

(c) *Food Distribution Program* means a food distribution program for households on Indian reservations administered pursuant to section 4(b) of the Food Stamp Act and 1304(a) of Pub. L. 97-98.

(d) *Indian tribal household* means a household in which at least one household member is recognized as a tribal member by any Indian tribe, as defined in §253.2(d) of this title.

(e) *Indian tribal organization (ITO)* means (1) any Indian tribe, band, or group organized under the Oklahoma Indian Welfare Act of 1936, and which has a tribal organization approved by the Bureau of Indian Affairs; (2) a tribal organization established and approved under Federal regulations issued by the Bureau of Indian Affairs; or (3) an intertribal council authorized by eligible tribes to act in behalf of the tribes to operate the program.

(f) *State agency* means the ITO of an Indian tribe, determined by the Department to be capable of effectively administering a Food Distribution Program, or an agency of State government, which enters into an agreement with FCS for the distribution of commodities on an Indian reservation.

(g) *Urban place* means a town or city with a population of 10,000 or more.

[49 FR 32756, Aug. 16, 1984, as amended at 59 FR 1449, Jan. 11, 1994]

#### §254.3 Administration by an ITO.

(a) *Applicability of part 253.* All of the provisions of part 253 are herein incorporated and apply to part 254, except as specifically modified by part 254.

(b) Section 253.4 Administration, does not apply and is replaced by §254.3.

(c) *Federal administration.* Within the Department of Agriculture, the Food and Consumer Service (FCS), shall be responsible for the Food Distribution Program. FCS shall have the power to determine the amount of any claim and to settle and adjust any claim against an ITO.

(d) *ITO administration.* The ITO, acting as State agency, shall be responsible for the Food Distribution Program within the approved FCS service areas if FCS determines the ITO capable of effective and efficient administration.

(e) *Qualification as an ITO.* The ITO of a tribe in Oklahoma must document to the satisfaction of FCS that the ITO meets the definition of an ITO in §254.2, is organized under the provisions of the Oklahoma Indian Welfare Act of 1936 or has a tribal organization established and approved under BIA regulations.

(The information collection requirements contained in paragraph (e) were approved by the Office of Management and Budget under control number 0584-0316)

#### §254.4 Application by an ITO.

(a) *Application to FCS Regional Office.* An ITO which desires to participate in the Food Distribution Program shall file an application with the FCS Regional Office. The application shall also provide other information requested by FCS, including but not limited to, the tribe's qualification as a reservation as described in §254.2, paragraph (f). Properly addressed applications shall be acknowledged by the FCS Regional Office in writing within five working days of receipt. FCS shall promptly advise ITOs of the need for additional information if an incomplete application is received.

(b) *Tribal capability.* (1) In determining whether the ITO is potentially capable of effectively and efficiently administering a Food Distribution Program in an FCS Service area, allowing for fulfillment of that potential through training and technical assistance, FCS shall consult with other sources such as the BIA, and shall consider the ITO experience, if any, in operating other government programs, as well as its management and fiscal capabilities. Other factors for evaluation include, but are not limited to, the ITO's ability to:

- (i) Order and properly store commodities,
- (ii) Certify eligible households,
- (iii) Arrange for physical issuance of commodities,
- (iv) Keep appropriate records and submit required reports,
- (v) Budget and account for administrative funds,
- (vi) Determine the food preferences of households, and

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(vii) Conduct on-site reviews of certification and distribution procedures and practices.

(2) FCS shall make a determination of potential ITO capability within 60 days of receipt of a completed application for the Food Distribution Program. FCS may, however, extend the period for determination of ITO capability if FCS finds that a given ITO's eligibility under §254.3 is difficult to establish.

(3) FCS shall, if requested by an ITO which has been determined by FCS to be potentially capable of administering a Food Distribution Program, provide the ITO's designees with appropriate training and technical assistance to prepare the ITO to take over program administration. In determining what training and technical assistance are necessary, FCS shall consult with the ITO and other sources, such as the BIA.

(c) *Most capable tribe.* In cases where two or more applicant tribe(s) have overlapping boundaries, FCS shall select the tribe most capable of administering a FDP within that service area.

(The information collection requirements contained in paragraph (a) were approved by the Office of Management and Budget under control number 0584–0316)

**§254.5 Household eligibility.**

(a) *Certification procedures.* All applicant households shall be certified in accordance with the eligibility and certification provisions in §253.6 and §253.7.

(b) *Urban places.* No household living in an urban place in Oklahoma shall be eligible for the Food Distribution Program on Indian Reservations. However, an ITO can request the Department to grant individual exemptions from this limitation upon proper justification submitted by the ITO as determined by FCS. Such exceptions shall be available until September 30, 1985.

(c) *Eligible households.* Only Indian tribal households, as defined in §254.2, may be eligible for the Food Distribution Program in FCS service areas.

(The information collection requirements contained in paragraph (a) were approved by the Office of Management and Budget under control number 0584–0316)