved by the BIA – OJS before modification to the contract is authorized and approved.

Q. Performance Inspection and Evaluation.

- (1) A performance inspection and evaluation of all programs included in the Contract will be made upon request of the Contractor.
 - (a) If requested by the Contractor, such inspection and evaluation shall be conducted by the BIA - OJS District Special Agent in Charge, in accordance with the BIA – OJS Law Enforcement Handbook standards.
 - (b) The inspection and evaluation shall be made on a date mutually agreed upon between the Contractor and the BIA - OJS.
 - (c) Any compliance issues shall be presented to the Contractor, the Special Agent in Charge in whose district the Contractor is located, and the Awarding Official. Where mandatory standards have not been met, the Contractor will provide a corrective action plan to the Inspection and Evaluation team, the Special Agent in Charge, and the Awarding Official, within the time specified by the Inspection and Evaluation team.
 - (d) The Contractor may request, and the Special Agent in Charge will then be obligated to provide, technical assistance to develop and implement the corrective action plan.

- (2) This inspection and evaluation will be in addition to the annual monitoring report required under this Contract. See SECTION C., Section 4. B., Monitoring, below.

R. Weapons Management and Certification.

- (1) The Contractor shall follow the requirements of the **[TRIBE NAME]** Police Department Firearms and Chemical Weapons Policies with respect to weapons management, including firearms, oleoresin capsicum, mace, or other such chemical weapons, and certification for such weapons.
 - (a) The Contractor will follow the **[TRIBE NAME]** management policies for sensitive equipment (in compliance with 25 C.F.R. 900 Subpart F), which include firearms, chemical weapons, and vehicles.
 - (b) Written authorization to carry firearms or chemical weapons shall be approved in accordance with the **[TRIBE NAME]** Police Department Firearms and Chemical Weapons Policy Manual of Rules & Regulations regarding weapons management.
- (2) The **[TRIBE NAME]** Chief of Police shall conduct an administrative investigation of all shootings involving the Contractor's law enforcement officers. A copy of the administrative investigative report shall be submitted to the Special Agent in Charge, District **[#]**, within fourteen (14) days of the incident. This investigation will be in conjunction with any outside investigation being conducted by BIA Professional Standards Division and the Federal Bureau of Investigation.

S. Enforcement of Federal Statutes

The Contractor and its law enforcement personnel operating under this agreement who have successfully completed appropriate training from the United States Indian Police Academy (IPA) or equivalent training which meets appropriate Peace Officer Standards of Training (POST) and is supplemented by instruction regarding Federal sources of authority and jurisdiction, Federal crimes, Federal rules of criminal procedure, and constitutional law to bridge the gap between state training and Federal requirements, and received a favorable adjudicated background investigation **no**

less stringent than required of a federal officer/special agent performing the same duties are authorized to enforce Title 18, Chapter 53 of the United States Code and investigate violations thereunder once commissioned by the BIA – OJS or after receiving a Special Law Enforcement Commission (SLEC) from BIA - OJS.

Part 3. Contract Term. This Contract shall be for the term commencing **[October 1, XXXX/January 1, XXXX]** and ending **[September 30, XXXX/December 31, XXXX]** with an annual submission of a Successor AFA proposal [Per 25 CFR 900.12] on **July 1st/October 1st** of each successor YEAR.

Part 4. Non-Contracted Portions of the Bureau of Indian Affairs Program(s). The Government, through the BIA, shall retain responsibility for the following (non-contracted) programs:

[IDENTIFY – IF APPLICABLE]

Part 5. Technical Assistance and Monitoring. The Government, through the BIA, shall:

- A. Technical Assistance.** Provide technical assistance and guidance, as needed, to the Contractor. The Awarding Official and/or the Awarding Official's Technical Representative (AOTR) will be available to provide assistance to the Contractor as needed, or upon written request of the Contractor.
- B. Monitoring.** The Awarding Official and/or the AOTR will monitor Contractor performance under this Contract. This monitoring function will include, but not be limited to, the following:
 - (1)** Periodic on-site technical assistance visits, as needed and/or requested by the Contractor.
 - (2)** On an annual basis, at least one (1) Official Monitoring Session, which shall be scheduled in advance of the visit.
 - (a)** An Official Monitoring Session of the law enforcement-specific aspects of the Contractor's program(s) shall be conducted by a team headed by the AOTR.
 - (b)** Where contractual programmatic standards have not been met, the Contractor will provide a corrective action plan to the AOTR and the Awarding Official,

within the time specified by the Awarding Official and the AOTR.

- (c) The Contractor can request, and the AOTR will then be obligated to provide, technical assistance to develop and implement the corrective action plan.

SECTION D Performance

Part 1. Reporting Requirement.

- A. The Contractor will submit the following law enforcement specific reports *electronically via Email to the BIA OJS UCR Reports Coordinator*, through the **[District ____]** Office in **[CITY/LOCATION]**. These reports are tracked, maintained and provided by the BIA OJS District Office to the Deputy Bureau Director, OJS per reporting requirements at 25 CFR §12.41.
- (1) **Monthly crime statistical data report** - compiled in accordance with Department of the Interior guidelines, and using the BIA OJS forms.
 - (a) These reports shall be DUE on the 7th of the month following the month for which the report is due.
 - (b) Information derived from this report will be essential for programming budget requests to Congress for subsequent fiscal periods.
 - (2) **Monthly OJS Report** – compiled in accordance with Department of the Interior guidelines
 - (a) This report shall be DUE on the 7th of the month following the month for which the report is due.
 - (3) **Monthly Department of the Interior Drug Report** - These reports shall be DUE on the 7th of the month following the month for which the report is due.
 - (4) **Annual statistical data report** - compiled in accordance with Department of the Interior guidelines.
 - (a) These reports shall be DUE no later than the 7th day of September in the current fiscal/calendar year
 - (b) Information derived from this report will be essential for programming budget requests for subsequent fiscal periods.

- (5) **Annual Federal Law Enforcement Officers Killed and Assaulted Report** – compiled in accordance with the Department of the Interior guidelines
- (a) These reports shall be due no later than the 7th day of September of the current fiscal/calendar year.
- (6) **Serious Incident Report** - All incidents of the type and nature described below which occur in Indian country are immediately reported (within 24 hours) by the field office in charge of the incident, to the Deputy Bureau Director, OJS, through the Special Agent in Charge, **[DISTRICT _#_]** in the most expeditious manner available.
- (a) Serious crimes against persons which have the potential to become high profile cases. *The term serious crime means a criminal offense that involves personal violence, attempted or threatened personal violence, or significant property loss.*
- (b) Major, or unusual, drug seizures or drug-related arrests in which the value, amount, or circumstances of the seizure has the potential to attract significant media or political attention.
- (c) Serious incidents or accidents, or major events involving senior state, Federal, or foreign political government officials or their families.
- (d) Actual, attempted or planned terrorist activity, sabotage or other hostile acts.
- (e) Significant law enforcement events, which require, or may require, the dispatch of specially trained teams to augment normal law enforcement capabilities.
- (f) Major natural, or human caused, disasters - excluding wildfires - which cause, or have the potential to cause, significant loss of life, injuries, or property damage.
- (g) The death of, or life-threatening injury to, any law enforcement officer incurred during the performance of duty.

- (h) The discharge of a firearm by an officer toward another individual, or the use of a weapon by another individual against an officer or employee.
- (i) Any use of force by an officer that result in serious physical injury or death to another individual. *The term serious physical injury means physical injury which creates a substantial risk of death, or causes death, or which is likely to cause serious and protracted disfigurement, or extended impairment of the function of any bodily limb or organ.*

B. Quarterly Federal Financial Report (SF-425). The Contractor shall submit these reports to the Awarding Official through the AOTR. The report shall detail funds expended to date of report, balance remaining, and status of payments, clearly distinguishing between direct program and contract support cost expenditures, using Form SF-425.

- (1) These reports shall be submitted on a quarterly basis in accordance with the **Fiscal Year** as follows: **Quarter 1: Due January 15; Quarter 2: Due April 15; Quarter 3: Due July 15 and Quarter 4/Final: Due October 15 [For Calendar Year contracts the Quarters differ]**
- (2) The fourth quarter SF-425 shall serve as a final financial status report, unless a subsequent report is submitted and designated as such.
- (3) Attached to the SF-425 shall be a detailed expenditure report that identifies the Contractor's name, contract number, the date, period for which costs are incurred, and an itemization of expenditures as referenced in the budget.

Part 2. Audit Requirement.

A. The Contractor agrees to arrange for, participate fully in, and respond promptly and fully to the recommendations of, an annual single organization-wide audit as prescribed by the Single Audit Act Amendments of 1996 (P.L. 104-156), as implemented by 2 C.F.R. part 200 subpart F. The costs of such audit are allowable charges only if made in accordance with the provisions of 2 C.F.R. part 200. Indian-owned, small, and minority business audit firms shall be afforded maximum practicable opportunity to participate in contracts awarded by the Contractor to fulfill the requirements

herein. The preference requirements of section 7(b), Public Law 93-638, shall apply and are to be enforced.

- B.** If the Contractor fails to comply with the requirement for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (P.L. 104-156) – **DUE DATE** is 9 months after the audit report period ends, the BIA may take one or more of the following actions, as appropriate in the circumstances:
- (1) Temporarily withhold cash payments, indirect costs and/or contract support cost funds pending correction of the deficiency by the contractor or more severe enforcement action by the Bureau;
 - (2) Disallow (that is, deny use of funds) all or part of the cost of the activity or action not in compliance;
 - (3) Wholly or partly suspend the Contract;
 - (4) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations;
 - (5) Withhold further Federal awards for the project or program;
or
 - (6) Take other remedies that may be legally available.
- C.** The Contractor may appeal the BIA decision for sanctions under the Disputes clause of the Contract.
- D.** Submission of Final Audit Reports.
- (1) The Contractor shall submit one (1) copy of the final audit report with Form SF-SAC (Data Collection Form) within thirty (30) days after issuance to:

**Federal Audit Clearinghouse
U.S. Bureau of the Census
1201 East Tenth Street
Jeffersonville, Indiana 47132
Attention: Single Audit Clearinghouse
WEB: <http://harvester.census.gov/sac>**

- (2) The Contractor shall also submit a copy of the final audit report for each funding agency that has a finding, either current or prior year, related to the grant/contracts provided by them.
- E. The Contractor must send two (2) copies of the audit reports to the Office of Internal Evaluation and Assessment to meet the reporting requirements of the Indian Self-Determination and Education Assistance Act. The address is:

**Office of Internal Evaluation and Assessment
U. S. Department of the Interior
12220 Sunrise Valley Drive
Reston, VA 20191
Email: oiea@bia.gov**

Part 3. Monitoring and Records Review.

- A. The Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Contract. The foregoing constitute “records” for the purposes of this clause.
- B. The Contractor’s facilities, or such part thereof as may be engaged in the performance of this Contract, and records shall be subject at all reasonable times to inspection and audit by the Awarding Official or authorized technical representatives of the Awarding Official.
- C. The Contractor shall preserve and make available records:
 - (1) Until the expiration of three years from the date of final payment under this contract, or of the time period for the particular records specified in 25 CFR 900.41(a-d), whichever expires earlier; and
 - (2) For such longer period, if any, as is required:
 - (a) By applicable statute;
 - (b) By other clauses of this Contract;
 - (c) If the Contract is completely or partially canceled, the records relating to the work terminated shall be

preserved and made available for a period of three years from the date of any resulting final settlement; or

(d) Records which relate to (A) appeals under the “Disputes” clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this Contract, or (C) costs and expenses of this Contract as to which exception has been taken by the Awarding Official or a duly authorized technical representative of the Awarding Official, shall be retained until such appeals, litigation, claims or exceptions have been disposed of.

D. The Contractor shall insert the substance of this clause, including the whole of this paragraph D., in each subcontract hereunder that is not firm-fixed-price or fixed-price with escalation. When so inserted, changes shall be made to designate the higher-tier subcontractor at the level involved in place of the Contractor; to add “of the Government prime contract” after “Awarding Official,” and to substitute “the Government prime contract” in place of “this Contract” in (B) of paragraph C. (2) (d) above.

Part 4. Examination of Records.

A. The Contractor agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of this Contract (hereinafter collectively called records) to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under this Contract.

B. The Contractor agrees to make available at the office of the Contractor at all reasonable times during the period set forth in subparagraph (4), below, any of the records for inspection, audit or reproduction by any authorized representative of the Comptroller General, the Secretary of the Interior and the Awarding Official.

C. If the Comptroller General or any of his duly authorized representatives determines that the audit of the amounts reimbursed under this Contract as transportation charges will be made at a place other than the office of the Contractor, the Contractor agrees to deliver, with the reimbursement voucher covering such charges, or as may be otherwise specified within two

years after reimbursement of charges covered by any such voucher, to such representatives as may be designated for that purpose through the Awarding Official, such documentary evidence in support of transportation costs as may be required by the Comptroller General or any authorized representative of the Comptroller General.

- D.** Except for documentary evidence delivered to the Government pursuant to paragraph (C), above, the Contractor shall preserve and make available records:
- (1)** Until the expiration of three years after final payment under this contract; and,
 - (b)** For such longer period, if any, as is required by applicable statutes, by any other clause of this Contract, or by (i) or (ii) below:
 - (i)** If this Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting settlement.
 - (ii)** Records which relate to:
 - (A)** Appeals under the Disputes clause of this Contract;
 - (B)** Litigation or the settlement of claims arising out of the performance of this Contract; or
 - (C)** Costs and expenses of this Contract to which exception has been taken by the Comptroller General, Secretary of the Interior or the Awarding Official, or any of their duly authorized representatives, shall be retained by the Contractor until such appeals, litigation, claims or exceptions have been disposed of.
 - (2)** Except for documentary evidence delivered pursuant to subparagraph (3), above, and the records described in subparagraph (4)(b)(ii), above, the Contractor may, in

fulfillment of the obligation to retain records as required by this clause, substitute photographs, micro-photographs, or other authentic reproductions of such records, after the expiration of two years following the last days of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Awarding Official with the concurrence of the Comptroller General or the authorized representative of the Comptroller General.

Part 5. Mature Contracts. This Contract may be converted to "Mature Contract" status, upon the written request of the Contractor, when this Contract meets the requirements specified in P.L. 93-638, as amended, in Title I, section 4(h), restated in this contract (see Section A, Definition of Terms, Section 1., Definitions).

Part 6. Contract Termination.
This Contract may be terminated through either:

- A. Retrocession as provided in P.L. 93-638, as amended, in Title I, section 105(e), and in 25 CFR part 900 subpart P or
- B. Program reassumption as provided in P.L. 93-638, as amended, in Title I, section 109, and 25 CFR part 900 subpart P

Part 7. Drivers License Requirements for Non-Federal Personnel.

- A. All employees must possess a safe driving record and a valid state driver's license when operating a motor vehicle in the performance of this Contract.
 - (1) The term "safe driving record" is defined as no more than three serious moving violations and no convictions for DUI/DWI within the past three-year period.
 - (2) The term "operator," as used in this policy means all full-time, part-time, intermittent, administratively determined, and volunteer employees of the Contractor.
 - (3) The term "serious moving violations(s)" shall be defined as defined by the jurisdiction that cited and convicted the operator of a serious moving violation.
- B. The requirements for employees of the Contractor to possess and maintain a current valid driver's license is a condition of

employment for those individuals required to operate a motor vehicle in the performance of their duties.

Part 8. Bureau of Indian Affairs (BIA) Safe Motor Vehicle Operation Policy

The Contractor certifies that it will self-administer a motor vehicle policy that promotes the safe and prudent operations of a motor vehicle while performing duties to implement the terms of this Contract. The Contractor's policy is either as stringent as or more stringent than the May 3, 2006 Motor Vehicle Operation Policy for the BIA issued by the Associate Deputy Secretary.

Part 9. Effect on Existing Rights. Nothing in the Contract shall be construed as:

- A. Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian Tribe; or,
- B. Authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

Part 10. Trust Records Management. The Contractor agrees that records made or received by the Contractor which evidence the organization, functions, policies, decisions, procedures, operations or other activities undertaken in the performance of Federal Indian trust functions will be preserved and maintained in accordance with trust regulations published in the Federal Register on January 22, 2001, and the Federal Records Act or other applicable Federal law. The Contractor agrees to work cooperatively with the Department of the Interior (Department) in records creation, maintenance and disposition training activities.

Part 11. Applicable Federal Regulations.

- A. **Self-Determination Regulations.** The regulations promulgated to implement P.L. 93-638, as amended, 25 CFR part 900 shall apply to this Contract unless, and to the extent, such regulations have been expressly waived.
- B. **Program Regulations.** The most current regulations promulgated to implement any program(s) incorporated into this Contract shall apply to the operation of such program(s) unless, and to the extent, such regulations have been expressly waived.

Part 12. Sanctions for Non-Compliance.

- A. If the Contractor fails to comply with Federal statutes, regulations or the terms and conditions of the contract, the Awarding Official on

the recommendation of the AOTR may impose any of the following additional conditions:

- (1) Requiring payments as reimbursements rather than advance payments;
- (2) Requiring additional, more detailed financial reports;
- (3) Requiring additional project monitoring;
- (4) Requiring the Contractor to obtain technical or management assistance; or
- (5) Establishing additional prior approvals.

B. When the Awarding Official on the recommendation of the AOTR imposes additional conditions, they will notify the contractor as to:

- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;
- (3) The nature of the action needed to remove the additional requirement, if applicable;
- (4) The time allowed for completing the action if applicable, and
- (5) The method for requesting reconsideration of the additional requirements imposed.

C. If the Awarding Official determines that noncompliance cannot be remedied by imposing additional conditions, the Awarding Official may take one or more of the following actions, as appropriate in the circumstances:

- (1) Temporarily withhold cash payments pending correction of the deficiency by the Contractor or more severe enforcement action by the Awarding Official or AOTR.
- (2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity not in compliance.
- (3) Wholly or partly suspend or terminate the Contract.

- (4) Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations.
- (5) Withhold further Federal awards for the Contract.
- (6) Take other remedies that may be legally available.

SECTION E
Administration Data

Part 1. Awarding Official's Technical Representative (AOTR).

- A. **[NAME], SPECIAL AGENT IN CHARGE** is designated as the authorized technical representative (AOTR) of the Awarding Official for this contract.

Part 2. Contract Payment. For performing this Contract, the Contractor shall be reimbursed for its allowable direct and indirect costs, not to exceed the total budgeted amount of the Contract. The total budget amount of this Contract is stated in Item 15F of the SF-26, Award/Contract or, if amended, as stated in Item 14 of the SF-30, Amendment of Solicitation/Modification of Contract.

- A. **Payment System:** Contract payments shall be made to the Contractor through the Automated Standard Application for Payments (ASAP) system. As such, the Contractor must have a current DUNS # and maintain an active registration in the Central Contractor Registry (CCR) [Reference www.sam.gov]
- B. **Use of Funds Advanced:** Funds advanced to the Contractor shall be used only for purposes authorized under this Contract. The funds advanced cannot be used for any purpose other than an authorized Bureau program expenditure, even on a temporary basis. Further, funds advanced pending disbursement for a purpose authorized under this Contract shall not be transferred to Tribal accounts, lent to such Tribal accounts, or expended for programs or purposes not specifically authorized under this Contract. Funds advanced, pending expenditure under this Contract, shall be placed in appropriate savings, checking, or investment accounts. Such funds when invested or deposited shall be subject to the following:
- (1) Advanced funds not immediately spent for program activities may be invested only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed by the United States.
- (2) If not invested, advanced funds must be deposited only into

accounts that are insured by an agency or instrumentality of the United States, or must be fully collateralized to ensure protection of the funds, even in the event of a bank failure.

- (3) Interest and investment income that accrue on any funds provided for by contract become the property of the Contractor pursuant to P.L. 93-638, as amended, in Title I, Section 105(b) of the Act.

C. **Sanctions**: Failure to maintain the integrity of contract funds shall result in imposition of one or more of the following sanctions:

- (1) Pursuant to Section 5(d) of Public Law 93-638, as amended (25 USC § 5305(d)), funds paid to the Contractor and not used for the purposes for which they were paid shall be repaid to the Treasury of the United States; and,
- (2) Cancellation of Advance Payment methodology and invocation of “other payment methodologies” as provided in Section E, Section 2, above.
- (3) Sanctions shall remain in place until the Contractor provides assurance that the impropriety which resulted in the imposition of sanctions has been rectified and will not recur.

Part 3. Contract Revision or Amendment.

- A. This Contract may be revised or amended as required to carry out the purpose of the program, project or function being contracted. The Contractor shall submit proposed revisions through the AOTR to the Awarding Official. The Contractor (if other than the tribal governing body) shall also send copies of the proposed revision to the designated representative of the Tribal governing body at the same time as they are sent to the Awarding Official. The Awarding Official shall review the proposed revision in accordance with 25 CFR part 900 subpart E.
- B. When the Awarding Official recommends declination of a Contractor's request to amend the contract, the matter shall be resolved as prescribed Section 102(b) of the Act and in accord with 25 CFR part 900 subpart E.

Part 4. Negotiated Indirect Cost Rates.

- A.** The allowable indirect contract support costs under this contract shall be calculated by applying negotiated indirect cost rates to bases agreed upon by the parties, as specified below.
- B.** Negotiation of indirect cost rates by the Contractor and the cognizant Federal agency shall be undertaken as promptly as practicable after the cognizant Federal agency's receipt of the Contractor's indirect cost proposal.
- C.** Allowability of cost and cost allocation methods shall be determined in accordance with 2 CFR part 200.
- D.** The results of each negotiation shall be set forth in an Indirect Cost Negotiation Agreement. Such agreement shall become a part of this Contract by reference. The agreement shall specify:
 - (1)** The agreed indirect cost rate(s);
 - (2)** The base to which the rate(s) apply;
 - (3)** The periods for which the rate(s) apply; and,
 - (4)** The specific items treated as exclusions or any changes in the items previously agreed to be treated as exclusions.
- E.** The Contractor is to be reimbursed for all reasonable, allocable and allowable indirect costs incurred in performance of this Contract, subject to any statutory limitations applicable.
- F.** Any failure by the parties to agree on any indirect cost rate(s) or applicability of the rate(s) to the bases under this provision shall be considered a dispute concerning a question of fact for decision by the Awarding Official within the meaning of the clause of this contract entitled "Disputes."

Part 5. Disputes. This Contract is subject to 25 CFR part 900 subpart N.

- A.** All disputes arising under or relating to this Contract shall be resolved under 25 CFR part 900 subpart N.
- B.** The Contractor shall proceed diligently with performance of this Contract, pending final resolution of any request for relief, claim,

appeal, or action arising under the Contract, and comply with any decision of the Awarding Official pending resolution of any appeal.

Part 6. Payment of Interest on Contractor's Claim. If an appeal is filed by the Contractor from a final decision of the Awarding Official under the disputes clause of this Contract, denying a claim arising under the Contract, interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. The procedures specified at 25 CFR 900.228 shall be followed.

- A. Interest shall be applied only from the date payment was due, if such date is later than the filing of the appeal; and,
- B. Interest shall not be paid for any period of time that the Awarding Official determines the Contractor has unduly delayed in pursuing remedies before a board of contract appeals or a court of competent jurisdiction.

Part 7. Retrocession. The Contractor agrees to comply with the provisions of P.L. 93-638, as amended, in Title I, section 105(e), and the procedures in 25 CFR part 900 subpart P in the event of retrocession.

Part 8. Reassumption. The Contractor agrees to comply with the provisions of P.L. 93-638, as amended, in Title I, section 109 of the Act, and the procedures in 25 CFR part 900 subpart P in the event of reassumption.

Part 9. Federal Tort Claims Act (FTCA):

- A. **FTCA Coverage:** For purposes of FTCA coverage, the Contractor and its employees are deemed to be employees of the Federal government while carrying out this contract and acting within the scope of the contract and their employment. This status is not changed by the source of the funds used by the Contractor to pay the employee's salary and benefits unless the employee receives additional compensation for performing covered services from anyone other than the Contractor. Coverage under 28 U.S.C. § 2680(h) for intentional torts is available to the extent authorized by Federal law for tribal law enforcement officers who hold a valid and current BIA - OJS certification. Certification includes successfully completing the training requirements outlined in Section C, Part 2(J)(4) of this AFA and received a favorable rating on the adjudicated background investigation **no less stringent than required of a federal officer performing the same duties.**

- B. **FTCA Liaison:** In accordance with the requirement in 25 CFR 900.188(a), the Contractor agrees to designate an individual to serve as the tort claims liaison with the Federal government. The tort claims liaison shall provide the assistance specified in 25 CFR 900.188(c).

Part 10. Vehicle Operation - Seatbelt Use Requirement:

- A. **Vehicle Operation.** The Contractor, its employees and recipients of sub-awards who, in the course of performance of their duties, are required to operate Contractor-owned or rented vehicles, or who use personally owned motor vehicles in the performance of duties under this Contract, must have a valid motor vehicle operator's license.
- B. **Seatbelt Use Requirement.** The Contractor, its employees and recipients of sub-awards, are encouraged to adopt and enforce on-the-job seat belt use policies and procedures for their employees when operating Contractor-owned or rented vehicles, or when using personally owned motor vehicles, in the performance of duties under this Contract. These measures include, but are not limited to, conducting education, awareness, and other appropriate activities for their employees regarding the importance of wearing seat belts and the consequences of not wearing them.

- Part 11. Insurance:** The Contractor is encouraged to obtain insurance from an insurance provider that is licensed by the State Insurance Commission or State Insurance Board in the State in which the Contractor is located and where the work is to be performed.

SECTION F
Special Requirements

Part 1. Management Systems. The Contractor shall provide copies of the most recent versions of the following management system Policies and Procedures Manuals:

A. Personnel Manual.

- Previously submitted, and on file at the BIA.
- Attached.

B. Property Manual.

- Previously submitted, and on file at the BIA.
- Attached.

C. Procurement Manual.

- Previously submitted, and on file at the BIA.
- Attached.

D. Record Keeping Policy.

- Previously submitted, and on file at the BIA.
- Attached.

E. Travel Policy.

- Previously submitted, and on file at the BIA.
- Attached.

Part 2. Finance System Certification. The Contractor may submit Certification by a licensed accountant that its bookkeeping and accounting procedures meet the standards of 25 CFR part 900 subpart F. The bookkeeping and accounting system shall provide for the accumulation of costs throughout the contract term or performance period in such a manner as to facilitate audit or review of the financial records.

Check one of the following:

- Certification previously submitted, and on file at the BIA.
- Certification attached.

Part 3. Record Keeping. The Contractor agrees to keep such records as required pursuant to P.L. 93-638, as amended, Title I, Section 108 (c), Section 1(b)(7)(A), to make reports required by P.L. 93-638, as amended, in Title I, Section 5(a)(1) and (2), and (f) (1) and (2), of the Act as amended, and Section D, Section 1 of this Contract, and to make such information and reports available to the Indian clients as required by Section 5(c) of P.L. 93-638, as amended. The Contractor shall maintain records to facilitate retrocession or reassumption, if such occurs. The Contractor's recordkeeping system, at a minimum, shall:

- A. Provide for the creation, maintenance and safeguarding of records of lasting value, including those involving individual rights, such as permanent student records and transcripts.
- B. Provide for orderly retirement of records used or created under the Contract. Such records shall be returned to the Bureau for disposition according to the General Records Schedules and the Bureau Records Control Schedule.

Part 4. Privacy Act Requirements. P.L. 93-638, as amended, Title I, Section 108 (b) of the Act states that records of the Tribal government or Tribal organizations shall not be considered Federal records for the purposes of the Privacy Act (5 U.S.C. 552a).

Part 5. Freedom of Information. Access to records maintained by the Bureau is governed by the Freedom of Information Act (FOIA). Except for previously provided copies of Tribal records that the Bureau demonstrates are clearly required to be maintained as part of the record-keeping system of the Bureau, records of the Contractor (including archived records) shall not be considered Federal records for the purpose of the FOIA.

SECTION G

Other Attachments (Identify Attachments and include – delete the remaining)

- Attachment G-1. Contractor's Budget Funding Request
- Attachment G-2.
- Attachment G-3.
- Attachment G-4.
- Attachment G-5.
- Attachment G-6.
- Attachment G-7.
- Attachment G-8.
- Attachment G-9.
- Attachment G-10.
- Attachment G-11.
- Attachment G-12.
- Attachment G-13.
- Attachment G-14.