

Program. FCS shall examine the relevant factors specified in § 281.3(b)(1) and shall follow the notification and determination procedures set forth in § 281.3 (c) and (d). If ITO failure is determined, FCS shall require the appropriate agency of the State government to resume administration of the Program on the reservation in accordance with an approved termination and transition arrangement.

§ 281.8 Transfer of program administration.

The transfer of program administration from an agency of the State government to an ITO pursuant to a determination of failure as provided for in § 281.3, or from an ITO to an agency of the State government pursuant to § 281.7, shall be contingent on the establishment of an effective termination and transition arrangement and an approved Plan of Operation from the State agency assuming program administration. Grant closeout procedures shall be followed in accordance with part 277. FCS shall approve the transition plan, monitor its implementation and resolve any issues which may arise during the transition and after the transfer of program administration.

§ 281.9 Funding.

(a) *Agency of State government.* From the funds available to carry out this provision beginning July 1, 1979, FCS may pay to each agency of State government administering a Food Stamp Program on a reservation, 75 percent of all approved administrative costs, such as: Certification, issuance, outreach, fair hearings and quality control, incurred on the reservation for residents of the reservation and approved by FCS to meet standards set by the 1977 Food Stamp Act. FCS may pay each agency of State government administering a Food Stamp Program on a reservation 75 percent of all approved administrative costs incurred off the reservation for activities begun after the effective date of these regulations that are primarily directed at providing better services for Indians on the reservation, such as hiring an interpreter or an Indian outreach worker, or moving a certification or issuance center closer to a

reservation. The provisions of part 277 apply to any funds received under this section.

(b) *Indian tribal organization acting as State agency.* From the funds available to carry out the provisions of this part beginning October 1, 1979, FCS is authorized to pay to each ITO acting as a State agency and administering a Food Stamp Program on a reservation 75 percent of all administrative costs approved by FCS as needed for operation of a Food Stamp Program on a reservation. Any approval for payment of funds in excess of 75 percent must be based on compelling justification that such additional amounts are necessary for the effective operation of the Food Stamp Program on the reservation. The provisions of part 277 apply to any funds received under this section.

§ 281.10 Appeals.

(a) *Failure/capability.* (1) Any State agency or ITO may appeal the determination made by FCS on:

(i) Whether or not the reservation definition is met;

(ii) The failure or absence of failure of an agency of State government to properly administer the Food Stamp Program;

(iii) The capability or incapability of an ITO to administer the Food Stamp Program;

(iv) The failure of an ITO to properly administer the Food Stamp Program;

(v) The Federal matching percentage level of administrative funding made available by FCS. To prevail the State agency must show a compelling justification that additional funding is needed for the effective administration of the Program on the reservation.

(2) At the time FCS advises the State agency or ITO of its determination, FCS shall also advise the State agency or ITO of its right to appeal and, except for appeals of funding determinations, shall advise the State agency or ITO of its right to request either a meeting to present its position in person or a review of the record. On appeals of funding determinations, FCS shall advise the State agency or ITO that it may indicate if it wishes a meeting, however, FCS need schedule a meeting only if FCS determines a meeting is warranted to reach a proper

adjudication of the matter. Otherwise, FCS shall review supportive information submitted by the State agency or ITO in paragraph (b)(2) of this section.

(b) *Procedures*—(1) *Time limit*. Any State agency or ITO which wants to appeal an initial FCS determination under paragraph (a) of this section must notify the Administrator of FCS, in writing within 15 days from the date of the determination and must advise FCS if it wishes a meeting or a review of the record.

(2) *Acknowledgment*. Within five days of receipt by the Administrator of FCS of a request for review, FCS shall provide the State agency or ITO by certified mail, return receipt requested, with a written acknowledgement of the request. The acknowledgment shall include the name and address of the official designated by the Administrator to review the appeal. The acknowledgment shall also notify the State agency or ITO that within ten day of receipt of the acknowledgment, the State agency or ITO shall submit written information in support of its position.

(3) *Scheduling a meeting*. If the Administrator, FCS, grants a meeting FCS shall advise the State agency or ITO by certified mail, return receipt requested, of the time, date and location of the meeting at least ten days in advance of the meeting. FCS shall schedule and conduct the meeting and make a decision within 60 days of the receipt of the information submitted in response to paragraph (b)(2) of this section.

(4) *Review*. If no meeting is conducted, the official designated by the Administrator, FCS, shall review information presented by a State agency or ITO which requests a review, and shall make a final determination in writing within 45 days of the receipt of the State agency's or ITO's information submitted in response to paragraph (b)(2) of this section setting forth in full the reasons for the determination.

(5) *Final decision*. The official's decision after a meeting or a review shall be final.

(c) *Funding and other sanctions*. Any State agency or ITO that wishes to appeal a funding determination made by FCS other than under (a)(5) of this section, or the application of a Federal

sanction, shall follow the Administrative Review Procedures set forth in part 276.

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

Sec.

282.1 Legislative authority and notice requirements.

282.2 Funding.

AUTHORITY: 7 U.S.C. 2011-2032.

SOURCE: Amdt. 134, 43 FR 54215, Nov. 21, 1978, unless otherwise noted.

§ 282.1 Legislative authority and notice requirements.

(a) *Legislative authority*. Section 17 of the Act authorizes the Secretary to conduct demonstration, research, and evaluation projects. In conducting such projects, the Secretary may waive all or part of the requirements of the Act and implementing regulations necessary to conduct such projects, except that no project, other than a project involving the payment of the average value of allotments by household size in the form of cash to eligible households or a project conducted to test improved consistency or coordination between the food stamp employment and training program and the Job Opportunities and Basic Skills program under Title IV of the Social Security Act, may be undertaken which would lower or further restrict the established income and resource standards or benefit levels.

(b) *Notices*. At least 30 days prior to the initiation of a demonstration project, FCS shall publish a General Notice in the FEDERAL REGISTER if the demonstration project will likely have a significant impact on the public. The notice shall set forth the specific operational procedures and shall explain the basis and purpose of the demonstration project. If significant comments are received in response to this General Notice, the Department will take such action as may be appropriate prior to implementing the project. If the operational procedures contained in the General Notice described above are significantly changed because of comments, an amended General Notice