

§ 1321.103

§ 1321.103 Title III and Title VI coordination for emergency and disaster preparedness.

State agencies, area agencies, and Title VI programs should coordinate in emergency and disaster preparedness planning, response, and recovery. State agencies and area agencies that have Title VI programs in operation within their jurisdictions must have policies and procedures, developed in communication with the relevant Title VI program director(s) as set forth in §1322.13(c), in place for how they will communicate and coordinate with Title VI programs regarding emergency and disaster preparedness planning, response, and recovery.

§ 1321.105 Modification during major disaster declaration or public health emergency.

The Assistant Secretary for Aging retains the right to modify the requirements described in these regulations pursuant to a major disaster declaration or public health emergency.

PART 1322—GRANTS TO INDIAN TRIBES AND NATIVE HAWAIIAN GRANTEEES FOR SUPPORTIVE, NUTRITION, AND CAREGIVER SERVICES

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AUTHORITY: 42 U.S.C. 3001 *et seq.*

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Subpart A—Introduction

§ 1322.1 Basis and purpose of this part.

(a) This program is established to meet the unique needs and circumstances of American Indian and Alaskan Native elders and family caregivers and of older Native Hawaiians and family caregivers, on Indian reservations and/or in service areas as approved in §1322.7. This program honors the sovereign government to government relationship with a Tribal organization serving elders and family caregivers through direct grants to serve the eligible participants and similar considerations, as appropriate, for Hawaiian Native grantees representing elders and family caregivers. This part implements Title VI (parts A, B, and C) of the Older Americans Act, as amended (the Act), by establishing the requirements that an Indian Tribal organization or Hawaiian Native grantee shall meet in order to receive a grant to promote the delivery of services for older Indians, Alaskan Native, Native Hawaiians, and Native American family caregivers that are comparable to services provided under Title III. This part also prescribes application and hearing requirements and procedures for these grants.

(b) Terms used, but not otherwise defined, in this part will have the meanings ascribed to them in the Act.

§ 1322.3 Definitions.

Access to services or access services, as used in this part, means services which may facilitate connection to or receipt of other direct services, including transportation, outreach, information

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and assistance, options counseling, and case management services.

Acquiring, as used in this part, means obtaining ownership of an existing facility.

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

Altering or renovating, as used in this part, means making modifications to or in connection with an existing facility which are necessary for its effective use. Such modifications may include alterations, improvements, replacements, rearrangements, installations, renovations, repairs, expansions, upgrades, or additions, which are not in excess of double the square footage of the original facility and all physical improvements.

Area agency on aging, as used in this part, means a single agency designated by the State agency to perform the functions specified in the Act for a planning and service area.

Budgeting period, as used in § 1322.19, means the intervals of time into which a period of assistance (project period) is divided for budgetary and funding purposes.

Constructing, as used in this part, 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 U.S. Department of Health and Human Services.

Domestically produced foods, as used in this part, means agricultural foods, beverages and other food ingredients which are a product of the United States, its Territories or possessions, the Commonwealth of Puerto Rico, or the Trust Territories of the Pacific Islands (hereinafter referred to as “the United States”), except as may otherwise be required by law, and shall be considered to be such a product if it is grown, processed, and otherwise prepared for sale or distribution exclusively in the United States except with respect to minor ingredients. Ingredients from nondomestic sources will be allowed to be utilized as a United States product if such ingredients are not otherwise:

(1) Produced in the United States; and

(2) Commercially available in the United States at fair and reasonable prices from domestic sources.

Eligible organization, means either a Tribal organization or a public or non-profit private organization having the capacity to provide services under this part for older Hawaiian Natives.

Family caregiver, as used in this part, means an adult family member, or another individual, who is an informal provider of in-home and community care to an older Native American; an adult family member, or another individual, who is an informal provider of in-home and community care to an individual of any age with Alzheimer’s disease or a related disorder with neurological and organic brain dysfunction; or an older relative caregiver. For purposes of this part, family caregiver does not include individuals whose primary relationship with the older adult is based on a financial or professional agreement.

Hawaiian Native or Native Hawaiian, 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.

Hawaiian Native grantee, as used in this part, means an eligible organization that has received funds under Title VI of the Act to provide services to older Hawaiians.

Indian reservation, means the reservation of any Federally recognized Indian Tribe, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, any community on non-trust land under the jurisdiction of an Indian Tribe, including a band, nation, pueblo, or rancheria, with allotted lands, or lands subject to a restriction against alienation imposed by the United States, and Alaska Native regions established, pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

Indian Tribe, means any Indian Tribe, band, nation, or organized group or community, including any Alaska Native village, regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*) which is recognized as eligible for the

special programs and services provided by the United States to Indians because of their status as Indians (25 U.S.C. 450b).

In-home supportive services, as used in this part, references those supportive services provided in the home as set forth in the Act, to include:

- (1) Homemaker, personal care, home care, home health, and other aides;
- (2) Visiting and telephone or virtual reassurance;
- (3) Chore maintenance;
- (4) Respite care for families, including adult day care as a respite service for families; and
- (5) Minor modification of homes that is necessary to facilitate the independence and health of older Native Americans and that is not readily available under another program.

Major disaster declaration, as used in this part and section 310 of the Act (42 U.S.C. 3030), means a Presidentially declared disaster under the Robert T. Stafford Relief and Emergency Assistance Act (42 U.S.C. 5121–5207).

Means test, as used in this part in the provision of services, means the use of the income, assets, or other resources of an older Native American, family caregiver, or the households thereof to deny or limit that person's eligibility to receive services under this part.

Multipurpose senior center, as used in the Act, means a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health (including mental and behavioral health), social, nutritional, and educational services and the provision of facilities for recreational activities for older Native Americans, as practicable, including as provided via virtual facilities; as used in §1322.25, facilitation of services in such a facility.

Native American, as used in the Act, means a person who is a member of any Indian Tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*) who:

- (1) Is recognized as eligible for the special programs and services provided

by the United States to Indians because of their status as Indians; or

- (2) Is located on, or in proximity to, a Federal or State reservation or rancheria; or is a person who is a Native Hawaiian, who is any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

Nutrition Services Incentive Program, as used in the Act, means grant funding to State agencies, eligible Tribal organizations, and Native Hawaiian grantees to support congregate and home-delivered nutrition programs by providing an incentive to serve more meals.

Older Indians, means those individuals who have attained the minimum age determined by the Indian Tribe for services.

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

Older relative caregiver, as used in section 631 of the Act (42 U.S.C. 3057k–11), means a caregiver who is age 55 or older and lives with, is the informal provider of in-home and community care to, and is the primary caregiver for, a child or an individual with a disability;

- (1) In the case of a caregiver for a child is:

- (i) The grandparent, step-grandparent, or other relative (other than the parent) by blood, marriage, or adoption, of the child;

- (ii) Is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregivers of the child; and

- (iii) Has a legal relationship to the child, such as legal custody, adoption, or guardianship, or is raising the child informally; and

- (2) In the case of a caregiver for an individual with a disability, is the parent, grandparent, step-grandparent, or other relative by blood, marriage, or adoption of the individual with a disability.

Program income, as defined in 2 CFR part 200.1 means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance

except as provided in 2 CFR 200.307(f). Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. See also 2 CFR 200.307, 200.407 and 35 U.S.C. 200–212 (which applies to inventions made under Federal awards).

Project period, as used in §1322.19, means the total time for which a project is approved including any extensions.

Reservation, as used in section 305(b)(2) of the Act (42 U.S.C. 3025(b)(2)) with respect to the designation of planning and service areas, means any Federally or State recognized American Indian Tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

Service area, as used in §1322.5(b) and elsewhere in this part, means that geographic area approved by the Assistant Secretary for Aging in which the Tribal organization or Hawaiian Native grantee provides supportive, nutrition, and/or family caregiver support services to older Indians or Native Hawaiians residing there. Service areas are approved through the funding application process, which may include Bureau of Indian Affairs service area maps. A service area may include all or part of the reservation or any portion of a county or counties which has a common boundary with the reservation. A service area may also include a non-contiguous area if the designation of such an area will further the purpose of the Act and will provide for more effective administration of the program by the Tribal organization.

Service provider, means an entity that is awarded funds, including via a grant, subgrant, contract, or subcontract, from a Tribal organization or Native Hawaiian grantee to provide direct services under this part.

State agency, as used in this part, means the designated State unit on aging for each of the 50 States, the District of Columbia, and the Territories of Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands, unless otherwise specified.

Title VI director, as used in this part, means a single individual who is the key personnel responsible for day-to-day management of the Title VI program and who serves as a contact point for communications regarding the Title VI program.

Tribal organization, as used in this part, means the recognized governing body of any Indian Tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities. Provided that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian Tribe, the approval of each Indian Tribe shall be a prerequisite to the letting or making of the contract or grant (25 U.S.C. 450b).

Voluntary contributions, as used in section 315(b) of the Act (42 U.S.C. 3030c–2(b)), means donations of money or other personal resources given freely, without pressure or coercion, by individuals receiving services under the Act.

Subpart B—Application

§ 1322.5 Application requirements.

An eligible organization shall submit an application. The application shall be submitted as prescribed in section 614 of the Act (42 U.S.C. 3057e) and in accordance with the Assistant Secretary for Aging's instructions for the specified project and budget periods. In