

## § 96.42

(2) Following the procedures of 45 CFR 96.51, the Department has withheld tribal funds because of those deficiencies; and

(3) The tribe has not provided sufficient evidence that it has removed or corrected the reason(s) for withholding. In these cases, block grant funds reserved or set aside for a direct grant to the Indian tribe will be awarded to the State(s), and the State(s) will provide block grant services to the service population of the tribe. Before awarding these funds to the State(s), the Department will allow as much time as it determines to be reasonable for the tribe to correct the conditions that led to withholding, consistent with provision of timely and meaningful services to the tribe's service population during the fiscal year. If a State(s) is awarded funds under this paragraph, the State(s) will receive all remaining funds set aside for the tribe for the Federal fiscal year for which the award is made. Where the Department has withheld funds from a tribe and the tribe has not taken satisfactory corrective action by the first day of the following fiscal year, all of the funds to serve the tribe's service population for the following fiscal year will be awarded to the State(s). The State(s) is responsible for providing services to the service population of the tribe in these cases. This paragraph also applies when funds are withheld from a tribal organization.

[47 FR 29486, July 6, 1982, as amended at 64 FR 55857, Oct. 15, 1999]

### **§ 96.42 General procedures and requirements.**

(a) An Indian tribe or tribal organization applying for or receiving direct funding from the Secretary under a block grant program shall be subject to all statutory and regulatory requirements applicable to a State applying for or receiving block grant funds to the extent that such requirements are relevant to an Indian tribe or tribal organization except where otherwise provided by statute or in this part.

(b) A tribal organization representing more than one Indian tribe will be eligible to receive block grant funds on behalf of a particular tribe only if the

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tribe has by resolution authorized the organization's action.

(c) If an Indian tribe or tribal organization whose service population resides in more than one State applies for block grant funds that, by statute, are apportioned on the basis of population, the allotment awarded to the tribe or organization shall be taken from the allotments of the various States in which the service population resides in proportion to the number of eligible members or households to be served in each State. If block grant funds are required to be apportioned on the basis of grants during a base year, the allotment to the Indian tribe or tribal organization shall be taken from the allotment of the State whose base year grants included the relevant grants to the tribe or organization.

(d) The audit required under the block grant programs shall be conducted by an entity that is independent of the Indian tribe or tribal organization receiving grant funds from the Secretary.

(e) Beginning with fiscal year 1983, any request by an Indian tribe or tribal organization for direct funding by the Secretary must be submitted to the Secretary, together with the required application and related materials, by September 1 preceding the Federal fiscal year for which funds are sought. A separate application is required for each block grant. After the September 1 deadline, tribal applications will be accepted only with the concurrence of the State (or States) in which the tribe or tribal organization is located.

(f) A State receiving block grant funds is not required to use those funds to provide tangible benefits (e.g., cash or goods) to Indians who are within the service population of an Indian tribe or tribal organization that received direct funding from the Department under the same block grant program for the same fiscal year. A State, however, may not deny Indians access to intangible services funded by block grant programs (e.g., treatment at a community health center) even if the Indians are members of a tribe receiving direct funding for a similar service. A tribe receiving direct block grant funding is not required to use those funds to provide tangible benefits to non-Indians

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living within the tribe's service area unless the tribe and the State(s) in which the tribe is located agree in writing that the tribe will do so.

[47 FR 29486, July 6, 1982, as amended at 52 FR 37966, Oct. 13, 1987; 64 FR 55857, Oct. 15, 1999]

### § 96.43 Procedures during FY 1982.

(a) This section applies to the fiscal year beginning October 1, 1981.

(b) A request for direct funding must be received by the Secretary before the Secretary has awarded all of the allotment to the State involved. The application and related submission may be submitted later but must be submitted within 75 days after the beginning of the quarter in which the State qualified for block grant funds, (or by August 20, 1982 in the case of an Indian tribe located in a State that has not qualified for block grant funds in FY 1982) except that the application and related submission for the low-income home energy assistance program must be submitted by December 15, 1981. A separate request and application are required for each block grant.

[47 FR 29486, July 6, 1982; 47 FR 43062, Sept. 30, 1982]

### § 96.44 Community services.

(a) This section applies to direct funding of Indian tribes and tribal organizations under the community services block grant.

(b) The terms *Indian tribe* and *tribal organization* as used in the Reconciliation Act have the same meaning given such terms in section 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). The terms also include organized groups of Indians that the State in which they reside has determined are Indian tribes. An organized group of Indians is eligible for direct funding based on State recognition if the State has expressly determined that the group is an Indian tribe. In addition, the statement of the State's chief executive officer verifying that a tribe is recognized by that State will also be sufficient to verify State recognition for the purpose of direct funding.

(c) For purposes of section 674(c)(2) of the Act (42 U.S.C. 9903(c)(2)) an *eligible*

*Indian* means a member of an Indian tribe whose income is at or below the poverty line defined in section 673(2) of the Act (42 U.S.C. 9902(2)). An *eligible individual* under section 674(c)(2) of the Reconciliation Act (42 U.S.C. 9903(c)(2)) means a resident of the State whose income is at or below the poverty line.

(d) An Indian tribe or tribal organization will meet the requirements of section 675(c)(1) (42 U.S.C. 9904(c)(1)) if it certifies that it agrees to use the funds to provide at least one of the services or activities listed in that section.

(e) An Indian tribe or tribal organization is not required to comply with section 675(b) (42 U.S.C. 9904(b)) or to provide the certifications required by the following other provisions of the Reconciliation Act.

(1) Section 675(c)(2)(A) (42 U.S.C. 9904(c)(2)(A));

(2) Section 675(c)(3) (42 U.S.C. 9904(c)(3)); and

(3) Section 675(c)(4) (42 U.S.C. 9904(c)(4)).

(4) Section 675(c)(11) (42 U.S.C. 9904(c)(11)).

(f) In each fiscal year, Indian tribes and tribal organizations may expend for administrative expenses—comparable to the administrative expenses incurred by State at the State level—an amount not to exceed the greater of the amounts determined by:

(1) Multiplying their allotment under section 674 of the Reconciliation Act (42 U.S.C. 9903) by five percent; or

(2) Multiplying the allotment by the percentage represented by the ratio of \$55,000 to the smallest State allotment (excluding territorial allotments) for that fiscal year.

[47 FR 29486, July 6, 1982, as amended at 52 FR 37967, Oct. 13, 1987]

### § 96.45 Preventive health and health services.

(a) This section applies to direct funding of Indian tribes and tribal organizations under the preventive health and health services block grant.

(b) For the purposes of determining eligible applicants under section 1902(d) of the Public Health Service Act, a grantee that received a grant directly from the Secretary in FY 1981 under any of the programs replaced by the preventive health and health services