

- (2) Elevator Trim and Elevator/Flap Interconnect Control Rods: Modification No. 6/1785;
 (3) Aileron Control Rods: Modification No. 6/1791;
 (4) Elevator Control Rods: Modification No. 6/1792; and
 (5) Rudder Control Rods: Modification No. 6/1802.

Note 2: The specific part numbers of the 2024-T3 or 2024-T81 control and interconnect control rods and their 6061-T6 replacement part numbers are contained in de Havilland SB No. 6/502, dated March 24, 1989.

(b) Within 2,400 hours TIS after the replacement required by paragraph (a) of this AD, and thereafter at intervals not to exceed 2,400 hours TIS, inspect all the affected control rods for cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland SB No. 6/390, Revision E, dated December 20, 1991; or de Havilland SB No. 6/388, Revision C, dated October 29, 1982, as applicable. Prior to further flight, replace any cracked rod with a new 6061-T6 rod as specified in and in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland SB No. 6/502, dated March 24, 1989.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office (ACO), 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581. The request shall be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(e) All persons affected by this directive may obtain copies of the documents referred to herein upon request to de Havilland, Inc., 123 Garratt Boulevard, Downsview, Ontario, Canada, M3K 1Y5; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) This amendment supersedes AD 80-13-11 R2, Amendment 39-4703, and AD 80-03-08, Amendment 39-3682.

Issued in Kansas City, Missouri, on March 26, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97-8252 Filed 3-31-97; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 41

RIN 1076-AD08

Grants to Tribally Controlled Community Colleges and Navajo Community College

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is proposing to revise part 41 to improve the clarity of the regulations and understanding of the public as mandated by Executive Order 12866. The regulations have been reorganized and rewritten in plain English.

DATES: Comments must be received on or before June 2, 1997.

ADDRESSES: Mail comments to Joann S. Morris, Director, Office of Indian Education Programs, Bureau of Indian Affairs, Department of the Interior, 1849 C St. NW, Mail Stop 3512-MIB, Washington, D.C. 20240; or, hand deliver them to Room 3512 at the above address. Comments will be available for inspection at this address from 9:00 a.m. to 4:00 p.m., Monday through Friday beginning approximately April 15, 1997.

FOR FURTHER INFORMATION CONTACT:

Garry R. Martin, Office of Indian Education Programs, Bureau of Indian Affairs at telephone (202) 208-4871.

SUPPLEMENTARY INFORMATION: The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes, 25 U.S.C. 2 and 9.

Publication of the proposed rule by the Department of the Interior (Department) provides the public an opportunity to participate in the rulemaking process. Interested persons may submit written comments regarding the proposed rule to the location identified in the "addresses" section of this document.

Executive Order 12988

The Department has certified to the Office of Management and Budget (OMB) that the proposed rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 12866

This proposed rule is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

This proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12630

The Department has determined that this proposed rule does not have "significant" takings implications. The proposed rule does not pertain to "taking" of private property interests, nor does it impact private property.

Executive Order 12612

The Department has determined that this proposed rule does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights and responsibilities of States.

NEPA Statement

The Department has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969.

Unfunded Mandates Act of 1995

This proposed rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Paperwork Reduction Act of 1995

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of the Interior has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

All information is to be collected annually from each applicant. The annual reporting and recordkeeping burden for this collection of information is estimated to average 3 hours for each response for 24 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total annual reporting and recordkeeping burden for this collection is estimated to be 72 hours.

Organizations and individuals desiring to submit comments on the information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10202, New Executive Office Building, Washington, D.C. 20503; Attention: Desk Officer for the U.S. Department of the Interior.

The Department considers comments by the public on this proposed collection of information in:

Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;

Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Enhancing the quality, usefulness, and clarity of the information to be collected; and

Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to the OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Bureau of Indian Affairs on the proposed regulations.

Drafting Information

The primary author of this document is Garry R. Martin, Office of Indian Education Programs, Bureau of Indian Affairs, Department of the Interior.

List of Subjects in 25 CFR Part 41

Indians—tribally controlled colleges; Indians—educational grants.

For the reasons given in the preamble, part 41 in Chapter I of Title 25 of the Code of Federal Regulations is proposed to be revised as set forth below:

PART 41—GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

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- 41.95 What reports are required?
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Authority: 25 U.S.C. 1801–1852; 25 U.S.C. 640a–640c–3

General Provisions

§ 41.1 What does this part cover?

The Congress of the United States has required the Department of Interior to provide funding for the establishment, operation, and improvement of Tribally Controlled Community Colleges (TCCCs) to ensure the growth of educational opportunities for Indian people. This part contains procedures for providing funding and technical assistance as authorized by the Tribally Controlled Community College Assistance Act of 1978 (Act), as amended, and the Navajo Community College Act of 1971, as amended.

§ 41.2 What terms are used in this part?

Ability to benefit means that a person without a high school diploma or its equivalent and whose age is beyond the States compulsory attendance law may be admitted conditionally as a special student in an educational program. All higher education institutions must establish, publish, and apply reasonable standards for the student to benefit which will include testing that measures the student's aptitude to successfully complete the course in which he/she is enrolled.

Academic facilities means structures used for classroom instruction, program administration and maintenance at an institution of higher education. This includes buildings used for academic, vocational, and cultural instruction; dormitories; service buildings used for storage or utilities essential to the operation of these facilities; and the campus grounds.

Academic term means a semester, quarter, trimester, or other period that the TCCC refers to as a division of its academic year.

Academic year means a period established by a tribal college as the annual period of operation of its education programs.

Act means Title I and Title II of the Tribally Controlled Community College Assistance Act of 1978, Public Law 95-471; 92 Stat. 1325, 25 U.S.C. 1801 *et seq.*, as amended.

Assistant Secretary means the Assistant Secretary—Indian Affairs or his/her designee.

BIA means the Bureau of Indian Affairs, U.S. Department of the Interior.

Director means the Director, Office of Indian Education Programs (OIEP), Bureau of Indian Affairs or his/her designee.

Endowment fund means an interest bearing account established by a TCCC that:

(1) Is exempt from taxation;

(2) Is maintained for the purpose of generating income for the support of the TCCC; and

(3) May include real and personal property (buildings, land, and money).

Indian means a person who is a member of an Indian tribe and is eligible to receive services from the Secretary of the Interior because of his/her status as an Indian.

Indian student count (ISC) means a number equal to the total number of Indian students enrolled in each TCCC, determined on the basis of the quotient of the sum of the credit hours of all the Indian students enrolled, divided by twelve (full-time equivalency). The total (ISC) is then divided by two (semesters) or three (quarters) to determine the annual (ISC) which is used as the basis for fund distribution.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan native village or regional or village corporation as defined in, or established pursuant to, the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Institution of higher education means an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965, except clause (2) of that section will not be applicable.

Per capita payment means the payment derived by dividing the amount appropriated by Congress by the sum of all ISC's and then multiplying the quotient by the ISC for each TCCC.

Personal property means property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence such as patents, inventions, and copyrights.

Real property means land, land improvements, structures, and appendages thereto, excluding removable personal property, machinery and equipment.

Regular student means a person who has a high school diploma or GED and is enrolled in an educational program.

Satisfactory progress means that the student is making sufficient advancement in his/her field of study in accordance with the standards of the college.

Secretary means the Secretary of the Interior, or his/her authorized representative.

Third week means the period beginning with the registration date as published by the college for each academic session and ending 21 calendar days later.

Title I means Title I of the Tribally Controlled Community College Assistance Act of 1978, which governs grants to tribally controlled community colleges other than NCC.

Title II means Title II of the Tribally Controlled Community College Assistance Act of 1978, which governs grants to NCC.

Tribally controlled community college (TCCC) means an institution of higher education that is formally controlled, sanctioned, or chartered by the governing body of an Indian tribe or tribes, except that no more than one institution will be recognized with respect to any single tribe.

Unused funds means the amount of funds provided to a TCCC under this part that has not been obligated or expended by the TCCC by the end of the fiscal year for which funds were received.

§ 41.3 Where do grant funds come from?

Grant funds are subject to the availability of appropriations and may be drawn from:

(a) General administrative appropriations to the Secretary; or

(b) Not more than 5 percent of the funds appropriated to carry out §§ 41.50–41.55.

§ 41.4 How is the TCCC's annual budget requested?

The annual budget request for TCCCs must be identified separately in the BIA Budget justifications. Funds appropriated for grants under this part must not be commingled with other appropriations historically expended by the BIA.

§ 41.5 What fairness provisions apply to this part?

(a) Services or assistance provided to Indians by TCCCs aided under this part must be provided in a fair and uniform manner.

(b) No TCCC may deny admission to any Indian student because he/she is or is not a member of a specific Indian tribe.

§ 41.6 How do the requirements of part 276 apply to this part?

Except as otherwise provided in this part, a TCCC must comply with part 276 of this Title, subject to express waiver of specific inappropriate provisions of part 276 that may be granted by the Assistant Secretary after request and justification by the TCCC.

Establishing Eligibility

§ 41.10 Who can receive a grant under this part?

A TCCC may receive grants if it:

(a) Was established or otherwise sanctioned or chartered by resolution, ordinance, or other official action of the governing body of an Indian tribe or tribes;

(b) Is governed by a board of directors or a board of trustees a majority of whom are Indians;

(c) Adheres to a philosophy, plan of operation, and stated goals that are designed to meet Indian needs;

(d) Has been in operation for more than one year and has a majority of students who are Indians;

(e) Admits as regular students persons who have a certificate of graduation from a school providing secondary education; or a recognized equivalent of such a certificate, i.e., General Education Development (GED); or who are beyond the compulsory school attendance age for the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(f) Provides an educational program resulting in certificates, associate, baccalaureate, and graduate degrees;

(g) Is a nonprofit and nonsectarian institution;

(h) Is accredited by a nationally recognized accreditation agency or association or, if not accredited:

(1) The Secretary has determined that there is satisfactory assurance that the TCCC will meet the standards of an accreditation agency or association within a reasonable time; or

(2) The TCCC's credits are accepted, on transfer, by not less than three accredited institutions for credit on the same basis as if transferred from an accredited institution.

§ 41.11 How must grant funds be used?

Grants made under this part must be used for the general operating costs of the TCCC to defray, at the determination of the TCCC, expenditures for academic, educational, and administrative purposes, and for the operation and maintenance of the college. Funds provided under this part must not be used in connection with religious worship or sectarian instruction.

§ 41.12 How does the Director determine who is eligible for a grant?

A TCCC may receive grants under this part only after the Director makes a positive determination of eligibility as provided in this section.

(a) The governing body of a tribe or tribes that sponsor a TCCC wishing to receive a grant must submit a resolution requesting to the Director.

(b) Within 30 days of receiving the resolution referred to in paragraph (a) of this section, the Director will designate a study team. Within 60 days the study team must complete an eligibility study to determine whether there is justification for maintaining a college for the tribe(s). The Director will submit a summary of the study and the decision to:

(1) The tribal governing body or bodies requesting the study; and
(2) The board of directors, regents, or trustees of the college.

(c) The eligibility study will give consideration to the following factors:

- (1) The existence of a college;
- (2) Financial feasibility determination based upon an ISC that will support a TCCC;
- (3) Low levels of tribal matriculation in and graduation from other post-secondary educational institutions;
- (4) Tribal, linguistic, or cultural differences;
- (5) Relative isolation from other post-secondary institutions due to factors such as climate, roads, topography, etc.;
- (6) Availability of alternate education sources in the service area;
- (7) Proposed curriculum appropriate for Indian post-secondary education;
- (8) Demonstrated adherence to a plan of operation, philosophy, or goals designed to meet the needs of Indians;
- (9) Instructors' qualifications (their degrees and evidence of expertise in their fields of teaching);
- (10) Administrative and support staffs' ability to sustain the teaching faculty and operation and maintenance of the facility;
- (11) Ability to account for the funds made available under the Act and use them efficiently; and
- (12) Adherence to the requirements of § 41.10.

§ 41.13 If a TCCC is eligible, when can it receive funding?

If the Director finds a TCCC eligible and the TCCC complies with section 41.7 of the Act, the TCCC will be eligible for funding beginning with the next fiscal year.

§ 41.14 How can a TCCC appeal a finding of ineligibility?

If the Director finds a TCCC ineligible, he/she must notify the tribe within 60 days. The tribe may file a notice of appeal with the Assistant Secretary under § 41.90. A negative determination will not prevent a tribe from requesting another eligibility study, but the application for a new study will not be accepted sooner than one year from the date of the original determination.

§ 41.15 Is a TCCC's eligibility ever reviewed?

Yes. The Director annually reviews the eligibility status of each TCCC. If he/she determines that a TCCC eligible under § 41.12 no longer meets the criteria under which the original determination of eligibility was granted, he/she must promptly notify the TCCC in writing. That determination is grounds for rejection of a TCCC's application for a grant. Any TCCC receiving this notification may appeal the Director's determination under § 41.90.

Applying for a Title I Grant**§ 41.20 How can a Title I TCCC apply for a grant?**

A TCCC that has received a positive eligibility study determination under § 41.12 is entitled to apply for grants under this part. A TCCC must complete an application and file it with the Director before July 1 of the year preceding the academic year for which a grant is requested. The application must:

- (a) Be submitted on the approved form;
- (b) Include a college catalog;
- (c) Provide a proposed budget showing total expected operating expenses of all programs to which the information applies;
- (d) Include a description of accounting procedures; and
- (e) Include a statement that the TCCC will not deny admission to any Indian solely on the basis of not being a member of the tribe that has established and operates the TCCC.

§ 41.21 How will the TCCC hear if it has received a grant?

Within 60 days of receiving an application, the Director will review all supporting documents, make a decision,

and notify the applicant in writing of the decision.

§ 41.22 What happens if the Director disapproves an application?

(a) If the Director disapproves an application, he/she must send the applicant written notification that includes the specific reasons for disapproval. The applicant will then have 30 days to amend or supplement the application and submit it for reconsideration.

(b) A TCCC may appeal the disapproval of its original grant proposal or its amended application by following the procedures in § 41.90.

§ 41.23 What additional documentation is required after a grant is approved?

A grant award under an approved application must be supported by a grant agreement, signed by a BIA Grants Officer, that includes the application and provisions required by §§ 41.5 and 41.6 and section 111 of the Act.

§ 41.24 Are there criminal penalties for making false statements on an application?

Yes. It's a crime under section 1001 of Title 18, U.S. Code, for a person to submit, or cause to be submitted, any false information to the BIA in connection with any application, report, or other document on which Federal financial assistance or any other payment of Federal funds is based. Punishment for violations under 18 U.S.C. § 1001 is a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both.

Counting Students and Measuring Progress**§ 41.30 What procedures are used to count students?**

The following Indian Student Count (ISC) procedure must be used by all Title I TCCCs:

(a) The number is calculated on the basis of Indian students who are enrolled at the conclusion of the third week, or the equivalent thereof, of each academic term;

(b) Credits earned by non-Indian students cannot be counted towards the computation of the ISC for funding under the Act;

(c) Credits earned in classes offered during a summer term are counted toward the computation of the ISC in the succeeding fall term;

(d) Credit hours converted from CEU's are counted toward the computation of the ISC;

(e) The formula for conversion of CEU's to credit hours will be: 15 contact hours for one semester credit hour, 10 contact hours for one quarter credit

hour. The non-credit activity must meet the standards established by the TCCC to claim the CEU credits toward computation of the ISC.

(f) Credit hours can be counted for students who are making satisfactory progress under § 41.31 in accordance with the standards and practices of the TCCC.

(g) Students accepted for enrollment under the "ability to benefit" clause as special students will be credited and counted the same as students who have a certificate of graduation (or a recognized equivalent of such a certificate, i.e., GED) from an accredited post-secondary school if the student has:

(1) Passed an admission test that measures the student's aptitude to complete his or her educational program successfully;

(2) Successfully completed a remedial or developmental program prescribed by the institution that does not exceed one academic year. Note: Credits earned before successful completion of the prescribed program cannot be included in the TCCC's ISC; or

(3) Received a GED before the earlier of:

(i) The student's certification or graduation; or

(ii) The end of the first year of the course of study.

(h) Credits earned specific to obtaining the GED cannot be included in the institution's Indian student count.

§ 41.31 Must TCCCs have standards for measuring progress?

Yes. TCCCs must establish, publish, and apply reasonable standards for satisfactory progress by students pursuing degree or certificate programs.

Applying for a Title II Grant

§ 41.40 What is Navajo Community College's grant entitlement?

(a) Navajo Community College (NCC) is entitled to an annual grant based upon the amount of the Congressional appropriation for administration, academic instruction, development, student services, and operations and maintenance.

(b) A separate annual budget request for NCC must be identified in the BIA budget justification. Funds appropriated for grants under this part must not be commingled with other appropriations that BIA has historically spent for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.

§ 41.41 How does NCC apply for its grant under Title II?

(a) NCC must submit an application statement by July 1 each year. The statement must include:

(1) A description of NCC's curriculum (which may be in the form of a college catalog or similar publication);

(2) A proposed budget showing the total expected operating expenses of educational programs; and

(3) The expected revenue from all sources for that academic year.

(b) The chief executive officer of the NCC must certify the authenticity of the application and submit documentation that a copy of the application was submitted to the Navajo Tribe.

§ 41.42 What other provisions apply to NCC's grant?

(a) The grant award must be evidenced by a grant agreement signed by the Director, incorporating the grant application and the provisions required by §§ 41.5 and 41.6.

(b) Overpayments of grants under this part may be recovered as provided by § 41.55.

(c) Payments to NCC under this part will not disqualify NCC from applying for or receiving grants or contracts under any other Federal programs for which it may qualify.

Grant Payments

§ 41.50 What general limitation applies to grant payments?

A grant under this part for any academic year is subject to the availability of appropriations and the provision that no grant can exceed the total cost of the education program provided by the TCCC.

§ 41.51 How will BIA determine the per capita payment for Title I TCCCs?

The per capita payment to each Title I TCCC will be determined by establishing an amount per Indian Student Count (ISC). The per capita payment is the Title I appropriation for the year divided by the total previous year's ISC.

§ 41.52 What are the per capita payment procedures?

(a) The Director will authorize payments in the appropriated amount for each TCCC with an approved application. Payments will be computed as follows:

(1) By October 15 or no later than 14 days after appropriations become available, whichever comes first, BIA will allot 95 percent of the funds to each TCCC based on the prior year's certified ISC.

(2) BIA will pay the balance of any grant to which a grantee is entitled paid

no later than January 1 of the fiscal year, subject to availability of funds.

(b) By July 1, the TCCC must inform the Director in writing of the amount of any funds not expected to be obligated by the end of the fiscal year. The Director will reallocate the unused funds to other TCCCs based on their ISC for that year.

§ 41.53 How must the TCCC handle interest or investment income?

(a) Any interest or investment income that accrues on these funds after they are paid to the TCCC will become the property of the TCCC and will not affect other funding.

(b) The TCCC must spend all interest or investment income by the close of the fiscal year following the fiscal year in which the income accrues.

(c) Funds may only be invested in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.

§ 41.54 How is other funding that a TCCC may receive affected by funding received under this part?

(a) Payments to Title I TCCCs under this part will not disqualify the TCCC from applying for or receiving grants or contracts under any other Federal programs for which it may qualify.

(b) A TCCC receiving funds for programs under the Snyder Act of November 2, 1921, will not:

(1) Have its funding altered;

(2) Be denied a contract for Snyder Act funds under the Indian Self-Determination and Education Assistance Act; or

(3) Be denied contract support to administer those funds.

(c) Eligibility for payment under this part will not, by itself, make a TCCC ineligible to receive Federal financial assistance under the Higher Education Act of 1965 or any other programs that benefit institutions of higher education, community colleges, or post-secondary educational institutions.

(d) Notwithstanding any provision of law, funds provided under this part to the TCCCs will be treated as nonfederal, private funds of the TCCC for purposes of any provision of Federal law that requires nonfederal funds for a project.

§ 41.55 What about grant overpayments/underpayments?

If the Director finds that a Title I TCCC receiving funds under this part has been overpaid or underpaid, he/she must promptly notify the TCCC of the grant overpayment or underpayment. An adjustment will be made in the current fiscal year, if funds are available. If funds are not available,

the grant adjustment will be made in the next fiscal year from the amount appropriated for the Title I TCCCs.

Technical and Planning Assistance

§ 41.60 Are there any funds for technical assistance?

(a) To apply for technical assistance and if funds are available, the TCCC should submit a written request to the Director for program development. Technical assistance funds will be provided to all eligible TCCCs on an equal payment basis.

(b) The Director may distribute technical assistance funds with the initial payment in accordance with § 41.52, or may award them to an organization that the TCCC designates. If the TCCC wishes to have its funds awarded to an organization, the TCCC must notify the Director in its annual application on or before July 1 of every year.

(c) If the Director denies a request for technical assistance, the Director will notify the TCCC in writing, including the specific reason for the denial.

§ 41.61 Are planning grants available?

Yes, subject to specific appropriations. If money is appropriated, BIA may approve a planning grant for a tribe or a tribal entity to conduct planning activities for establishing a TCCC.

§ 41.62 How can a tribe or tribal entity apply for a planning grant?

Each applicant for a planning grant must submit an application using standard form (SF) 424 in accordance with OMB Circular No. A-110. The Director will consider each application in order of receipt for each fiscal year.

§ 41.63 How will a tribe or tribal entity know if it has received a planning grant?

The Director will notify the grant applicant whether the application has been approved or disapproved within 60 days of its receipt. No more than five grants, not to exceed \$15,000 each, will be awarded each fiscal year.

§ 41.64 What is required in a study made with a planning grant?

- (a) The planning study must contain:
- (1) Information pertaining to the potential number of tribal members interested in enrolling;
 - (2) An assessment of post-secondary educational opportunities on or near the Indian reservation;
 - (3) Information concerning facilities usage;
 - (4) A review of tribal and BIA funds spent on in-service training;

(5) The estimated tribal financial contribution toward the operation of a TCCC;

(6) Relative isolation factors;

(7) Tribal member enrollments at other post-secondary institutions in the service area; and

(8) Curriculum needs.

(b) The results of the planning study must be submitted within 60 days after completion to:

- (1) The Director;
- (2) The tribal governing body or bodies requesting the planning grants; and
- (3) The board of directors, regents, or trustees of the TCCC.

§ 41.65 What will happen to unused planning grant funds?

Any unallocated funds appropriated in a fiscal year for planning grants will be distributed to the Title I colleges according to the procedures in § 41.52.

§ 41.66 What assistance will BIA provide TCCCs in determining their needs and costs?

The Secretary, in consultation with the National Center for Education Statistics, will establish a data collection system to obtain accurate information on the needs and costs of operation and maintenance of TCCCs.

Endowment Funds

§ 41.70 When is a TCCC entitled to receive endowment funds?

A TCCC is entitled to receive endowment funds if the TCCC:

(a) Has received operational funds during the fiscal year in which application for an endowment fund is made; and

(b) Has not been awarded a grant under section 331 of the Higher Education Amendments of 1986, Endowment Challenge Grants, (20 U.S.C. 1065a) during the same fiscal year.

§ 41.71 How can a TCCC obtain endowment funds?

To obtain endowment funds, a TCCC must establish a trust fund as required by § 41.72 and apply to the Director under § 41.73.

§ 41.72 What requirements must an endowment trust fund meet?

A TCCC desiring to receive a grant under this section must enter an agreement with the Secretary to establish and maintain a trust fund that:

- (a) Meets the requirements of section 302(b)(1) of the Tribally Controlled Community College Assistance Act, as amended;
- (b) Provides for the deposit in the fund of:

(1) Any Federal capital contributions;

(2) A TCCC capital contribution in an amount (or of a value) equal to half the amount of each Federal capital contribution; and

(3) Any earnings of the deposited funds.

(c) Provides that deposited funds will accumulate interest at a rate not less than that of similar funds deposited at the institution for the same period of time;

(d) Provides that if a TCCC withdraws any of its capital contribution, an amount of Federal contribution equal to twice the amount (or value) of each withdrawal will be withdrawn and returned to the Secretary for redistribution;

(e) Provides that no private person may benefit from the net earnings of the trust fund;

(f) Provides a description of recordkeeping procedures for the expenditure of accumulated interest; and

(g) Provides that interest deposited in the trust fund may be periodically withdrawn and used to defray any expenses associated with the operation of the TCCC.

§ 41.73 How does a TCCC apply to participate in the endowment program?

BIA will notify TCCCs when funding is available for the endowment program. Upon receiving this notice, the TCCC must submit a signed letter to the Director certifying its intent to participate in the program and identifying the amount (or value of) funds/property available for matching purposes.

§ 41.74 What action will the Director take on applications?

(a) The Director will review each request made under § 41.73. If the Director approves the request, BIA will match on a two-for-one basis the amount identified by the TCCC, up to a maximum of \$750,000 in matching funds per TCCC.

(b) If the request is disapproved, the Director must notify the TCCC in writing, identifying the specific reasons for the disapproval and advising the TCCC of its right to appeal.

§ 41.75 What happens if a TCCC is overpaid under the endowment program?

The Director must notify a TCCC if an overpayment has been made. The TCCC must then return the excess funds.

§ 41.76 What assets may a TCCC use to comply with the matching requirement?

To comply with the matching requirement, a TCCC, may use:

- (a) Funds available from any private or tribal source; and

(b) Any real or personal property received as a donation or a gift on or after October 30, 1990, to the extent of its fair market value as determined by the Secretary.

§ 41.77 How is the value of donated real or personal property established?

(a) The fair market value of donated real or personal property must be established by a qualified appraiser. The Secretary or his/her authorized representative must review and approve the appraisal.

(b) The fair market value of property at the time it is presented to the Federal appraiser will be the amount that will be used for matching purposes regardless of future changes in value.

§ 41.78 What happens if real or personal property that the TCCC uses to comply with the matching requirement is sold or disposed of?

If any real or personal property that the TCCC uses to comply with the matching requirement is sold or otherwise disposed of, the proceeds must be deposited in the established endowment trust account. The deposited proceeds will not again be considered for Federal capital contribution purposes.

§ 41.79 How will BIA match the value of property or capital contributions?

(a) From the amount appropriated, the Secretary will allocate to each eligible TCCC:

(1) An amount for a Federal capital contribution equal to twice the value of the property or the amount that the TCCC demonstrates is committed as a capital contribution; except,

(2) The maximum amount allocated to any TCCC for any fiscal year cannot exceed \$750,000.

(b) If in any fiscal year the appropriated amount is insufficient to allocate to each TCCC an amount equal to twice the value, then the allocated amount to each TCCC will be reduced *pro rata*.

§ 41.80 What procedures will BIA follow when there are additional funds for the endowment program?

(a) The Director, after satisfying the unmet endowment, will notify all eligible TCCCs of the amount of the remaining funds.

(b) Within 60 days of the date of notification of extra funds, an eligible TCCC may submit an application.

(c) After Congress appropriates funds, the Director must notify eligible TCCCs of the amount available under this part.

Appeals

§ 41.90 What appeal rights do TCCCs have under this part?

(a) A TCCC has the right to appeal any adverse decision made by the Director to the Assistant Secretary by filing a written notice of appeal with the Assistant Secretary within 30 days of receipt of the adverse decision.

(b) Within 30 days of receiving a notice of appeal, the Assistant Secretary, or designated representative, must conduct a hearing at which the TCCC may present evidence and offer arguments in support of its appeal.

(c) Within 30 days after the hearing, the Assistant Secretary must issue a written ruling on the appeal including the reasons for that ruling that confirms, modifies, or reverses the Director's decision. The ruling of the Assistant Secretary is final.

Required Reports

§ 41.95 What reports are required?

(a) Each Title I TCCC must conduct an ISC report at the conclusion of the third week, or equivalent, of each academic term and then submit the report to the Director by the designated due date.

(b) Each college receiving grants under this part must submit an annual report to the Director by January 1 in accordance with the reporting procedures of OMB approved Form No. 1076-0105, Annual Report.

(c) The Director must conduct an evaluation of each new TCCC during the second year of funding. Periodic evaluations of established TCCCs will be conducted. The evaluation will take the form of:

(1) A review of the TCCC's continued adherence to the elements of the eligibility study,

(2) A review of Indian student enrollment,

(3) A review of its CPA audit report to determine compliance with recommendations; and,

(4) A review of the accreditation status.

§ 41.96 Are there requirements for information collection?

The Standard Form 424 and attachments prescribed by that circular are approved by OMB under 44 U.S.C. 3501 *et seq.* These sections describe types of information that would satisfy the application requirements of Circular A-110 for this grant program. The information collection requirement contained in this part has been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995, 44 U.S.C.

3507(d), and assigned clearance number 1076-0018.

Dated: March 20, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[W173-01-7302b; FRL-5691-6]

Approval of Section 112(l) Program of Delegation; Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve Wisconsin's request for delegation of the Federal air toxic program pursuant to Section 112(l) of the Clean Air Act of 1990. In the Final Rules section of this **Federal Register**, EPA is fully approving the State's request for delegation as a direct final rule without prior proposal, because the EPA views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to these actions, no further activity is contemplated in relation to this proposed rule. If EPA receives timely comments adverse to or critical to the approval, which have not been addressed by the State or EPA, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

EFFECTIVE DATE: Comments must be received on or before May 1, 1997.

ADDRESSES: Copies of the State submittal and EPA's analysis of it are available for inspection at: United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Constantine Blathras, AR-18J, United States Environmental Protection Agency, Chicago, Illinois 60604, (312) 886-0671.

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 63

Environmental Protection, Administrative practice and procedure,