

## § 700.451

the life tenancy as determined by the Commission. Such improvements:

(1) May include the renovation or replacement of existing dwelling structures and privies or outhouses so as to improve their utility, safety or level of modern utilities or amenities, but

(2) Shall not increase the number, size, or capacity of dwelling structures on the leased area except with the express written approval of the Commission based upon a showing of actual need, or to reasonably accommodate a resident care provider for whom there is not adequate existing residential capacity.

(3) May include not more than one shed or barn to be used in connection with livestock and/or agricultural activities permitted.

(4) May include one ceremonial hogan and one traditional ramada type structure.

(5) May include a garden of reasonable size.

(6) May include such other improvements as the Commission finds to be reasonable under the circumstances of each lease.

(h) That no person may visit on a life estate lease for more than thirty (30) consecutive days in any one visit or ninety (90) days total of all visits within any lease year the first of which shall commence on the date of issuance of the life estate lease, except that grandchildren and their descendants who are not minor dependents of the life tenant and who have not attained the age of eighteen (18) years may visit for ninety (90) consecutive days in any lease year. There shall be no limitation on visits which do not extend overnight.

(i) That said life tenant or his or her surviving spouse may relinquish said life estate lease at any time and may receive relocation benefits from the Secretary at the time of relinquishment as provided in 25 U.S.C. 640d-28(h), (Pub. L. 96-305, section 30(h)).

(j) The purposes for which the life estate lease may be used.

(k) The life estate tenure shall end by voluntary relinquishment, or at the death of the life tenant or the death of his or her spouse, whichever occurs last, all as provided in 25 U.S.C. 640d-28(g) (Pub. L. 96-305, section 30(g)).

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(1) No livestock shall be allowed in the lease area until the perimeter of the lease area is fenced.

(m) Such other terms and conditions deemed necessary or appropriate by the Commission.

### Subpart N—Discretionary Funds

SOURCE: 47 FR 57916, Dec 29, 1982, unless otherwise noted.

#### § 700.451 Purpose.

(a) The purpose of this subpart is to establish procedures for the submission, review and approval, and administration of applications for financial assistance from the discretionary fund established by Pub. L. 93-531, as amended.

(b) The purpose of the discretionary fund is to provide financial assistance to activities which will facilitate and expedite the relocation and resettlement of individuals under the Act and ease the hardship incurred by these individuals.

#### § 700.453 Definitions.

(a) *Act* means Pub. L. 93-531 (88 Stat. 1712, 25 U.S.C. 640d), as amended.

(b) *Applicant* means with respect to this subpart, any applicant as defined under § 700.457(c) or § 700.459(b).

(c) *Business* means any lawful activity, except a nonprofit organization, that is—

(1) Conducted primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(2) Conducted primarily for the sale of services to the public.

(d) *Commissioners* means the three Commissioners of the Navajo and Hopi Indian Relocation Commission.

(e) *In-kind contribution* means a noncash contribution as described in attachment F of OMB Circular A-102.

(f) *Local government* means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, council of governments, and other regional or interstate entity, or any agency or instrumentality of a local government.

(g) *Nonprofit organization* means a corporation, partnership, individual, or other public or private entity that is engaged in a lawful business, professional, or instructional activity on a nonprofit basis and that has established its nonprofit status under applicable Federal, State, or Tribal law.

(h) *Related facilities* means any building or structure normally found in a community and includes but is not limited to water, sewer and electrical lines, community centers, health centers and clinics, roads, and business establishments.

(i) *Services* means activities relating to human development including, but not limited to, educational and job training, mental health counseling, health care, and technical assistance in business administration, agriculture, and home economics.

(j) *Tribe* means the Navajo Chapter or the Hopi Village.

(k) *Tribal subdivision* means a Navajo Chapter or a Hopi Village.

**§ 700.455 Financial assistance.**

(a) The Commission may provide financial assistance to applicants eligible under this subpart from funds available for any fiscal year.

(b) To obtain financial assistance, an applicant shall submit an application in accordance with § 700.463.

(c) The Commission may make funding decisions throughout the year as applications are approved. The Commission shall, to the extent possible, make funds available throughout the year for approved applications. Based upon the merit of applications received under this subpart, the Commission shall determine how funds available under this subpart shall be apportioned among the activities described in §§ 700.457 and 700.459.

**§ 700.457 Assistance to match or pay 30% of grants, contracts or other expenditures.**

(a) The purpose of applications for financial assistance under this section shall be to aid individuals subject to relocation under the Act and to assist the host communities, towns, cities, or other entities in adjusting to and meeting the needs of the relocatees. For this purpose, the discretionary fund

may be used to match or pay not to exceed 30% (thirty percent) of any grant, contract, or other expenditure of the Federal Government, State or local government, tribal government or chapter, or private organization for the benefit of the Navajo or Hopi Tribe, if the Commission determines that such grant, contract, or expenditure would significantly assist the Commission in carrying out its responsibility or assist either tribe in meeting the burdens imposed by this Act.

(b) An "other expenditure" under this subsection is defined as cooperative agreements, direct provision of services, or in-kind contributions. The Commission may match or pay not to exceed 30% (thirty percent) of another expenditure through a grant, contract, or cooperative agreement.

(c) Eligible applicants under this section for a grant, contract, or cooperative agreement are defined as States, local government, the Navajo and Hopi Tribes, tribal chapters or villages and profit and nonprofit organizations.

(d) Total Federal financial assistance under this section may reach 100% (one hundred percent) if the applicant receives 70% (seventy percent) Federal funding from Federal agencies other than the Commission.

(e) When another Federal agency is a primary source of financial assistance for an applicant, the Commission may, pursuant to an interagency agreement, transfer funds to the primary Federal agency providing financial assistance to the applicant.

(f) The Commission may, pursuant to an interagency agreement, transfer not to exceed 10% (ten percent) of the funds available under this subpart to another Federal agency directly assisting relocatees if such agency's activities would accomplish the purpose of paragraph (a) of this section. Financial assistance transferred to accomplish an eligible activity under paragraph (a) of this section may not exceed the funding limitation of paragraph (a) of this section.

(g) An applicant may apply for financial assistance under this section in accordance with the funding limitations described in paragraph (a) for the purpose of undertaking a technical feasibility study of a construction project

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or any major project with a total funding of over \$200,000 (two hundred thousand dollars) or any dollar amount which the Commission may prescribe at some future time.

**§ 700.459 Assistance for demonstration projects and for provision of related facilities and services.**

(a) The purpose of applications for financial assistance under this section shall be to aid individuals subject to relocation under the Act. For this purpose, the discretionary fund may be used by the Commission to engage or participate either directly through Federal activities, or by cooperative agreement, grant, or contract in demonstration efforts to employ innovative energy or other technologies in providing housing and related facilities and services in the relocation and resettlement of individuals under this Act.

(b) Applicants eligible under this section to receive grants, cooperative agreements or contracts are: states, local governments, the Navajo and Hopi Tribes, tribal chapters, profit and nonprofit organizations, and individuals.

(c) Applicants for assistance under this section may receive up to 100% (one hundred percent) project or program funding from the Commission, however, the Commission may specify whether applications for certain types of programs or projects under this section require matching funding from the applicant.

(d) Activities described in §700.457(a) and paragraph (a) of this section may be provided by the Commission through in-house activities which receive financial assistance under this section.

(e) The Commission may, pursuant to an interagency agreement, transfer not to exceed 10% (ten percent) of the funds available under this subpart to another Federal agency directly assisting relocatees if such agency's activities would accomplish the purpose of §§ 700.457(a) and 700.459(a).

(f) An applicant may apply for financial assistance under this section for the purpose of undertaking a technical feasibility study of a construction project, or any major project with a

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total planned funding of over \$200,000, (two hundred thousand dollars) or any dollar amount which the Commission may prescribe at some future time.

**§ 700.461 Method for soliciting applications.**

(a) The Commission shall utilize two methods to solicit applications for funding:

(1) The Commission shall issue an annual announcement of the availability of funds for programs which will most effectively meet the purposes of §700.457(a) or 700.459(a). Applicants submitting applications under this announcement must demonstrate that the proposed project or program will effectively facilitate and expedite the relocation effort of the Commission.

(2) As priority needs are identified by the Commission, calls shall be issued during the fiscal year for specific proposals. Requests for proposal shall define the need to be addressed and the scope of work required.

(b) The annual announcements of the availability of funds and periodic requests for proposals shall be issued through the Commerce Business Daily and media which has regional and local circulation. The Commission may fund approved applications through grant, contract, or direct provision of services, pursuant to Pub. L. 93-531, as amended.

**§ 700.463 Requirements for applications.**

(a) Applicants shall submit preapplications for funding assistance. The preapplication shall be due by the closing date published by the Commission, and shall consist of:

(1) Standard Form 424;

(2) A brief narrative not to exceed one page describing how the program or project will meet the priorities established by the Commission pursuant to § 700.457 or § 700.459.

(b) The Commission shall respond to each preapplication, and shall request each person submitting an acceptable preapplication to submit an application.

(c) Applications for financial assistance for a project or program may be submitted by the due date established by the Commission for a particular

funding cycle. Applications received after the due date will be considered for the next funding cycle, although the Commission, at its discretion, may select such a project for funding under the current cycle. An original and 5 (five) copies of each application must be submitted to the Commission. Applications shall be submitted on such forms as the Commission may prescribe in conformity with OMB circulars A102 or A110.

(d) Applications under §700.457 for matching financial assistance not to exceed 30% of another expenditure, shall include:

(1) A detail sheet showing the sources of matching funds, including both cash and in-kind contributions, and documentation that the applicant has fulfilled all of the requirements of any Federal agency, state or local government or chapter, or private organization from which the financial assistance is also requested; and

(2) A narrative statement which includes an explanation of how the application would aid relocatees and assist the host communities, towns, cities, or other entities in adjusting to and meeting the needs of relocatees.

(e) Applications for financial assistance under §700.459 must justify the proposed project or program as a demonstration effort in order to be eligible for 100% funding.

(f) Applications shall contain a statement of how the applicant plans to comply with the provisions of the Indian Self-Determination Act (25 U.S.C. 450e) and the Act of April 16, 1934 (48 Stat. 596) as amended (25 U.S.C. 452-457).

**§ 700.465 Technical feasibility.**

Unless required by a non-Commission source of financial assistance, completed plans and specifications are not required at the time an application is submitted for construction, technology, or another engineering project, however, an application for a construction, technology or another engineering project shall:

(a) Include sufficient information to determine the nature and scope of the project, its probable useful life, and a reasonable estimate of cost;

(b) Fully show that the applicant will follow design and performance criteria which conform to professionally recognized standards and which adequately define the technical capability of the project to serve current and foreseeable needs; and

(c) Justify any evidence or use of unorthodox design.

(d) Show that the applicant has a management plan for the facility which identifies probable sources of operating funds.

(e) An applicant who is awarded a grant under §700.465 is required to submit completed plans and specifications for the construction, technology, or other engineering project prior to construction. The Commission shall review the completed plans and specifications for technical adequacy as part of its oversight function.

**§ 700.467 Construction costs.**

Construction costs and costs relating to construction such as machinery and equipment, architect/engineer services, and administrative services may be allowable as determined by the Commission.

**§ 700.469 Unallowable program and project costs.**

Costs for program or project operating expenses are not allowable except in the following cases—

(a) An application for an annual contract for services under §700.457 or 700.459 may include necessary operating expenses; and

(b) An application for a demonstration effort under §700.459 may include costs relating to the operation of the demonstration.

**§ 700.471 Review and approval.**

(a) Upon receipt of an application for financial assistance under this subpart, members of the Commission staff shall begin a preliminary review of the application with the intent of submitting a recommendation to the Commissioners of whether to accept or deny the application. The Commission staff may inform the applicant before its recommendation to the Commissioners, of any special problems or impediments which may result in a recommendation for disapproval; may

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offer any available technical assistance required to overcome such problems or impediments; and solicit the applicants written response.

(b) The Commission staff may solicit comments on an application from technical specialists, community groups and others, when such advice is needed to fully evaluate the application.

(c) The Commission staff shall forward the application with their recommendation to the Commissioners. The Commissioners may approve applications if they determine that:

(1) The application meets the requirements of this subpart;

(2) The application meets the intent of the Act;

(3) The application fully demonstrates that it will expedite the relocation and resettlement of individuals under the Act and ease the hardship incurred by these individuals or by the Tribes;

(4) The application is compatible with priorities identified by the Commission;

(5) The applicant can carry out the activities described in the application and can maintain proper financial controls on the activities for which financial assistance is requested;

(6) The applicant can and will comply with requirements for Indian preference in employment and training in connection with the administration of the grant, and preference to Indian organizations and Indian owned economic enterprises in the award of subcontracts or subgrants; and

(7) Funds are available.

(d) All applicants shall be notified in writing of the Commission's approval or disapproval of the grant applications.

### § 700.473 Administrative expenditures of the Commission.

The Commission may use funds in an amount not to exceed 5 percent of the funds authorized under this subpart for expenses relating to the administration of the discretionary fund including—

(a) Personnel, whose time is expended directly in support of such administration;

(b) Supplies which are expended directly in support of such administration;

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(c) Contracts, where the work performed is directly related to such administration;

(d) Printing, directly in support of such administration; and

(e) Travel, directly related to such administration.

### § 700.475 Reports.

Reports shall be furnished by any recipient of financial assistance under this subpart, in such manner as may be required by the Commission.

### § 700.477 Administration of financial assistance and recordkeeping requirements.

(a) A State or local government (except an institution of higher education or a hospital since they are governed by paragraph (b) of this section), or the Navajo or Hopi Tribe receiving a grant or cooperative agreement under this subpart shall comply with applicable law including the following requirements—

(1) Office of Management and Budget Circular A-102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments" including attachment C describing recordkeeping requirements; and

(2) Federal Management Circular 74-4 5 CFR part 1310, entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

(b) A nonprofit organization, institution of higher education, or hospital receiving a grant or cooperative agreement under this subpart shall comply with applicable law including the following requirements—

(1) Office of Management and Budget Circular A-110, entitled "Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations" including attachment C describing recordkeeping requirements; and

(2) Office of Management and Budget Circular A-122, entitled "Cost Principles for Nonprofit Organizations."

(c) A profit organization receiving a grant or cooperative agreement under this subpart shall comply with applicable law including Federal Procurement Regulations (41 CFR subpart 1-15.2) for

determining the reasonableness, allowability, and allocability of costs.

(d) A profit organization, tribal chapter, or individual receiving a grant or cooperative agreement under this subpart shall—

(1) Follow sound and proper procedures for the administration of the financial assistance including any procedures established by the Commission; and

(2) Retain records as required by the Commission.

(e) A State, local government, the Navajo or Hopi Tribe, a tribal chapter or an individual receiving a contract under this subpart shall comply with applicable law including Federal Procurement Regulations (41 CFR parts 1-1 through 1-30). Recordkeeping requirements for contracts are described in §§ 1-3.814-2, 1-7.103-3, 1-7.103-18, 1-7.603-20, and 1-7.603-7 of the Federal Procurement Regulations.

(f) A State, local government, profit or nonprofit organization, or an individual residing off of the Navajo or Hopi reservation applying for a grant or cooperative agreement under this subpart shall comply with Office of Management and Budget Circular A-95, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects" unless exempted under Part I, section 8.b. of this circular.

(g) Recipients of financial assistance under this subpart shall comply with other procedures which the Commission may from time to time prescribe for the administration of financial assistance provided under this subpart.

(h) A state or local government, nonprofit organization, institution of higher education, hospital, profit organization or individual receiving a grant, subgrant, contract or subcontract under this part shall comply with the provisions of the Indian Self-Determination Act (25 U.S.C. 450e) and the Act of April 16, 1934 (48 Stat. 596) as amended (25 U.S.C. 452-457) which require that to the greatest extent feasible:

(1) Preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and

(2) Preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organization and to Indian owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (88 Stat. 77) (25 U.S.C. 1452).

**§ 700.479 Administrative review.**

(a) If the Commissioners determine that implementation of an application approved according to §700.471 fails to meet the requirements of this subpart, the Commissioners shall give notice to the recipient of their intent to terminate or suspend financial assistance to the recipient.

(b) The Commission shall issue such notice in written form sent by registered mail, return receipt requested, which notice shall include a statement of the reasons for the findings referred to in paragraph (a) of this section, and an explanation whether any amendments or actions would result in compliance with grant terms and conditions.

(c) Any person whose approved financial assistance is terminated or suspended under paragraph (b) of this section may request a review of such action by the Commission. Such request for review shall be in writing and must be mailed or delivered to the Commission not later than thirty (30) days after receipt of the notice from the Commission by the applicant. Such request for review shall state the reasons for the request and shall include any additional matters not before the Commission which the applicant deems appropriate. The Commission may grant or deny a review at its discretion and shall inform the applicant of its decision in writing.

**Subpart O—Employee Responsibility and Conduct**

SOURCE: 47 FR 11858, Mar. 19, 1982, unless otherwise noted.

**§ 700.501 Statement of purpose.**

This part prescribes appropriate standards of conduct and responsibilities, financial disclosure reports, and rules of ethics in the conduct of Government business that are