



ADMINISTRATION FOR
CHILDREN & FAMILIES

**ADMINISTRATION FOR CHILDREN AND FAMILIES
OFFICE OF FAMILY ASSISTANCE
TRIBAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM GRANT
TERMS AND CONDITIONS for DIRECTLY FUNDED TRIBES**

By acceptance of this award the Tribe 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 this grant.

This award is subject to the following terms, conditions and provisions:

PROGRAM STANDARDS

Applicable program standards include Title IV-A of the Social Security Act, Title IV of PRWORA of 1996, as amended (8 U.S.C. 1611 et seq.), and the Tribal TANF regulations at 45 CFR Parts 286.

ADMINISTRATIVE REQUIREMENTS

1. The following regulations from Title 45 of the Code of Federal Regulations (CFR):

- 45 CFR Part 16** — Procedures of the Departmental Grant Appeals Board;
- 45 CFR Part 76** — Debarment and Suspension from Eligibility for Financial Assistance (Nonprocurement);
- 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 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;

2. The following Circulars from the Office of Management and Budget (OMB):

- OMB Circular A-87**, Cost Principles for State, Local and Indian Tribal Governments
- OMB Circular A-133**, Audits of States, Local Governments, and Non-Profit Organizations and the Single Audit Act of 1984, as amended.

3. Federal grant funds provided under this award 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**.)

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 this grant award:

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."

5. In accordance with Part C of Public Law 103-227, the "Pro-Children 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 whether 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 or facilities and used for inpatient drug and alcohol treatment.

The above language must be included in any subawards that contain provisions for children's services and that 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.

SUB-RECIPIENTS/SUB-GRANTEES AND VENDORS/CONTRACTORS

6. Sub-recipient/Sub-grantee and vendor determinations. Tribes are required to determine recipient type when sub-granting or contracting using Federal funds. Recipient type includes sub-grantees/sub-recipients, vendors and contractors. OMB Circular A-133 establishes the standards for determining the difference between a sub-grantee and a vendor, based on the substance of the relationship with the Tribe, rather than the form of the agreement.

A recipient is considered a sub-grantee and is subject to OMB Circular A-133 if it meets the following conditions:

- 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;

A recipient is considered a vendor and is not subject to OMB Circular A-133 if it meets the following conditions:

- 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.
8. No organization may participate in this project in any capacity or be a recipient of Federal funds designated for this project 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.) States 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 this grant, the state must consult the ineligible parties list to ensure that organizations under funding consideration are not ineligible. The list is available on the Web at <https://www.sam.gov>.

9. The Tribe 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**.)
10. Tribes are 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. These include grant administrative requirements and cost principles according to recipient type. For example, nonprofit subrecipients are subject to the cost principles at **OMB Circular A-122**; educational institution subrecipients are subject to those at **OMB Circular A-21**; and commercial organization vendors or subcontractors are subject to the cost principles under **48 CFR Part 31**. Sub-recipients and sub-grantees are also subject to the provisions of **45 CFR Part 92** and **OMB Circular A-133**.
11. Tribes must ensure that sub-recipients and sub-grantees expending more than \$500,000 or more in Federal awards during the sub-recipient/sub-grantee's fiscal year have an audit in compliance with the requirements of **OMB Circular A-133**.

FINANCIAL AND PROGRAM PROGRESS REPORTING

12. In accordance with **45 CFR 92.40** and **45 CFR 92.41** and **45 CFR Part 286**, the grantee must submit quarterly data collection (TANF Data Report) and financial status reports (ACF-196T, TANF Tribal Financial Status Report). The financial reports are due within 45 days following the end of each federal fiscal quarter and must show cumulative expenditures. Grantees must submit separate quarterly reports for each funding year.
13. Failure to submit required data, financial status or audit reports timely may be the basis for a penalty, pursuant to section **409 (a)(2) of the Social Security Act** and implementing regulations in **45 CFR 286.205** and **45 CFR 286.270**.
14. In accordance with **Action Transmittal OGM-AT-13-01** (September 25, 2013; see also Federal Register Notice, Volume 78, No. 125 (78 FR 38989 et. seq.)), Tribes are required to submit their periodic financial reports electronically, via the ACF On-Line Data Collection (OLDC) system. This requirement became effective October 1, 2013. *A one-year waiver of electronic financial status reporting may be requested in writing by any Tribe who is able to demonstrate a lack of internet access, computer capacity, or other circumstance that prevents electronic filing of the required documents.*
15. Program data reports must be submitted electronically.
16. Pursuant to section **404(e) of the Social Security Act**, as enacted by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) ARRA lifted the limitation on section 404(e) of the Social Security Act (The Act) on using carryover/reserve TANF funds only on "assistance". Beginning with FY2009, any Federal TANF funds carried into 2009 and any FY2009 and forward Federal TANF funds carried into a succeeding fiscal year may be spend on any TANF allowable activities – assistance and non assistance activities. This change applies to all TANF grant fund recipients, including tribes, operation approved TANF programs. The related administrative costs to provide the assistance will be reported against the Tribal administrative cap found at **45CFR286.50** for the fiscal year for which the Federal funds were originally awarded.

PAYMENT ARRANGEMENTS, FUNDS AVAILABILITY AND RESTRICTIONS

17. Payments under this grant will be made through the Department of Health and Human Services' Division of Payment Management *SmartLink* Payment System. The Tribe must comply with requirements imposed by the on-line system. Please direct any questions concerning grant payments to the payment office at 1-877--614-5533.
18. Grantees shall be paid in advance provided they maintain or demonstrate the willingness and ability to

maintain procedures to minimize the time elapsing between the transfer of funds and their disbursement by the grantee or subgrantee. (See **45 CFR 92.21(c)**).

19. These funds may not be used to meet the matching or cost-sharing requirements of other Federal grant programs unless expressly authorized by Federal law.
20. Federal funds awarded under this grant may not be used for construction or the purchase of land.

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.

To report the possible misuse of federal funds, the E-mail address is fraudnet@gao.gov ; the fax number is 202-512-3086 and the mailing address is GAO FraudNET, 441 G Street N.W., Washington, D.C. 20548. When you submit allegations, please provide as much detailed information as possible.