



ADMINISTRATION FOR CHILDREN AND FAMILIES

NATIVE EMPLOYMENT WORKS PROGRAM

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," issued pursuant to the Single Audit Act of 1984 (Public Law 98-502) and the Single Audit Act Amendments of 1996 (Public Law 104-156).
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 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 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 the appropriate Federal regulations containing cost principles according to recipient type:
- State, local and tribal government sub-recipients – 2 CFR Part 225;
 - Nonprofit sub-recipients – 2 CFR Part 230;
 - Educational institution sub-recipients – 2 CFR Part 220;
 - Commercial vendors or sub-contractors - 48 CFR Part 31.

FINANCIAL MANAGEMENT

13. Federal funds awarded under this program must not be used for construction or 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. Financial Reports

In accordance with the requirements at 45 CFR 92.41, the Tribe or Tribal Organization is required to file separate annual expenditure reports for each grant received, indicating the amount of Federal funds that have been obligated, liquidated and remain unobligated. Standard OMB Form SF-425 “**Federal Financial Report**” is used for this purpose.

- a. The Tribe or Tribal Organization is *strongly encouraged* to file these reports electronically through the ACF On-Line Data Collection (OLDC) system. OLDC requires electronic signatures from the appropriate official. (See Action Transmittal OA-ACF-AT-01-05, issued January 24, 2005.) When electronic reports are completed and submitted, no paper submission is required.
- b. For the Tribe or Tribal Organization that elects to submit paper copies of the required expenditure reports, send one (1) copy with an original signature of each submission of Form SF-425 to the appropriate ACF Regional Office. Send an additional copy of each submission to the financial office. (See “Important Addresses,” below.)
- c. A “fillable” copy of Form SF-425 FFR is available on the OMB web site at http://www.whitehouse.gov/omb/grants_forms
- d. Regardless of the method of submission, the Tribe or Tribal Organization must adhere to the following submission schedule:
 - The initial report must be submitted no later than 90 days following the end of the NEW program year (e.g. if your grant is for fiscal year 2013 then you must submit your report no later than **September 30, 2014**.)
 - Subsequent reports must be submitted no later than 90 days following the end of each subsequent NEW program year until all awarded funds have been expended (liquidated) (e.g. if your grant is for fiscal year 2013 then you must submit your report(s) **no later than September 30, 2015, September 30, 2016**, etc.).

PROGRAM MANAGEMENT

16. Each Tribe or Tribal Organization is required to submit an annual program progress report, documenting the prior year’s activities and in conformance with current program requirements. (See Program Instruction NEW-ACF-PI-2011-01, issued August 30, 2011.)

One copy of this report is to be submitted to the appropriate ACF Regional Office; a second copy is to be submitted to the program office. (See “Important Addresses,” below.)

GRANT PAYMENTS

17. Payments under these grants will be made by Letter of Credit through the Department of Health and Human Services’ Payment Management System (PMS) and *Smartlink*. The Tribe or Tribal Organization must comply with requirements imposed by the PMS on-line system. Please direct any questions (include phone number) concerning grant payments to the payment office. (See “Important Addresses,” below).

GRANTEE ADDRESS CHANGES

18. Grant award letters will be sent to the address in our records. Please send address changes or corrections to the financial office. (See "Important Addresses," below.) Addresses should not include individuals' names and, if possible, should be limited to four or five lines of text.

IMPORTANT ADDRESSES

- Financial Office: Administration for Children and Families
Office of Grants Management
Division of Mandatory Grants
Att'n: NEW Program
370 L'Enfant Promenade, S.W., 6th Floor East
Washington, D.C. 20447

Contact: Yan Rong
E-mail: yan.rong@acf.hhs.gov
Phone: (202) 401-5154
Fax: (202) 401-5644

- Program Office: Administration for Children and Families
Office of Family Assistance
Att'n: NEW Team
370 L'Enfant Promenade, S.W., 5th Floor East
Washington, D.C. 20447

Contact: Felicia Gaither
E-mail: felicia.gaither@acf.hhs.gov
Phone: (202) 205-8354
Fax: (202) 205-5887

- Payment Office: U.S. Department of Health and Human Services
Division of Payment Management
Payment Management System (PMS)
P.O. Box 6021
Rockville, Maryland 20852

Contact: PMS Help Desk
Phone: (877) 614-5533
Internet site: <http://www.dpm.psc.gov>

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, D.C. 20548

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