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(b) For funds that become available for obligation on October 1, the Secretary must make payments no later than December 1.

(c) If the Secretary does not make grant payments by the deadlines stated in this section, the Secretary must pay interest under the Prompt Payment Act. If the Secretary does not pay this interest, the grantee may pursue the remedies provided under the Prompt Payment Act.

§ 44.109 What happens if the grant recipient is overpaid?

(a) If the Secretary has mistakenly overpaid the grant recipient, then the Secretary will notify the grant recipient of the overpayment. The grant recipient must return the overpayment within 30 days after the final determination that overpayment occurred.

(b) When the grant recipient returns the money to the Secretary, the Secretary will distribute the money equally to all schools in the system.

§ 44.110 What Indian Self-Determination Act provisions apply to grants under the Tribally Controlled Schools Act?

(a) The following provisions of 25 CFR part 900 apply to grants under the Tribally Controlled Schools Act.

(1) Subpart F; Standards for Tribal or Tribal Organization Management Systems, §900.45.

(2) Subpart H; Lease of Tribally-owned Buildings by the Secretary.

(3) Subpart I; Property Donation Procedures.

(4) Subpart N; Post-award Contract Disputes.

(5) Subpart P; Retrocession and Re-assumption Procedures.

(b) To resolve any disputes arising from the Secretary's administration of the requirements of this part, the procedures in subpart N of part 900 apply if the dispute involves any of the following:

(1) Any exception or problem cited in an audit;

(2) Any dispute regarding the grant authorized;

(3) Any dispute involving an administrative cost grant;

(4) Any dispute regarding new construction or facility improvement or repair; or

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(5) Any dispute regarding the Secretary's denial or failure to act on a request for facilities funds.

§ 44.111 Does the Federal Tort Claims Act apply to grantees?

Yes, the Federal Tort Claims Act applies to grantees.

§ 44.112 Information collection.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This part in §44.105 contains collections of information subject to the PRA. These collections have been approved by OMB under control number 1076-0163.

PART 46—ADULT EDUCATION PROGRAM

Subpart A—General Provisions

Sec.

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Subpart B [Reserved]

AUTHORITY: 43 U.S.C. 1457; 25 U.S.C. 2, 9, 13.

SOURCE: 62 FR 44081, Aug. 19, 1997, unless otherwise noted.

Subpart A—General Provisions

§ 46.1 Purpose and scope.

The purpose of the Adult Education Program is to:

(a) Improve educational opportunities for Indian adults who lack the level of literacy skills necessary for effective citizenship and productive employment;

(b) Expand and improve existing programs for delivering adult education services, including delivery of these services to educationally disadvantaged Indian adults; and

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(c) Encourage the establishment of adult education programs that will:

(1) Enable Indian adults to acquire adult basic educational skills necessary for literate functioning;

(2) Provide Indian adults with sufficient basic education to enable them to benefit from job training and retraining programs and to obtain and retain productive employment so that they might more fully enjoy the benefits and responsibilities of citizenship; and

(3) Enable Indian adults, who so desire, to continue their education to at least the level of completion of adult secondary education.

§ 46.2 Definitions.

As used in this part:

Adult means an individual who has attained the age of sixteen or is beyond the age of compulsory school attendance under State or tribal law and not currently enrolled in a formal secondary or post-secondary educational program.

Adult Basic Education (ABE) means instruction designed for an adult who:

(1) Has minimal competence in reading, writing, and computation;

(2) Cannot speak, read, or write the English language sufficiently to allow employment commensurate with the adult's real ability;

(3) Is not sufficiently competent to meet the educational requirements of an adult consumer; or

(4) In grade level measurements that would be designated as grades 0 through 8.

Adult Education means services or instruction below the college level for adults who:

(1) Lack sufficient mastery of basic educational skills to enable them to function effectively in society, or

(2) Do not have a certificate of graduation from a school providing secondary education and have not achieved a GED.

Adult Education Office means the BIA or tribal office administering funds appropriated to the BIA, under the TPA, for Adult Education programs.

Adult Secondary Education means instruction designed for an adult who:

(1) Is literate and can function in everyday life, but is not proficient as a competitive consumer or employee; or

(2) Does not have a certificate of graduation (or its equivalent) from a school providing secondary education and in grade level measurements that would be designated as grades 9 through 12.

Assistant Secretary means the Assistant Secretary—Indian Affairs, Department of the Interior, or his/her designee.

Bureau means the Bureau of Indian Affairs.

Department of Education (ED) means the U.S. Department of Education.

Director means the Director, Office of Indian Education Programs, Bureau of Indian Affairs.

Indian means a person who is a member of, or is at least a one-fourth degree Indian blood descendent of a member of, an Indian tribe, and is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians;

Indian tribe means any Indian tribe, band, nation, rancheria, pueblo, colony or community, including any Alaska native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 668) that is Federally recognized by the United States Government through the Secretary of the Interior for the special programs and services provided by the Secretary to Indians because of their status as Indians.

Tribal Priority Allocation (TPA) means the BIA's budget formulation process that allows direct tribal government involvement in the setting of relative priorities for local operating programs.

Secretary means the Secretary of the Department of the Interior.

Service area means the geographic area served by the local Adult Education Program.

§ 46.3 Information collection.

Information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned control number 1076-0120. This information is being collected to assess the need for adult education programs. The information collection is used to manage program resources and

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for fiscal accountability and appropriate direct services documentation. Response to this request is necessary to obtain or retain a benefit. Public reporting burden for this form is estimated to average 4 hours per response including time for reviewing instructions, gathering, maintaining data, completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to the BIA Information Collection Clearance Officer, 1849 C Street NW., Washington, DC 20240.

[67 FR 13570, Mar. 25, 2002]

§ 46.10 Eligible activities.

(a) Subject to availability of funds, funds appropriated for the BIA's Adult Education Program may be used to support local projects or programs designed to:

(1) Enable Indian adults to acquire basic educational skills, including literacy;

(2) Enable Indian adults to continue their education through the secondary school level;

(3) Establish career education projects intended to improve employment opportunities;

(4) Provide educational services or instruction for elderly, disabled, or incarcerated Indian adults;

(5) Prepare individuals to benefit from occupational training; and

(6) Teach employment-related skills.

(b) Funds should not be used to support programs designed solely to prepare Indian adults to enter a specific occupation or cluster of closely related occupations.

(c) The Adult Education Program must be implemented in accordance with a plan established by the tribe(s) affected by the program. The tribe(s) may determine to set standards in addition to those established in this part.

§ 46.20 Program requirements.

(a) The Adult Education Office will implement the program or project that is designed to address the needs of the Indian adults in the service area. To determine the needs of Indian adults in the area, the Adult Education Office must consider:

(1) Elementary/secondary school dropout or absentee rates;

(2) Average grade level completed;

(3) Unemployment rates; and

(4) Other appropriate measures.

(b) The Adult Education Office, to ensure efforts that no duplication of services exists, will identify other services in the area, including those offered by Federal, State and Tribal entities, that are designed to meet the same needs as those to be addressed by the project, and the number of Indian adults who receive those services.

(c) The Adult Education Office must establish and maintain an evaluation plan.

(1) The plan must be designed to measure the project's effectiveness in meeting each objective and the impact of the project on the adults involved; and

(2) The plan must provide procedures for periodic assessment of the progress of the project and, if necessary, modification of the project as a result of that assessment.

(d) Subject to the availability of funds, the project is to be supported under the funding level established for Adult Education in the formulation of the budget under the TPA process.

§ 46.30 Records and reporting requirements.

(a) The Adult Education Office will annually submit a report on the previous project year's activities to the Director, Office of Indian Education Programs. The report must include the following information:

(1) The type of eligible activity, under § 46.10, conducted under the project(s);

(2) The number of participants acquiring the GED, high school diploma, and other certificates of performance; and

(3) A narrative summary of the activities conducted under the project.

(b) Each Adult Education Office must:

(1) Submit any records and information that the Director requires in connection with the administration of the program; and

(2) Comply with any requirements that the Director may impose to ensure the accuracy of the reports required by this part.

Subpart B [Reserved]

PART 47—UNIFORM DIRECT FUNDING AND SUPPORT FOR BUREAU-OPERATED SCHOOLS

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AUTHORITY: Pub. L. 107–110, 115 Stat. 1425.

SOURCE: 70 FR 22221, Apr. 28, 2005, unless otherwise noted.

§ 47.1 What is the purpose of this part?

This part contains the requirements for developing local educational financial plans that Bureau-operated schools need in order to receive direct funding from the Bureau of Indian Affairs under section 1127 of the Act.

§ 47.2 What definitions apply to terms in this part?

Act means the No Child Left Behind Act, Public Law 107–110, enacted January 8, 2002. The No Child Left Behind Act reauthorizes and amends the Elementary and Secondary Education Act (ESEA) and the amended Education Amendments of 1978.

Budget means that element in the local educational financial plan which shows all costs of the plan by discrete programs and sub-cost categories.

Bureau means the Bureau of Indian Affairs in the Department of the Interior.

Consultation means soliciting and recording the opinions of Bureau-operated school boards regarding each element of the local educational financial

plan and incorporating these opinions to the greatest degree feasible in the development of the local educational financial plan at each stage.

Director means the Director, Office of Indian Education Programs.

Local educational financial plan means the plan that:

(1) Programs dollars for educational services for a particular Bureau-operated school; and

(2) Has been ratified in an action of record by the local school board or determined by the superintendent under the appeals process in 25 CFR part 2.

OIEP means the Office of Indian Education Programs in the Bureau of Indian Affairs of the Department of the Interior.

Secretary means the Secretary of the Interior or a designated representative.

§ 47.3 How does a Bureau-operated school find out how much funding it will receive?

The Office of Indian Education Programs (OIEP) will notify each Bureau-operated school in writing of the annual funding amount it will receive as follows:

(a) No later than July 1 OIEP will let the Bureau-operated school know the amount that is 80 percent of its funding; and

(b) No later than September 30 OIEP will let the Bureau-operated school know the amount of the remaining 20 percent.

§ 47.4 When does OIEP provide funding?

By July 1 of each year OIEP will make available for obligation 80 percent of the funds for the fiscal year that begins on the following October 1.

§ 47.5 What is the school supervisor responsible for?

Each Bureau-operated school's school supervisor has the responsibilities in this section. The school supervisor must do all of the following:

(a) Ensure that the Bureau-operated school spends funds in accordance with the local educational financial plan, as ratified or amended by the school board;