

## Department of Health and Human Services

## § 96.45

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

## § 96.46

block grant that was specifically targeted toward serving a particular Indian tribe or tribal organization will be considered eligible if the grantee is an Indian tribe or tribal organization at the time it requests funds under this part. Grantees that received funds under formula or Statewide grants, and subgrantees that received funds from any program replaced by the preventive health and health services block grant, are not eligible.

### § 96.46 Substance abuse prevention and treatment services.

(a) This section applies to direct funding of Indian tribes and tribal organizations under the substance abuse prevention and treatment Block Grant.

(b) For the purpose of determining eligible applicants under section 1933(d) of the Public Health Service Act (42 U.S.C. 300x-33(d)) an Indian tribe or tribal organization (as defined in subsections (b) and (c) of section 4 of the Indian Self-Determination and Education Assistance Act) that received a direct grant under subpart I of part B of title XIX of the PHS Act (as such existed prior to October 1, 1992) in fiscal year 1991 will be considered eligible for a grant under subpart 2 of part B of title XIX of the PHS Act.

(c) For purposes of the substance abuse prevention and treatment Block Grant, an Indian tribe or tribal organization is not required to comply with the following statutory provisions of the Public Health Service Act: 1923 (42 U.S.C. 300x-23), 1925 (42 U.S.C. 300x-25), 1926 (42 U.S.C. 300x-26), 1928 (42 U.S.C. 300x-28), 1929 (42 U.S.C. 300x-29), and 1943(a)(1) (42 U.S.C. 300x-53(a)(1)). An Indian tribe or tribal organization is to comply with all other statutes and regulations applicable to the Substance Abuse Prevention and Treatment Block Grant. In each case in which an Indian Tribe receives a direct grant, the State is also responsible for providing services to Native Americans under the State's Block Grant program.

[58 FR 17070, Mar. 31, 1993]

### § 96.47 Primary care.

Applications for direct funding of Indian tribes and tribal organizations under the primary care block grant

## 45 CFR Subtitle A (10-1-04 Edition)

must comply with 42 CFR Part 51c (Grants for Community Health Services).

### § 96.48 Low-income home energy assistance.

(a) This section applies to direct funding of Indian tribes under the low-income home energy assistance program.

(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) except that the terms shall also include organized groups of Indians that the State in which they reside has expressly determined are Indian tribes or tribal organizations in accordance with State procedures for making such determinations.

(c) For purposes of section 2604(d) of the Act (42 U.S.C. 8623(d)), 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. A statement by 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.

(d) The plan required by section 2604(d)(4) of the Reconciliation Act (42 U.S.C. 8623(d)(4)) shall contain the certification and information required for States under section 2605 (b) and (c) of that Act (42 U.S.C. 8624 (b) and (c)). An Indian tribe or tribal organization is not required to comply with section 2605(a)(2) of the Act (42 U.S.C. 8624(a)(2)).

(e) Where a tribe requests that the Secretary fund another entity to provide energy assistance for tribal members, as provided by section 2604(d)(3) of the Act (42 U.S.C. 8623(d)(3)), the Secretary shall consider the following factors in selecting the grantee: the ability of the other entity to provide low-income home energy assistance, existing tribal-State agreements as to the size and location of the service population, and the history of State services to the Indian people to be served by the other entity.