

(f) Signature by the principal official of the tribe.

[53 FR 33774, Aug. 31, 1988, as amended at 81 FR 35645, June 3, 2016]

#### **§ 1322.21 Application approval.**

(a) Approval of any application under section 604(e) of the Act, shall not commit the Commissioner in any way to make additional, supplemental, continuation, or other awards with respect to any approved application or portion thereof.

(b) The Commissioner may give first priority in awarding grants to grantees which have effectively administered such grants in the prior year.

#### **§ 1322.23 Hearing procedures.**

In meeting the requirements of section 604(d)(3) of the Act, if the Commissioner disapproves an application from an eligible tribal organization, the tribal organization may file a written request for a hearing with the Commissioner.

(a) The request shall be postmarked or delivered in person within 30 days of the date of the disapproval notice. If it requests a hearing, the tribal organization shall submit to the Commissioner, as part of the request, a full written response to each objection specified in the notice of disapproval, including the pertinent facts and reasons in support of its response, and any and all documentation to support its position. Service of the request shall also be made on the individual(s) designated by the Commissioner to represent him or her.

(b) The Administration on Aging shall have the opportunity to respond with 30 days to the merits of the tribal organization's request.

(c) The Commissioner notifies the tribal organization in writing of the date, time and place for the hearing.

(d) The hearing procedures include the right of the tribal organization to:

(1) A hearing before the Commissioner or an official designated by the Commissioner;

(2) Be heard in person or to be represented by counsel, at no expense to the Administration on Aging;

(3) Present written evidence prior to and at the hearing, and present oral evidence at the hearing if the Commis-

sioner or designated official decides that oral evidence is necessary for the proper resolution of the issues involved, and

(4) Have the staff directly responsible for reviewing the application either present at the hearing, or have a deposition from the staff, whichever the Commissioner or designated official decides.

(e) The Commissioner or designated official conducts a fair and impartial hearing, takes all necessary action to avoid delay and to maintain order and has all powers necessary to these ends.

(f) Formal rules of evidence do not apply to the hearings.

(g) The official hearing transcript together with all papers, documents, exhibits, and requests filed in the proceedings, including rulings, constitutes the record for decision.

(h) After consideration of the record, the Commissioner or designated official issues a written decision, based on the record, which sets forth the reasons for the decision and the evidence on which it was based. The decision is issued within 60 days of the date of the hearing, constitutes the final administrative action on the matter and is promptly mailed to the tribal organization.

(i) Either the tribal organization or the staff of the Administration on Aging may request for good cause an extension of any of the time limits specified in this section.

### **PART 1323—GRANTS FOR SUPPORTIVE AND NUTRITIONAL SERVICES TO OLDER HAWAIIAN NATIVES**

Sec.

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AUTHORITY: 42 U.S.C. 3001; Title VI Part B of the Older Americans Act.

## § 1323.1

SOURCE: 53 FR 33777, Aug. 31, 1988, unless otherwise noted. Redesignated at 81 FR 35645, June 3, 2016.

### § 1323.1 Basis and purpose of this part.

This program was established to meet the unique needs and circumstances of Older Hawaiian Natives. This part implements title VI (part B) of the Older Americans Act, as amended, by establishing the requirements that a public or nonprofit private organization shall meet in order to receive a grant to promote the delivery of services for older Hawaiian Natives that are comparable to services provided under title III. This part also prescribes application and hearing requirements and procedures for these grants.

### § 1323.3 Definitions.

*Acquiring*, as used in section 307(a)(14) of the Act, means obtaining ownership of an existing facility in fee simple or by lease of 10 years or more for use as a multipurpose senior center.

*Act*, means the Older Americans Act of 1965, as amended.

*Altering or renovating*, as used in section 307(a)(14) of the Act with respect to multipurpose senior centers, means making modifications to or in connection with an existing facility which are necessary for its effective use as a center. These may include renovation, repair, or expansion which is not in excess of double the square footage of the original facility and all physical improvements.

*Budgeting period*, as used in §1323.19, means the intervals of time into which a period of assistance (project period) is divided for budgetary and funding purposes.

*Constructing*, as used in section 307(a)(14) of the Act with respect to multipurpose senior centers, means building a new facility, including the costs of land acquisition and architectural and engineering fees, or making modifications to or in connection with an existing facility which are in excess of double the square footage of the original facility and all physical improvements.

*Department*, means the Department of Health and Human Services.

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*Eligible organization*, means a public or nonprofit private organization having the capacity to provide services under this part for older Hawaiian Natives.

*Grantee*, as used in this part, means an eligible organization that has received funds to provide services to older Hawaiians.

*Hawaiian Native*, as used in this part, means any individual any of whose ancestors were native of the area which consists of the Hawaiian Islands prior to 1778.

*Means test*, as used in the provision of services, means the use of an older Hawaiian Native's income or resources to deny or limit that person receipt of services under this part.

*Older Hawaiian*, means any individual, age 60 or over, who is an Hawaiian Native.

*Project period*, as used in §1323.19, means the total time for which a project is approved for support, including any extensions.

*Service area*, as used in §1323.9(b) and elsewhere in this part, means that geographic area approved by the Commissioner in which the grantee provides supportive and nutritional services to older Hawaiian Natives residing there.

[53 FR 33777, Aug. 31, 1988, as amended at 81 FR 35646, June 3, 2016]

### § 1323.5 Applicability of other regulations.

The following regulations in title 45 of the Code of Federal Regulations apply to all activities under this part:

(a) Part 16-Procedures of the Departmental Grant Appeals Board;

(b) [Reserved]

(c) 45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.

(d) Part 80-Nondiscrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services: Effectuation of title VI of the Civil Rights Act of 1964;

(e) Part 81-Practice and procedures for hearings under part 80;

(f) Part 84-Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Benefits from Federal Financing Participation; and