

**§ 3404. Programs affected**

The programs that may be integrated in a demonstration project under any such plan referred to in section 3403 of this title shall include any program under which an Indian tribe is eligible for receipt of funds under a statutory or administrative formula for the purposes of assisting Indian youth and adults to succeed in the workforce, encouraging self-sufficiency, familiarizing Indian Youth<sup>1</sup> and adults with the world of work, facilitating the creation of job opportunities and any services related to these activities.

(Pub. L. 102-477, § 5, Oct. 23, 1992, 106 Stat. 2302; Pub. L. 106-568, title XI, § 1103(b), Dec. 27, 2000, 114 Stat. 2931.)

## AMENDMENTS

2000—Pub. L. 106-568 substituted “assisting Indian youth and adults to succeed in the workforce, encouraging self-sufficiency, familiarizing Indian Youth and adults with the world of work, facilitating the creation of job opportunities and any services related to these activities” for “job training, tribal work experience, employment opportunities, or skill development, or any program designed for the enhancement of job opportunities or employment training”.

**§ 3405. Plan requirements**

For a plan to be acceptable pursuant to section 3403 of this title, it shall—

- (1) identify the programs to be integrated;
- (2) be consistent with the purposes of this chapter authorizing the services to be integrated in a demonstration project;
- (3) describe a comprehensive strategy which identifies the full range of potential employment opportunities on and near the tribal government’s service area, and the education, training and related services to be provided to assist Indian workers to access those employment opportunities;
- (4) describe the way in which services are to be integrated and delivered and the results expected from the plan;
- (5) identify the projected expenditures under the plan in a single budget;
- (6) identify the agency or agencies of the tribal government to be involved in the delivery of the services integrated under the plan;
- (7) identify any statutory provisions, regulations, policies, or procedures that the tribal government believes need to be waived in order to implement its plan; and
- (8) be approved by the governing body of the affected tribe.

(Pub. L. 102-477, § 6, Oct. 23, 1992, 106 Stat. 2303.)

**§ 3406. Plan review**

Upon receipt of the plan from a tribal government, the Secretary of the Interior shall consult with the Secretary of each Federal agency providing funds to be used to implement the plan, and with the tribal government submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal agency regulations, policies, or procedures necessary to enable the tribal government to

implement its plan. Notwithstanding any other provision of law, the Secretary of the affected agency shall have the authority to waive any statutory requirement, regulation, policy, or procedure promulgated by that agency that has been so identified by such tribal government or agency, unless the Secretary of the affected agency determines that such a waiver is inconsistent with the purposes of this chapter or those provisions of the statute from which the program involved derives its authority which are specifically applicable to Indian programs.

(Pub. L. 102-477, § 7, Oct. 23, 1992, 106 Stat. 2303; Pub. L. 106-568, title XI, § 1103(c), Dec. 27, 2000, 114 Stat. 2932.)

## AMENDMENTS

2000—Pub. L. 106-568 substituted “Federal agency” for “Federal department” and “Federal agency regulations” for “Federal departmental regulations”, substituted “agency” for “department” wherever appearing, and inserted “statutory requirement,” after “to waive any”.

**§ 3407. Plan approval**

Within 90 days after the receipt of a tribal government’s plan by the Secretary, the Secretary shall inform the tribal government, in writing, of the Secretary’s approval or disapproval of the plan, including any request for a waiver that is made as part of the plan submitted by the tribal government. If the plan is disapproved, the tribal government shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval, including reconsidering the disapproval of any waiver requested by the Indian tribe.

(Pub. L. 102-477, § 8, Oct. 23, 1992, 106 Stat. 2303; Pub. L. 106-568, title XI, § 1103(d), Dec. 27, 2000, 114 Stat. 2932.)

## AMENDMENTS

2000—Pub. L. 106-568 inserted “, including any request for a waiver that is made as part of the plan submitted by the tribal government” after “disapproval of the plan” and “, including reconsidering the disapproval of any waiver requested by the Indian tribe” after “reconsider such disapproval”.

**§ 3408. Job creation activities authorized****(a) In general**

The plan submitted by a tribal government may involve the expenditure of funds for the creation of employment opportunities and for the development of the economic resources of the tribal government or of individual Indian people if such expenditures are consistent with an overall regional economic activity which has a reasonable likelihood of success and consistent with the purposes specifically applicable to Indian programs in the statute under which the funds are authorized.

**(b) Job creation opportunities****(1) In general**

Notwithstanding any other provisions of law, including any requirement of a program that is integrated under a plan under this

<sup>1</sup> So in original. Probably should not be capitalized.

chapter, a tribal government may use a percentage of the funds made available under this chapter (as determined under paragraph (2)) for the creation of employment opportunities, including providing private sector training placement under section 3409 of this title.

**(2) Determination of percentage**

The percentage of funds that a tribal government may use under this subsection is the greater of—

- (A) the rate of unemployment in the service area of the tribe up to a maximum of 25 percent; or
- (B) 10 percent.

**(c) Limitation**

The funds used for an expenditure described in subsection (a) of this section may only include funds made available to the Indian tribe by a Federal agency under a statutory or administrative formula.

(Pub. L. 102-477, § 9, Oct. 23, 1992, 106 Stat. 2303; Pub. L. 106-568, title XI, § 1103(e), Dec. 27, 2000, 114 Stat. 2932.)

AMENDMENTS

2000—Pub. L. 106-568 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

**§ 3409. Private sector training placements**

A tribal government participating in a demonstration program under this chapter is authorized to utilize funds available under such plan to place participants in training positions with private employers and pay such participants a training allowance or wage for a period not to exceed 12 months, if the tribal government obtains a written agreement from the private employer to provide on-the-job training to such participants and, upon satisfactory completion of the training period, to guarantee permanent employment to such participants for a minimum of 12 months.

(Pub. L. 102-477, § 10, Oct. 23, 1992, 106 Stat. 2304.)

**§ 3410. Federal responsibilities**

**(a) Responsibilities of Department of the Interior**

Within 180 days following October 23, 1992, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services and the Secretary of Education shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this chapter. The lead agency for a demonstration program under this chapter shall be the Bureau of Indian Affairs, Department of the Interior. The responsibilities of the lead agency shall include—

- (1) the use of a single report format related to the plan for the individual project which shall be used by a tribal government to report on the activities undertaken under the project;
- (2) the use of a single report format related to the projected expenditures for the individual project which shall be used by a tribal government to report on all project expenditures;

(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to a tribal government appropriate to the project, except that a tribal government shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

**(b) Report requirements**

The single report format shall be developed by the Secretary, consistent with the requirements of this chapter. Such report format, together with records maintained on the consolidated program at the tribal level shall contain such information as will allow a determination that the tribe has complied with the requirements incorporated in its approved plan and will provide assurances to each Secretary that the tribe has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements which have not been waived.

(Pub. L. 102-477, § 11, Oct. 23, 1992, 106 Stat. 2304.)

**§ 3411. No reduction in amounts**

In no case shall the amount of Federal funds available to a tribal government involved in any demonstration project be reduced as a result of the enactment of this chapter.

(Pub. L. 102-477, § 12, Oct. 23, 1992, 106 Stat. 2304.)

**§ 3412. Interagency fund transfers authorized**

The Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, or the Secretary of Education, as appropriate, is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to a tribal government in order to further the purposes of this chapter.

(Pub. L. 102-477, § 13, Oct. 23, 1992, 106 Stat. 2304.)

**§ 3413. Administration of funds and overage**

**(a) Administration of funds**

**(1) In general**

Program funds shall be administered in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount attracted from each program) are spent on allowable activities authorized under such program.

**(2) Separate records not required**

Nothing in this section shall be construed as requiring the tribe to maintain separate records tracing any services or activities conducted under its approved plan to the individual programs under which funds were authorized, nor shall the tribe be required to allocate expenditures among such individual programs.

**(b) Overage**

All administrative costs may be commingled and participating Indian tribes shall be entitled to the full amount of such costs (under each program or department's regulations), and no overage shall be counted for Federal audit purposes, provided that the overage is used for the purposes provided for under this chapter.