

§ 136.103

village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203 (85 Stat. 688) which is recognized as eligible by the United States Government for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) *Tribal organization* means:

(1) The recognized governing body of any Indian tribe; or

(2) Any legally established organization of Indians which is:

(i) Controlled, sanctioned or chartered by such governing body or bodies; or

(ii) Democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities.

(e) *Secretary* means the Secretary of the Department of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

(f) *Grantee* means the tribe or tribal organization that receives a grant under section 104(b) of the Act and this subpart and assumes the legal and financial responsibility for the funds awarded and for the performance of the grant supported activity in accordance with the Act and these regulations.

(g) *Indian owned economic enterprise* means any commercial, industrial, or business activity established or organized for the purpose of profit which is not less than 51 percent Indian owned.

§ 136.103 Eligibility.

Any Indian tribe or tribal organization is eligible to apply for a grant under this subpart.

§ 136.104 Application.

(a) Forms for applying for grants are governed by 45 CFR part 74, subpart N.

(b) In addition to such other pertinent information as the Secretary may require, the application for a grant under this subpart shall contain the following:

(1) A description of the applicant including an indication whether the ap-

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plicant is a Tribe or tribal organization, and if the latter:

(i) The legal and organizational relationship of the applicant to the Indians in the Area to be served or effected by the project.

(ii) A description of the current and proposed participation of Indians in the activities of applicant.

(iii) Whether applicant is controlled, sanctioned or chartered by the governing body of the Indians to be served, and if so, evidence of such fact.

(iv) If elected, a description of the election process, voting criteria, and extent of voter participation in the election designating the organization.

(2) A narrative description of the project including its goals and objectives and the manner in which the proposed project is compatible with published Indian Health Service statements of availability of funds, the manner in which those goals and objectives are to be attained, and a work and time schedule which will be utilized to accomplish each goal and objective.

(3) A description of applicant's staff, present or proposed, including their qualifications, academic training, responsibilities and functions.

(4) A description of the manner in which the staff is or will be organized and supervised to carry out proposed activities.

(5) A description of training to be provided as part of the proposed project.

(6) A description of the administrative, managerial, and organizational arrangements and resources to be utilized to conduct the proposed project.

(7) An itemized budget for the budget period (normally 12 months) for which support is sought and justification of the amount of grant funds requested.

(8) The intended financial participation, if any, of the applicant, specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space materials or facilities, or other contributions.

(9) Where health services are to be provided, a description of the nature of the services to be provided and the population to be served.

(10) A description of the Federal property, real and personal, equipment,

facilities and personnel which applicant proposes to utilize and a description of the arrangements which applicant has made or will make to assume responsibility for the operation and management of those facilities.

(c) The application shall contain assurances satisfactory to the Secretary that the applicant will:

(1) Where applicant is providing services, provide such services at a level and range which is not less than that provided by the Indian Health Service or that identified by the Service after negotiation with the applicant, as an appropriate level, range and standard of care.

(2) Where providing services, provide services in accordance with law and applicable Indian Health Service policies and regulations.

(3) Where providing services, provide services in a fair and uniform manner, consistent with medical need, to all Indian people.

(Approved by the Office of Management and Budget under control number 0915-0045)

[40 FR 53143, Nov. 14, 1975, as amended at 50 FR 1853, Jan. 14, 1985]

§ 136.105 Project elements.

A project supported under this subpart must:

(a) Have sufficient, adequately trained staff in relation to the scope of the project.

(b) Maintain a mechanism for dealing with complaints regarding the delivery of health services or performance of project activities.

(c) Hold confidential all information obtained by the personnel of the project from participants in the project related to their examination, care, and treatment, and shall not release such information without the individuals' consent except as may be required by law, as may be necessary to provide service to the individual, or as may be necessary to monitor the operations of this program or otherwise protect the public health. Information may be disclosed in a form which does not identify particular individuals.

(d) Operate with the approval, support, and involvement of the tribe, tribes, or Indian communities in the area served by the local facility and program.

(e) Keep in force adequate liability insurance in accordance with the approved application unless the Secretary, for good cause shown, has determined that such insurance was not obtainable or appropriate or has determined that such insurance may be permitted to expire or lapse. The insurance shall provide that prior to cancellation the Secretary must be notified and must further provide that for each such policy of insurance the carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower the insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

NOTE: This provision is excepted from application of 45 CFR 74.15 by section 103(c) of Pub. L. 93-638.

(f) Provide services at a level and range which is not less than that provided by the Indian Health Service or that identified by the Service as an appropriate level, range, and standard of care.

[40 FR 53143, Nov. 14, 1975, as amended at 50 FR 1854, Jan. 14, 1985]

§ 136.106 Grant award and evaluation.

(a) Within the limits of funds determined by the Secretary to be available for such purpose, the Secretary may award grants under this subpart to applicants whose project will, in the judgment of the Secretary, best promote the purposes of the Act, and the regulations of this subpart, taking into account:

(1) The apparent capability of the applicant to organize and manage the proposed project successfully considering, among other things the adequacy of staff, management systems, equipment and facilities.

(2) The soundness of the applicant's plan for conducting the project and for assuring effective utilization of grant funds.

(3) The adequacy of the budget in relation to the scope of the project and available funds.