



ADMINISTRATION FOR
CHILDREN & FAMILIES
370 L'Enfant Promenade, S.W. Washington DC 20447

ADMINISTRATION FOR CHILDREN AND FAMILIES

NATIVE EMPLOYMENT WORKS PROGRAM For Indian Tribes and Tribal Organizations Participating in a Demonstration Project Under Public Law 102-477

TERMS AND CONDITIONS

By acceptance of any of these awards, the Tribe or Tribal Organization agrees to comply with the terms and conditions detailed below. Failure to comply with these terms and conditions may result in the loss of Federal funds and may be considered grounds for the suspension or termination of one or more of these grants. These terms and conditions stand alone and referring to the General Terms and Conditions for program operation is not necessary.

PROGRAM STANDARDS

1. The administration of this program is based on:
 - the provisions of **Part A of Title IV** of the Social Security Act (specifically, **§412(a)(2)** of the Act);
 - Federal regulations found at **45 CFR Part 287**;
 - any other applicable Federal regulations, program policies and instructions.

ADMINISTRATIVE REQUIREMENTS

2. This program is governed by the following Federal regulations:
 - **2 CFR Part 225** – Cost Principles for State, Local and Indian Tribal Governments;
 - **2 CFR Part 376** – Nonprocurement, Debarment and Suspension;
 - **45 CFR Part 16** – Procedures of the Departmental Grant Appeals Board;
 - **45 CFR Part 30** – Claims Collection;
 - **45 CFR Part 80** – Nondiscrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services, Effectuation of Title VI of the Civil Rights Act of 1964;
 - **45 CFR Part 81** – Practice and Procedure for Hearings Under Part 80 of this Title;
 - **45 CFR Part 84** – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance;
 - **45 CFR Part 86** – Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance;
 - **45 CFR Part 87** – Equal Treatment for Faith-Based Organizations;
 - **45 CFR Part 91** – Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance;
 - **45 CFR Part 92** – Uniform Administrative Requirements for Grants and Cooperative Agreements to State, and Local, and Tribal Governments;

- **45 CFR Part 93** – New Restrictions on Lobbying;
3. This program is governed by Office of Management and Budget **Circular A-133** - Audits of States, Local Governments and Non-Profit Organizations, including the audit requirements of the **Single Audit Act of 1984** (Public Law 98-502).
 4. In accordance with Public Law 103-333, the “Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1995,” the following provisions are applicable to these awards:

Section 507: “Purchase of American-Made Equipment and Products - It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.”

Section 508: “When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all States receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.”

5. In accordance with Title XII of Public Law 103-227, the “PRO-KIDS Act of 1994,” smoking may not be permitted in any portion of any indoor facility owned or regularly used for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments. Federal programs include grants, cooperative agreements, loans and loan guarantees, and contracts. The law does not apply to children’s services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment.

The above language must be included in any subawards that contain provisions for children’s services and all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1,000 per day.

6. Direct Federal grants, sub-awards, or contracts under this program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this program. (See 45 CFR Part 87.)
7. Federal grant funds provided under these awards may not be used by the grantee or any sub-grantee to support lobbying activities to influence proposed or pending Federal or State legislation or appropriations. This prohibition is related to the use of Federal grant funds and is not intended to affect an individual’s right or that of any organization, to petition Congress, or any other level of Government, through the use of other resources. (See 45 CFR Part 93.)
8. These awards are subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000 (22 USC 7104). The full text of this requirement is found at http://www.acf.gov/grants/award_terms.html .

SUB-RECIPIENTS UNDER GRANTS

9. The Tribe or Tribal Organization is required to determine recipient type when sub-granting or contracting using Federal funds. In accordance with the standards set in OMB Circular A-133, the determination is based on the substance of the relationship with the Tribe or Tribal Organization, rather than the form of the agreement.

The presence of one or more of the following conditions would indicate that the recipient should be considered a sub-grantee and is subject to the provisions of OMB Circular A-133:

- a. Determines who is eligible to receive what Federal financial assistance;
- b. Has its performance measured against whether the objectives of the Federal program are met;
- c. Has responsibility for programmatic decision making;
- d. Has responsibility for adherence to applicable Federal program compliance requirements;
- e. Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity;

The presence of one or more of the following conditions would indicate that the recipient should be considered a vendor and is not subject to the provisions of OMB Circular A-133:

- a. Provides the goods and services within normal business operations;
 - b. Provides similar goods or services to many different purchasers;
 - c. Operates in a competitive environment;
 - d. Provides goods or services that are ancillary to the operation of the Federal program;
 - e. Is not subject to compliance requirements of the Federal program.
10. No organization may participate in this program in any capacity or be a recipient of Federal funds designated for this program if the organization has been debarred or suspended or otherwise found to be ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." (See 45 CFR 92.35.) Tribes or Tribal Organizations must include a similar term and/or condition for all sub-awards or contracts awarded under this program. Prior to issuing subawards or contracts under these grants, the Tribe or Tribal Organization must consult the ineligible parties list to ensure that organizations under funding consideration are not ineligible. The list is available on the Web at <http://www.epls.gov>.
11. The Tribe or Tribal Organization is responsible for monitoring grant, sub-grant/sub-recipient and contract supported activities to assure compliance with Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function and activity. (See 45 CFR 92.40.)
12. The Tribe or Tribal Organization is required to advise sub-grantees/sub-recipients of requirements imposed on them by Federal laws, regulations, and the provisions of grant agreements or contracts as well as any supplemental requirements imposed by the Tribe or Tribal Organization. These include grant administrative requirements under 45 CFR Part 92, audit requirements under OMB Circular A-133 and cost principles according to recipient type:
- State, Local and Indian Tribal Governments: 2 CFR Part 225;
 - Nonprofit Organizations: 2 CFR Part 230;
 - Educational Institutions: 2 CFR Part 220;
 - Commercial Vendors or Subcontractors: 48 CFR Part 31.

FINANCIAL MANAGEMENT

13. Federal funds awarded under this program must not be used for construction or for the purchase of land.
14. Federal funds awarded through these grants must be expended for the purposes for which they were awarded and remain available until expended.
15. These funds may not be used to meet the matching or cost sharing requirements of other Federal grant programs.
16. Financial and Program Reports: In accordance with requirements and instructions from the Department of the Interior, the Tribe or Tribal Organization is required to submit the "Reporting System for P.L. 102-477 Demonstration Project," including the "P.L. 102-477 Financial Status Report," the "P.L. 102-477 Statistical Report" and the narrative report.

GRANT PAYMENTS

17. Payments under these grants will be made available by the U.S. Department of the Interior.
18. Once Native Employment Works program funds are available to the Tribe or Tribal Organization, the Tribe or Tribal Organization may draw down the full amount of available Native Employment Works funding in a nonrecurring lump-sum payment.

IMPORTANT NOTE

The U.S. Government Accountability Office (GAO) maintains **FraudNET**, a system for reporting allegations of fraud, waste and abuse under Federal grants and cooperative agreements. Reports are kept confidential; you need not provide your name. Information provided through the Internet web site is secure and all information is safeguarded against unauthorized disclosure.

Report the possible misuse of federal funds, through one of the following methods:

Phone: (800) 424-5454 Fax: (202) 512-3086 E-mail: fraudnet@gao.gov
Mail: GAO FraudNET, 441 G Street N.W., Washington, DC 20548

Please provide as much detailed information as possible in your report.