

## § 646.510

tribe under the JTPA or BIA Employment Assistance programs. INA WtW grantees funded under the “substantial services” criteria shall ensure that all AFDC/TANF recipients within the service area for which the grantee was designated are afforded an equitable opportunity for INA WtW services, because their funding is predicated on 1990 Census data for all Native Americans residing in their service area, regardless of tribal affiliation. While there is no individual entitlement to INA WtW services, all eligible AFDC/TANF recipients shall be afforded equal consideration in the decision to provide INA WtW services. Service areas differing from those outlined above may be negotiated with the Department of Labor.

### § 646.510 Are there any special service area provisions made for Indians residing in Oklahoma?

Yes. With the exception of the Osage reservation in Oklahoma, service areas will be determined by reference to the “tribal jurisdiction statistical areas” (TJSAs). TJSAs are defined by the Bureau of the Census as being areas, delineated by Federally-recognized tribes in Oklahoma without a reservation, for which the Census Bureau tabulates data. TJSAs represent areas generally containing the American Indian population over which one or more tribal governments have jurisdiction. Service areas for Oklahoma Indian residents differing from those outlined under the TJSAs may also be negotiated with the Department of Labor.

## Subpart F—Funding and Spending Requirements

### § 646.600 How will the INA WtW grant funding allotments be determined?

Funds will be allotted to INA WtW grantees on a formula basis. To determine the FY 1998 allotments, poverty data from the 1990 Decennial Census will be used to determine the “split” between TANF/NEW tribes and all other tribes. The percentage of the annual appropriation reserved for TANF and NEW tribes will then be allocated using 1995 AFDC counts previously published by DHHS. For FY 1999, a sin-

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gle funding formula will be employed utilizing AFDC/TANF counts.

### § 646.605 What spending limitations are imposed on the INA WtW program?

No less than seventy percent (70%) of INA WtW funds must be spent directly on assistance for the benefit of TANF recipients who meet the eligibility requirements of section 403(a)(5)(C)(ii) of the Social Security Act. Up to thirty percent (30%) of INA WtW funds can be spent to provide assistance to individuals who meet the eligibility requirements of section 403(a)(5)(C)(iii) of the Social Security Act. No more than twenty percent (20%) of INA WtW grant funds may be spent for administration. Refer to § 646.400 for the definitions of “low skills in reading or mathematics” and “poor work history”.

### § 646.610 What definition of “administration” is applicable to the INA WtW program?

Administrative costs consist of all direct and indirect costs associated with the management of the grantee’s program. These costs include but are not limited to: the salaries and fringe benefits of personnel engaged in executive, fiscal, data collection, personnel, legal, audit, procurement, data processing, communications, maintenance, and similar functions; and related materials, supplies, equipment, office space costs, and staff training. Also included are salaries and fringe benefits of direct program administrative positions such as supervisors, program analysts, labor market analysts, and project directors. Additionally, all costs of clerical personnel, materials, supplies, equipment, space, utilities, and travel which are identifiable with these program administration positions are charged to administration.

### § 646.615 How long does the tribe have to spend INA WtW funds?

INA WtW grantees must expend all allotted funds within three years after the effective date of each fiscal year grant agreement signed by the Grant Officer, pursuant to section 403(a)(5)(C)(vii) of the Social Security

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Act. Unexpended funds must be returned to the Department in accordance with the closeout provisions at 29 CFR parts 97 or 95, as applicable.

### **§ 646.620 Are there any other restrictions on the use of INA WtW funds?**

Yes. INA WtW funds may not be used for any other fund matching requirements under this Act or other Federal law, pursuant to section 403(a)(5)(C)(vi) of the Social Security Act.

## **Subpart G—Recordkeeping and Reporting Requirements**

### **§ 646.700 What are the recordkeeping requirements for the INA WtW program?**

Tribes must meet the recordkeeping and retention requirements of the Department's regulations at 29 CFR 97.42. Alaska Native regional nonprofit corporations must follow the requirements of 29 CFR 95.53. Tribes receiving INA WtW grants may follow the recordkeeping requirements of section 411 of the Social Security Act, as applicable.

### **§ 646.705 What are the reporting requirements for the INA WtW program?**

Grantees are required to submit both quarterly and annual reports covering program activity and financial expenditures. Two forms have been approved by OMB for INA WtW reporting. A modified version of the Standard Form (SF) 269A (ETA 9069-1) shall be used to report financial expenditures. A Participation and Characteristics Report (PCR) (ETA 9069) shall be used to report program activity and participant characteristics.

### **§ 646.710 Are tribes operating a TANF program required to report INA WtW activities under TANF as well?**

Yes. Pursuant to the requirements of section 411 of the Social Security Act, INA WtW grantees who are TANF tribes shall report INA WtW activities under the TANF program, in addition to submitting the INA WtW reports cited above. However, tribes operating

a NEW program and an INA WtW program, but not their own TANF program, are exempt from the reporting requirements described in section 411 of the Social Security Act.

## **Subpart H—Waivers and Performance Standards**

### **§ 646.800 Are statutory waivers allowable under the INA WtW program?**

Yes. The Secretary of Labor may waive or modify any provision of section 403(a)(5)(C) [except for clause (vii) thereof, related to the deadline for expenditure of funds] of the Social Security Act, which are otherwise applicable to INA WtW grantees. Accordingly, the Secretary may waive the statutory requirements relating to client eligibility for services, allowable activities, and spending limits. Any waiver(s) requested must demonstrate how the waiver, if granted, will increase the efficiency or effectiveness of the program. Waivers may be requested at any time, and shall be effective as of the date indicated in the approval letter. Grantees must specify and support each provision to be waived.

### **§ 646.805 What are the performance measures tribes have to meet under the INA WtW program?**

The Secretary has determined that the most important measures of the tribe's performance are the number of participants entering unsubsidized employment, the duration of that employment, and the increase in their earnings. Grant applicants will be required to submit planned outcome figures with their INA WtW plans. These planned outcomes will be compared against reported outcomes in the tribe's annual report. In addition, INA WtW grantees must negotiate in good faith with the Secretary of DHHS with respect to the substance and funding of any evaluation under section 413(j) of the Social Security Act, and must cooperate with the conduct of any such evaluation.