

Bureau of Indian Affairs, Interior

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operations will be sufficient to make the enterprise self-sustaining.

(b) Amount of total financing required as well as what is obtainable from other sources, including the applicant's personal resources, and a statement of terms and conditions under which any borrowed portion is obtainable.

(c) Capital deficiency, which will be the basis for the amount of grant requested.

(d) Pro forma balance sheets and operating statements showing estimated expenses, income and net profit from operations for three years following receipt of the requested grant.

(e) Annual operating statements and balance sheets, audited if available, for the prior two years or applicable years for enterprises already in operation.

(f) Current financial statements, consisting of a balance sheet and operating statement.

(g) A plan of operation which shall be acceptable to the lender making the loan and the Assistant Secretary.

§§ 286.13–286.14 [Reserved]

§ 286.15 Application procedures.

Applications are to be submitted to the Superintendent having administrative jurisdiction over the reservation on which an enterprise will be or is located. If the enterprise site is near two or more reservations, application is to be made to the Superintendent having administrative jurisdiction over the reservation nearest to the location of the enterprise which the enterprise will benefit economically.

§ 286.16 Grant approval authority.

Applications for grants require approval by the Assistant Secretary.

§ 286.17 Grant limitations and requirements.

(a) Grants will be made to assist in establishing new economic enterprises, or in purchasing or expanding established ones. However, a grant may be made only when in the opinion of the Assistant Secretary the applicant is unable to obtain adequate financing from other sources. Prior to making any grant, the Assistant Secretary shall assure that, to the extent prac-

tical, the applicant's own resources have been invested in the proposed project. The applicant shall not be required to invest own resources to the extent that they are already committed to endeavors deemed by the Assistant Secretary to be essential to the welfare of the applicant. If the information in an application, which must include personal financial statements, indicates that it may be possible for the applicant to obtain financing without a grant, the Assistant Secretary will require the applicant to furnish letters from two customary lenders in the area, if available, who are making loans for similar purpose, showing whether or not they will make a loan to the applicant for the total financing needed without a grant.

(b) A grant may be made only to an applicant who is able to obtain at least 75 percent of the necessary financing from other sources.

(c) No grant in excess of \$250,000 may be made to an Indian tribe or in excess of \$100,000 to an Indian individual, partnership, corporation, or cooperative association.

(d) Revolving loan funds as prescribed in title I of the Indian Financing Act of 1974 and guaranteed or insured loans as prescribed in title II of said Act may not be used as the sources of the loan portion of the total financing requirement if financing from other governmental or institutional lenders is available on reasonable terms and conditions. If a loan is not available from other sources, guaranteed or insured loans under the provisions of title II of said Act may then be considered. If a guaranteed or insured loan is not available loans under the provisions of title I of said Act may then be considered. Applicants for a loan from either source must meet the eligibility requirements for such loans.

(e) A grant will not be approved unless there is assurance the applicant can and will be provided with needed competent technical and management assistance commensurate with the nature of the enterprise to be funded and the knowledge and management skills of the applicant.

(f) Grant funds may not be used for refinancing or debt consolidation unless approval is justified and required

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due to the applicant's financial position and is clearly to the advantage of the grant applicant.

(g) Ordinarily, not more than one grant will be made for a project. Nevertheless, in certain circumstances a second grant may be made to applicants for a new project or expansion of the original project. An additional grant will not be approved for an economic enterprise previously funded under the provisions of title IV of the Indian Financing Act of 1974 except for expanding a successful enterprise, provided the total of grants made shall not exceed \$250,000 to an Indian tribe and \$100,000 to an Indian individual, partnership, corporation, or cooperative association.

(h) An application for a second grant will not be approved if the applicant:

(1) Has not complied with the reporting requirements in connection with the first grant, or

(2) Has not followed the plan of operation, if any, developed for the management and operation of the economic enterprise, or

(3) Did not follow and use the management and technical assistance furnished, or

(4) Is in violation of one or more provisions of the loan agreement entered into between the applicant and the lender who furnished the loan portion of the financing in connection with the first grant.

(i) An applicant for an expansion grant must meet the same eligibility requirements as an original applicant.

(j) A grantee will be required to return all or a portion of the grant if the business or enterprise for which the grant was utilized is sold within three years of the date on which the grant was disbursed to the grantee, unless the proceeds from the sale are re-invested in a new business or business expansion which will benefit the Indian reservation economy. Such sale and re-investment must have the prior approval of the local agency superintendent. The grantee shall refund the lessor of the grant amount or a pro rata portion of sales proceeds. The pro rata portion of sales proceeds shall be based on the ratio of grant amount to its corresponding matching financing. The new business or business expansion

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utilizing such sale proceeds must meet the same criteria for eligibility as an original grant.

[39 FR 44748, Dec. 27, 1974. Redesignated at 47 FR 13328, Mar. 30, 1982, as amended at 55 FR 36274, Sept. 5, 1990; 56 FR 12436, Mar. 25, 1991]

§ 286.18 Written notice.

The applicant for a grant which is disapproved will be notified by letter, stating the reasons for disapproval and the right of appeal pursuant to 25 CFR 2. A copy of the letter will be sent to the prospective lender.

[39 FR 44748, Dec. 27, 1974. Redesignated at 47 FR 13328, Mar. 30, 1982; 48 FR 13414, Mar. 31, 1983]

§ 286.19 [Reserved]

§ 286.20 Disbursement of grant funds.

Unless otherwise provided by an agreement between a lender and the grantee, the Assistant Secretary may in his discretion advance grant funds directly to a grantee. He may require the funds to be deposited in a special account at the appropriate Agency headquarters office or deposited in a joint account in a bank and disbursed as needed by the grantee. The terms of a lender's loan agreement may require the lender's approval before disbursement of the funds. Grant funds will not be disbursed to a grantee until the Assistant Secretary has been informed by the lender that a loan has been approved for the grantee in the amount of the loan financing needed.

§ 286.21 Return of unused funds.

Grantees will be required to return unused grant funds to the Assistant Secretary if the economic enterprise for which the grant was approved is not initiated, i.e., lease obtained, if needed, construction started, equipment purchased or other, within the time stated in the grant agreement. The Assistant Secretary may, if warranted by circumstances beyond the control of the grantee, extend the time to allow for initiation of the enterprise, provided there is assurance the enterprise will be initiated forthwith within the extended time period. The Assistant Secretary will notify the lender in writing