

under the grantee's program by a number which exceeds 25 percent of the participants previously proposed to be served, or by 25 participants, whichever is larger.

(c) We will act upon any modification within thirty (30) calendar days of receipt of the proposed modification. In the event that further clarification or modification is required, we may extend the thirty (30) day time frame to conclude appropriate negotiations.

### Subpart H—Administrative Requirements

#### § 668.800 What systems must an INA grantee have in place to administer an INA program?

(a) Each INA grantee must have a written system describing the procedures the grantee uses for:

(1) The hiring and management of personnel paid with program funds;

(2) The acquisition and management of property purchased with program funds;

(3) Financial management practices;

(4) A participant grievance system which meets the requirements in section 181(c) of WIA and 20 CFR 667.600; and

(5) A participant records system.

(b) Participant records systems must include:

(1) A written or computerized record containing all the information used to determine the person's eligibility to receive program services;

(2) The participant's signature certifying that all the eligibility information he or she provided is true to the best of his/her knowledge; and

(3) The information necessary to comply with all program reporting requirements.

#### § 668.810 What types of costs are allowable expenditures under the INA program?

Rules relating to allowable costs under WIA are covered in 20 CFR 667.200 through 667.220.

#### § 668.820 What rules apply to administrative costs under the INA program?

The definition and treatment of administrative costs are covered in 20 CFR 667.210(b) and 667.220.

#### § 668.825 Does the WIA administrative cost limit for States and local areas apply to section 166 grants?

No, under 20 CFR 667.210(b), limits on administrative costs for section 166 grants will be negotiated with the grantee and identified in the grant award document.

#### § 668.830 How should INA program grantees classify costs?

Cost classification is covered in the WIA regulations at 20 CFR 667.200 through 667.220. For purposes of the INA program, program costs also include costs associated with other activities such as Tribal Employment Rights Office (TERO), and supportive services, as defined in WIA section 101(46).

#### § 668.840 What cost principles apply to INA funds?

The cost principles described in OMB Circulars A-87 (for tribal governments), A-122 (for private non-profits), and A-21 (for educational institutions), and the regulations at 20 CFR 667.200(c), apply to INA grantees, depending on the nature of the grantee organization.

#### § 668.850 What audit requirements apply to INA grants?

The audit requirements established under the Department's regulations at 29 CFR part 99, which implement OMB Circular A-133, apply to all Native American WIA grants. These regulations, for all of WIA title I, are cited at 20 CFR 667.200(b). Audit resolution procedures are covered at 20 CFR 667.500 and 667.510.

#### § 668.860 What cash management procedures apply to INA grant funds?

INA grantees must draw down funds only as they actually need them. The U.S. Department of Treasury regulations which implement the Cash Management Improvement Act, found at 31 CFR part 205, apply by law to most recipients of Federal funds. Special rules

**§ 668.870**

may apply to those grantees required to keep their funds in interest-bearing accounts, and to grantees participating in the demonstration under Public Law 102-477.

**§ 668.870 What is “program income” and how is it regulated in the INA program?**

(a) Program income is defined and regulated by WIA section 195(7), 20 CFR 667.200(a)(5) and the applicable rules in 29 CFR parts 95 and 97.

(b) For grants made under this part, program income does not include income generated by the work of a work experience participant in an enterprise, including an enterprise owned by an Indian tribe or Alaska Native entity, whether in the public or private sector.

(c) Program income does not include income generated by the work of an OJT participant in an establishment under paragraph (b) of this section.

**Subpart I—Miscellaneous Program Provisions**

**§ 668.900 Does WIA provide regulatory and/or statutory waiver authority?**

Yes, WIA section 166(h)(3) permits waivers of any statutory or regulatory requirement imposed upon INA grantees (except for the areas cited in § 668.920). Such waivers may include those necessary to facilitate WIA support of long term community development goals.

**§ 668.910 What information is required to document a requested waiver?**

To request a waiver, an INA grantee must submit a plan indicating how the waiver will improve the grantee’s WIA program activities. We will provide further guidance on the waiver process, consistent with the provisions of WIA section 166(h)(3).

**§ 668.920 What provisions of law or regulations may not be waived?**

- Requirements relating to:
  - (a) Wage and labor standards;
  - (b) Worker rights;
  - (c) Participation and protection of workers and participants;
  - (d) Grievance procedures;
  - (e) Judicial review; and

**20 CFR Ch. V (4–1–10 Edition)**

(f) Non-discrimination may not be waived. (WIA sec. 166(h)(3)(A).)

**§ 668.930 May INA grantees combine or consolidate their employment and training funds?**

Yes, INA grantees may consolidate their employment and training funds under WIA with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (Public Law 102-477) (25 U.S.C. 3401 *et seq.*). Also, Federally-recognized tribes that administer INA funds and funds provided by more than one State under other sections of WIA title I may enter into an agreement with the Governors to transfer the State funds to the INA program. (WIA sec. 166(f) and (h)(6).)

**§ 668.940 What is the role of the Native American Employment and Training Council?**

The Native American Employment and Training Council is a body composed of representatives of the grantee community which advises the Secretary on all aspects of Native American employment and training program implementation. WIA section 166(h)(4) continues the Council essentially as it is currently constituted, with the exception that all the Council members no longer have to be Native American. However, the nature of the consultative process remains essentially unchanged. We continue to support the Council.

**PART 669—NATIONAL FARMWORKER JOBS PROGRAM UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT**

**Subpart A—Purpose and Definitions**

Sec.

669.100 What is the purpose of the National Farmworker Jobs Program (NFJP) and the other services and activities established under WIA section 167?

669.110 What definitions apply to this program?

669.120 How do we administer the NFJP program?

669.130 What unit within the Department administers the National Farmworker Jobs Program funded under WIA section 167?