

**§ 646.805**

Grantees must specify and support each provision to be waived.

**§ 646.805 What are the performance measures tribes have to meet under the INA WtW program?**

The Secretary has determined that the most important measures of the tribe's performance are the number of participants entering unsubsidized employment, the duration of that employment, and the increase in their earnings. Grant applicants will be required to submit planned outcome figures with their INA WtW plans. These planned outcomes will be compared against reported outcomes in the tribe's annual report. In addition, INA WtW grantees must negotiate in good faith with the Secretary of DHHS with respect to the substance and funding of any evaluation under section 413(j) of the Social Security Act, and must cooperate with the conduct of any such evaluation.

**Subpart I—Miscellaneous Provisions and Requirements**

**§ 646.900 May a tribe combine its INA WtW grant with other employment and training programs under Pub. L. 102-477, the Indian Employment, Training and Related Services Demonstration Act of 1992?**

Yes. All grants awarded under the INA WtW program are formula-funded, so any INA WtW grant funds awarded to a tribe can therefore be included in a consolidated plan authorized by Public Law 102-477. For those tribes already participating in the "477" demonstration effort, application for an INA WtW grant will take the form of a "477 plan" modification submitted to the lead agency responsible for the "477" program.

**§ 646.905 What are the other Federal laws which must be followed by INA WtW grantees?**

All otherwise applicable Federal statutes, including those dealing with equal employment opportunity, workplace safety, employment standards, treatment of individuals with disabilities, age discrimination, and civil

**20 CFR Ch. V (4-1-03 Edition)**

rights, must be followed by all INA WtW fund recipients.

**§ 646.910 What are a tribe's appeal rights under the INA WtW program?**

The administrative procedures in proceedings initiated by grantees funded under section 401 of the Job Training Partnership Act, as codified at 20 CFR part 636, shall apply to appeals of agency action by INA WtW grantees. These appeal procedures include the following provisions:

(a) Within twenty-one (21) days of the receipt of a denial of a request for a statutory waiver under § 646.800 of this part, or within twenty-one (21) days of receipt of a final determination imposing a sanction or corrective action issued pursuant to 20 CFR 636.8, an INA WtW grantee whose request for a statutory waiver has been denied, or who seeks review of a Grant Officer's Final Determination, may request a hearing before the Department's Office of Administrative Law Judges pursuant to 20 CFR 636.10.

(b) The decision of an Administrative Law Judge (ALJ) shall be final unless, within twenty (20) days of the decision, a party dissatisfied with that ALJ decision has filed a petition for review with the Administrative Review Board (ARB), established pursuant to the provisions of Secretary's Order No. 2-96, published at 61 FR 19977 (May 3, 1996). This petition shall specifically identify the procedure, fact, law, and/or policy to which exception is taken. Those provisions of the determination not specified for review, or the entire determination when no hearing has been requested, shall be considered resolved and not subject to further review. A copy of the petition for review must be sent to the opposing party at that time. Thereafter, the decision of the ALJ shall constitute final agency action unless the ARB, within thirty (30) days of the filing of the petition for review, notifies the parties that the case has been accepted for review. Any case accepted by the ARB shall be decided within 120 days of such acceptance. If no decision is reached in that time, then the decision of the ALJ shall constitute final Departmental action.