

INA program and which has a grant agreement under § 668.292.

NEW means the Native Employment Works Program, the tribal work program authorized under section 412(a)(2) of the Social Security Act, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act (Public Law 104-193).

Underemployed means an individual who is working part time but desires full time employment, or who is working in employment not commensurate with the individual's demonstrated level of educational and/or skill achievement.

Subpart B—Service Delivery Systems Applicable to Section 166 Programs

§ 668.200 What are the requirements for designation as an “Indian or Native American (INA) grantee”?

(a) To be designated as an INA grantee, an entity must have:

(1) A legal status as a government or as an agency of a government, private non-profit corporation, or a consortium which contains at least one of these entities;

(2) The ability to administer INA program funds, as defined at § 668.220; and

(3) A new (non-incumbent) entity must have a population within the designated geographic service area which would provide funding under the funding formula found at § 668.296(b) in the amount of at least \$100,000, including any amounts received for supplemental youth services under the funding formula at § 668.440(a). Incumbent grantees which do not meet this dollar threshold for Program Year (PY) 2000 and beyond will be grandfathered in. We will make an exception for grantees wishing to participate in the demonstration program under Public Law 102-477 if all resources to be consolidated under the Public Law 102-477 plan total at least \$100,000, with at least \$20,000 derived from section 166 funds as determined by the most recent Census data. Exceptions to this \$20,000 limit may be made for those entities which are close to the limit and which have demonstrated the capacity to administer Federal funds and operate a

successful employment and training program.

(b) To be designated as a Native American grantee, a consortium or its members must meet the requirements of paragraph (a) of this section and must:

(1) Be in close proximity to one another, but they may operate in more than one State;

(2) Have an administrative unit legally authorized to run the program and to commit the other members to contracts, grants, and other legally-binding agreements; and

(3) Be jointly and individually responsible for the actions and obligations of the consortium, including debts.

(c) Entities potentially eligible for designation under paragraph (a)(1) or (b)(1) of this section are:

(1) Federally-recognized Indian tribes;

(2) Tribal organizations, as defined in 25 U.S.C. 450b;

(3) Alaska Native-controlled organizations representing regional or village areas, as defined in the Alaska Native Claims Settlement Act;

(4) Native Hawaiian-controlled entities;

(5) Native American-controlled organizations serving Indians; and

(6) Consortia of eligible entities which individually meets the legal requirements for a consortium described in paragraph (c) of this section.

(d) Under WIA section 166(d)(2)(B), individuals who were eligible to participate under section 401 of JTPA on August 6, 1998, remain eligible to participate under section 166 of WIA. State-recognized tribal organizations serving such individuals are considered to be “Native American controlled” for WIA section 166 purposes.

§ 668.210 What priority for designation is given to eligible organizations?

(a) Federally-recognized Indian tribes, Alaska Native entities, or consortia that include a tribe or entity will have the highest priority for designation. To be designated, the organizations must meet the requirements in this subpart. These organizations will be designated for those geographic areas and/or populations over which

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they have legal jurisdiction. (WIA sec. 166(c)(1).)

(b) If we decide not to designate Indian tribes or Alaska Native entities to serve their service areas, we will enter into arrangements to provide services with entities which the tribes or Alaska Native entities involved approve.

(c) In geographic areas not served by Indian tribes or Alaska Native entities, entities with a Native American-controlled governing body and which are representative of the Native American community or communities involved will have priority for designation.

§ 668.220 What is meant by the “ability to administer funds” for designation purposes?

An organization has the “ability to administer funds” if it:

(a) Is in compliance with Departmental debt management procedures, if applicable;

(b) Has not been found guilty of fraud or criminal activity which would affect the entity’s ability to safeguard Federal funds or deliver program services;

(c) Can demonstrate that it has or can acquire the necessary program and financial management personnel to safeguard Federal funds and effectively deliver program services; and

(d) Can demonstrate that it has successfully carried out, or has the capacity to successfully carry out activities that will strengthen the ability of the individuals served to obtain or retain unsubsidized employment.

§ 668.230 How will we determine an entity’s “ability to administer funds”?

(a) Before determining which entity to designate for a particular service area, we will conduct a review of the entity’s ability to administer funds.

(b) The review for an entity that has served as a grantee in either of the two designation periods before the one under consideration, also will consider the extent of compliance with the WIA regulations. Evidence of the ability to administer funds may be established by a satisfactory Federal audit record. It may also be established by a recent record showing substantial compliance with Federal record keeping, reporting, program performance standards, or

similar standards imposed on grantees by this or other public sector supported programs.

(c) For other entities, the review includes the experience of the entity’s management in administering funds for services to Native American people. This review also includes an assessment of the relationship between the entity and the Native American community or communities to be served.

[65 FR 49435, Aug. 11, 2000, as amended at 71 FR 35524, June 21, 2006]

§ 668.240 What is the process for applying for designation as an INA grantee?

(a) Every entity seeking designation must submit a Notice of Intent (NOI) which complies with the requirements of the Solicitation for Grant Application (SGA). An SGA will be issued every two years, covering all areas except for those for which competition is waived for the incumbent grantee under WIA section 166(c)(2).

(b) NOI’s must be submitted to the Chief of DINAP, bearing a U.S. Postal Service postmark indicating its submission no later than October 1st of the year which precedes the first year of a new designation cycle (unless the SGA provides a later date). For NOI’s received after October 1, only a timely official U.S. Postal Service postmark is acceptable as proof of timely submission. Dates indicating submission by private express delivery services or metered mail are unacceptable as proof of the timely submission of designation documents.

(c) NOI’s must include the following:

(1) Documentation of the legal status of the entity, as described in § 668.200(a)(1);

(2) A Standard Form (SF) 424b;

(3) The assurances required by 29 CFR 37.20;

(4) A specific description, by State, county, reservation or similar area, or service population, of the geographic area for which the entity requests designation;

(5) A brief summary of the employment and training or human resource development programs serving Native Americans that the entity currently operates or has operated within the previous two-year period;