

Department of Health and Human Services

§ 96.41

\$300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

(1) Determine whether subgrantees have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;

(2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

(3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;

(4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

[62 FR 45963, Aug. 29, 1997]

§ 96.32 Financial settlement.

The State must repay to the Department amounts found after audit resolution to have been expended improperly. In the event that repayment is not made voluntarily, the Department will undertake recovery.

[52 FR 37966, Oct. 13, 1987]

§ 96.33 Referral of cases to the Inspector General.

State or tribal officials who have information indicating the commission or potential commission of fraud or other offenses against the United States involving block grant funds should promptly provide the information to the appropriate Regional Office

of Investigations of the Department's Office of the Inspector General.

[52 FR 37966, Oct. 13, 1987]

Subpart D—Direct Funding of Indian Tribes and Tribal Organizations

§ 96.40 Scope.

This subpart applies to the community services, alcohol and drug abuse and mental health services, preventive health and health services, primary care, and low-income home energy assistance block grants.

§ 96.41 General determination.

(a) The Department has determined that, with the exception of the circumstances addressed in paragraph (c) of this section, Indian tribes and tribal organizations would be better served by means of grants provided directly by the Department to such tribes and organizations out of their State's allotment of block grant funds than if the State were awarded its entire allotment. Accordingly, with the exception of situations described in paragraph (c) of this section, the Department will, upon request of an eligible Indian tribe or tribal organization and where provided for by statute, reserve a portion of the allotment of the State(s) in which the tribe is located, and, upon receipt of a complete application and related submission meeting statutory and regulatory requirements, grant it directly to the tribe or organization.

(b) An Indian tribe or tribal organization may request direct funding under a block grant program included in this subpart regardless of whether the State in which it is located is receiving funds under the block grant program.

(c) The Department has determined that Indian tribal members eligible for the funds or services provided through the block grants would be better served by the State(s) in which the tribe is located rather than by the tribe, where:

(1) The tribe has not used its block grant allotment substantially in accordance with the provisions of the relevant statute(s); and

§ 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

45 CFR Subtitle A (10-1-06 Edition)

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