

**§ 1302.30 Procedure for identification of alternative agency.**

(a) An Indian tribe whose Head Start grant has been terminated, or which has been denied refunding as a Head Start grantee, may identify an agency and request the responsible HHS official to designate such agency as an alternative agency to provide Head Start services to the tribe if:

(1) The tribe was the only agency that was receiving federal financial assistance to provide Head Start services to members of the tribe; and

(2) The tribe would be otherwise precluded from providing such services to its members because of the termination or denial of refunding.

(b)(1) The responsible HHS official, when notifying a tribal grantee of the intent to terminate financial assistance or deny its application for refunding, must notify the grantee that it may identify an agency and request that the agency serve as the alternative agency in the event that the grant is terminated or refunding denied.

(2) The tribe must identify the alternate agency to the responsible HHS official, in writing, within the time for filing an appeal under 45 CFR Part 1303.

(3) The responsible HHS official will notify the tribe, in writing, whether the alternative agency proposed by the tribe is found to be eligible for Head Start funding and capable of operating a Head Start program. If the alternative agency identified by the tribe is not an eligible agency capable of operating a Head Start program, the tribe will have 15 days from the date of the sending of the notification to that effect from the responsible HHS official to identify another agency and request that the agency be designated. The responsible HHS official will notify the tribe in writing whether the second proposed alternate agency is found to be an eligible agency capable of operating the Head Start program.

(4) If the tribe does not identify a suitable alternative agency, a replacement grantee will be designated under these regulations.

(c) If the tribe appeals a termination of financial assistance or a denial of refunding, it will, consistent with the terms of 45 CFR Part 1303, continue to be funded pending resolution of the appeal. However, the responsible HHS official and the grantee will proceed with the steps outlined in this regulation during the appeal process.

(d) If the tribe does not identify an agency and request that the agency be appointed as the alternative agency, the responsible HHS official will seek a permanent replacement grantee under these regulations.

**§ 1302.31 Requirements of alternative agency.**

The agency identified by the Indian tribe must establish that it meets all requirements established by the Head Start Act and these requirements for designation as a Head Start grantee and that it is capable of conducting a Head Start program. The responsible HHS official, in deciding whether to designate the proposed agency, will analyze the capacity and experience of the agency according to the criteria found in section 641(d) of the Head Start Act and §§ 1302.10 (b)(1) through (5) and 1302.11 of this part.

**§ 1302.32 Alternative agency—prohibition.**

(a) No agency will be designated as the alternative agency pursuant to this subpart if the agency includes an employee who:

(1) Served on the administrative or program staff of the Indian tribal grantee, and

(2) Was responsible for a deficiency that:

(i) Relates to the performance standards or financial management standards described in the Head Start Act; and

(ii) Was the basis for the termination or denial of refunding described in § 1302.30 of this part.

(b) The responsible HHS official shall determine whether an employee was responsible for a deficiency within the meaning and context of this section.