

## **§ 287.65**

(d) Improper expenditure claims under this program are subject to disallowance.

(e) If a grantee disagrees with the Agency's decision to disallow funds, the grantee may follow the appeal procedures at 45 CFR Part 16.

### **§ 287.65 What OMB circulars apply to the NEW Program?**

NEW Programs are subject to the following OMB circulars where applicable: A-87 "Cost Principles for State, Local, and Indian Tribal Governments," A-122 "Cost Principles for Non-Profit Organizations," and A-133 "Audits of States and Local Governments."

## **Subpart D—Plan Requirements**

### **§ 287.70 What are the plan requirements for the NEW Program?**

(a) To apply for and conduct a NEW Program, a Tribe must submit a plan to ACF.

(b) The plan must identify the agency responsible for administering the NEW Program and include a description of the following:

- (1) Population to be served;
- (2) Service area;
- (3) Client services;
- (4) Work activities to be provided;
- (5) Supportive and job retention services to be provided;
- (6) Anticipated program outcomes, and the measures the Tribe will use to determine them; and
- (7) Coordination activities conducted and expected to be conducted with other programs and agencies.

(c) The plan must also describe how the Tribe will deliver work activities and services.

(d) The format is left to the discretion of each NEW grantee.

### **§ 287.75 When does the plan become effective?**

NEW plans, which are three-year plans, become effective when approved by the Secretary. The plans are usually operative the beginning of a NEW Program year, July 1.

### **§ 287.80 What is the process for plan review and approval?**

(a) A Tribe must submit its plan to the ACF Regional Office, with a copy

## **45 CFR Ch. II (10–1–12 Edition)**

sent to the Division of Tribal Services, Office of Community Services, Administration for Children and Families, Attention: Native Employment Works Team.

(b) To receive funding by the beginning of the NEW Program year (July 1), a Tribe must submit its plan by the established due date.

(c) ACF will complete its review of the plan within 45 days of receipt.

(d) After the plan review has occurred, if the plan is approvable, ACF will approve the plan, certifying that the plan meets all necessary requirements. If the plan is not approvable, the Regional Office will notify the Tribe regarding additional action needed for plan approval.

### **§ 287.85 How is a NEW plan amended?**

(a) If a Tribe makes substantial changes in its NEW Program plan or operations, it must submit an amendment for the changed section(s) of the plan to the appropriate ACF Regional Office for review and approval, with a copy sent to the Division of Tribal Services, Office of Community Services, Administration for Children and Families, Attention: Native Employment Works Team. The review will verify consistency with section 412(a)(2) of the Act.

(b) A substantial change is a change in the agency administering the NEW Program, a change in the designated service area and/or population, a change in work activities provided or a change in performance standards.

(c) A substantial change in plan content or operations must be submitted to us no later than 45 days prior to the proposed implementation date.

(d) ACF will complete the review of the amended plan within 45 days of receipt.

(e) An amended plan becomes effective when it is approved by the Secretary.

### **§ 287.90 Are Tribes required to complete any certifications?**

Yes. A Tribe must include in its NEW Program plan the following four certifications and any additional certifications that the Secretary prescribes in the planning guidance: Certification Regarding Debarment, Suspension, and

Other Responsibility Matters—Primary Covered Transactions; Certification Regarding Drug Free Workplace Requirements for Grantees Other Than Individuals; Certification Regarding Tobacco Smoke, and Assurances—Non-Construction Programs.

**§ 287.95 May a Tribe operate both a NEW Program and a Tribal TANF program?**

Yes. However, the Tribe must adhere to statutory and regulatory requirements of the individual programs.

**§ 287.100 Must a Tribe that operates both NEW and Tribal TANF programs submit two separate plans?**

Yes. Separate plans are needed to reflect different program and plan requirements as specified in the statute and in plan guidance documents issued by the Secretary for each program.

### Subpart E—Program Design and Operations

**§ 287.105 What provisions of the Social Security Act govern the NEW Program?**

NEW Programs are subject only to those requirements at section 412(a)(2) of the Act, as amended by PRWORA, titled “Grants for Indian Tribes that Received JOBS Funds.”

**§ 287.110 Who is eligible to receive assistance or services under a Tribe’s NEW Program?**

(a) A Tribe must specify in its NEW Program plan the population and service area to be served. In cases where a Tribe designates a service area for its NEW Program that is different from its Bureau of Indian Affairs (BIA) service area, an explanation must be provided.

(b) A Tribe must include eligibility criteria in its plan and establish internal operating procedures that clearly specify the criteria to be used to establish an individual’s eligibility for NEW services. The eligibility criteria must be equitable.

**§ 287.115 When a NEW grantee serves TANF recipients, what coordination should take place with the Tribal or State TANF agency?**

The Tribe should coordinate with the Tribal or State TANF agency on:

(a) Eligibility criteria for TANF recipients to receive NEW Program services;

(b) Exchange of case file information;

(c) Changes in client status that result in a loss of cash assistance, food stamps, Medicaid or other medical coverage;

(d) Identification of work activities that may meet Tribal or State work participation requirements;

(e) Resources available from the Tribal or State TANF agency to ensure efficient delivery of benefits to the designated service population;

(f) Policy for exclusions from the TANF program (*e.g.*, criteria for exemptions and sanctions);

(g) Termination of TANF assistance when time limits become effective;

(h) Use of contracts in delivery of TANF services;

(i) Prevention of duplication of services to assure the maximum level of services is available to participants;

(j) Procedures to ensure that costs of other program services for which welfare recipients are eligible are not shifted to the NEW Program; and

(k) Reporting data for TANF quarterly and annual reports.

**§ 287.120 What work activities may be provided under the NEW Program?**

(a) The Tribe will determine what work activities are to be provided.

(b) Examples of allowable activities include, but are not limited to: Educational activities, alternative education, post secondary education, job readiness activity, job search, job skills training, training and employment activities, job development and placement, on-the-job training (OJT), employer work incentives related to OJT, community work experience, innovative approaches with the private sector, pre/post employment services, job retention services, unsubsidized employment, subsidized public or private sector employment, community service programs, entrepreneurial training, management training, job creation activities, economic development leading to job creation, and traditional subsistence activities.