

(c) An application from a Bureau-funded school may be submitted directly to the Secretary.

(Authority: 20 U.S.C. 2313(b)(1); 25 U.S.C. 450b)

Subpart C—How Does the Secretary Make an Award?

§ 401.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 401.21.

(b) The Secretary may award up to 100 points, including a reserved 15 points to be distributed in accordance with paragraph (d) of this section, based on the criteria in § 401.21.

(c) Subject to paragraph (d) of this section, the maximum possible score for each criterion is indicated in parentheses after the heading for each criterion.

(d) For each competition, as announced through a notice published in the FEDERAL REGISTER, the Secretary may assign the reserved points among the criteria in § 401.21.

(e) In addition to the 100 points to be awarded based on the criteria in § 401.21, the Secretary awards—

(1) Up to 5 points to applications that propose exemplary approaches that involve, coordinate with, or encourage tribal economic development plans; and

(2) Five points to applications from tribally controlled community colleges that—

(i) Are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

(ii) Operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational education programs.

(Authority: 20 U.S.C. 2313(b))

§ 401.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Program factors.* (20 points) The Secretary reviews each application to determine the extent to which it—

(1) Proposes measurable goals for student enrollment, completion, and placement (including placement in jobs or military specialties and in continuing education or training opportunities) that are realistic in terms of stated needs, resources, and job opportunities in each occupation for which training is to be provided;

(2) Proposes goals that take into consideration any related goals or standards developed for Job Opportunities and Basic Skills (JOBS) programs (42 U.S.C. 681 *et seq.*) and Job Training Partnership Act (JTPA) (29 U.S.C. 1501 *et seq.*) training programs operating in the area, and, where appropriate, any goals set by the State board for vocational education for the occupation and geographic area;

(3) Describes, for each occupation for which training is to be provided, how successful program completion will be determined in terms of academic and vocational competencies demonstrated by enrollees prior to completion and any academic or work credentials acquired by enrollees upon completion;

(4) Demonstrates the active commitment in the project's planning and operation by advisory committees, tribal planning offices, the JOBS program office, the JTPA program director, and potential employers such as tribal enterprises, private enterprises (on or off reservation), and other organizations;

(5) Is targeted to individuals with inadequate skills to assist those individuals in obtaining new employment; and

(6) Includes a thorough description of the approach to be used including some or all of the following components:

(i) Methods of participant selection.

(ii) Assessment and feedback of participant progress.

(iii) Coordination of vocational instruction, academic instruction, and support services such as counseling, transportation, and child care.

(iv) Curriculum and, if appropriate, approaches for providing on-the-job training experience.

(b) *Need.* (15 points) The Secretary reviews each application to determine the extent to which the project addresses specific needs, including—

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(1) The job market and related needs (such as educational level) of the target population;

(2) Characteristics of that population, including an estimate of those to be served by the project;

(3) How the project will meet the needs of the target population; and

(4) A description of any ongoing and planned activities relative to those needs, including, if appropriate, how the State plan developed under 34 CFR 403.30 through 403.34 is designed to meet those needs.

(c) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The establishment of objectives that are clearly related to project goals and activities and are measurable with respect to anticipated enrollments, completions, and placements;

(2) A management plan that describes the chain of command, how staff will be managed, how coordination among staff will be accomplished, and timelines for each activity; and

(3) The way the applicant intends to use its resources and personnel to achieve each objective.

(d) *Key personnel.* (10 points) (1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used on the project;

(iii) The time, including justification for the time that each one of the key personnel, including the project director, will commit to the project; and

(iv) Subject to the Indian preference provisions of the Indian Self-Determination Act (25 U.S.C. 450 *et seq.*) that apply to grants and contracts to tribal organizations, how the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disabling condition.

(2) To determine personnel qualifications, the Secretary considers—

(i) The experience and training of key personnel in project management and in fields particularly related to the objectives of the project; and

(ii) Any other qualifications of key personnel that pertain to the quality of the project.

(e) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project activities;

(2) Costs are reasonable in relation to the objectives of the project and the number of participants to be served; and

(3) The budget narrative justifies the expenditures.

(f) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which—

(1) The plan identifies, at a minimum, types of data to be collected and reported with respect to the academic and vocational competencies demonstrated by participants and the number and kind of academic and work credentials acquired by participants who complete the training;

(2) The plan identifies, at a minimum, types of data to be collected and reported with respect to the achievement of project goals for the enrollment, completion, and placement of participants. The data must be broken down by sex and by occupation for which the training was provided;

(3) The methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable; and

(4) The methods of evaluation provide periodic data that can be used by the project for ongoing program improvement.

(g) *Employment opportunities.* (10 points) The Secretary reviews each application to determine the quality of the plan for job placement of participants who complete training under this program, including—

(1) The expected employment opportunities (including any military specialties) and any additional educational or training opportunities that

are related to the participants' training;

(2) Information and documentation concerning potential employers' commitment to hire participants who complete the training; and

(3) An estimate of the percentage of trainees expected to be employed (including self-employed individuals) in the field for which they were trained following completion of the training.

(Approved by the Office of Management and Budget under Control No. 1830-0013)

(Authority: 20 U.S.C. 2313(b))

§ 401.22 What additional factors may the Secretary consider?

The Secretary may decide not to award a grant or cooperative agreement if—

(a) The proposed project duplicates an effort already being made; or

(b) Funding the project would create an inequitable distribution of funds under this part among Indian tribes.

(Authority: 20 U.S.C. 2313(b))

§ 401.23 Is the Secretary's decision not to make an award under the Indian Vocational Education Program subject to a hearing?

(a) After receiving written notice from an authorized official of the Department that the Secretary will not award a grant or cooperative agreement to an eligible applicant under § 401.2(a)(1), an Indian tribal organization has 30 calendar days to make a written request to the Secretary for a hearing to review the Secretary's decision.

(b) Within 10 business days of the Department's receipt of a hearing request, the Secretary designates a Department employee who is not assigned to the Office of Vocational and Adult Education to serve as a hearing officer. The hearing officer conducts a hearing and issues a written decision within 75 calendar days of the Department's receipt of the hearing request. The hearing officer establishes rules for the conduct of the hearing. The hearing officer conducts the hearing solely on the basis of written submissions unless the officer determines, in accordance with standards in 34 CFR 81.6(b), that oral argument or testimony is necessary.

(c) The Secretary does not make any award under this part to an Indian tribal organization until the hearing officer issues a written decision on any appeal brought under this section.

(Approved by the Office of Management and Budget under Control No. 1830-0013)

(Authority: 20 U.S.C. 2313(b); 25 U.S.C. 450f)

Subpart D—What Conditions Must Be Met After an Award?

§ 401.30 How do the Indian Self-Determination Act and the Act of April 16, 1934 affect awards under the Indian Vocational Education Program?

(a) Grants, cooperative agreements, or contracts with tribal organizations are subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f). These awards must be conducted by the recipient or contractor in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, that are relevant to the projects administered under this part. Section 4 contains requirements pertaining to submission of an education plan by a contractor. Section 5 pertains to participation of parents of Indian children. Section 6 pertains to reimbursement for educating non-resident students.

(b) Grants to Bureau-funded schools are not subject to the requirements of the Indian Self-Determination Act or the Act of April 16, 1934.

(Authority: 20 U.S.C. 2313 (b)(1)(A)(ii)(I) and (II))

§ 401.31 What are the evaluation requirements?

(a) Each grantee shall annually provide and budget for either an internal or external evaluation, or both, of its activities.

(b) The evaluation must be both formative and summative in nature.

(c) The annual evaluation must include—

(1) Descriptions and analyses of the accuracy of records and the validity of measures used by the project to establish and report on the academic and vocational competencies demonstrated and the academic and work credentials acquired;