

## § 286.8

providing employment to tribal members residing thereon or by expending a portion of its income for materials or services on the reservation. Economic enterprises which are or will be operated on a reservation must comply with the requirements of applicable rules, resolutions or ordinances adopted by the governing body of the tribe, if applicable.

### § 286.8 Priority criteria.

The following priority will be used in selecting economic enterprises for grant funding:

(a) *First priority.* First priority will be given to economic enterprises located on a reservation that will:

(1) Utilize Indian resources, both natural and human.

(2) Create the highest ratio of Indian jobs to the total amount of dollars to be invested, including market value of materials and equipment contributed to the project.

(3) Create the highest ratio of income to a tribe or its members in relation to the total amount of dollars to be invested, including market value of materials or equipment contributed to the project.

(4) Generate the most non-Bureau financing.

(b) *Second priority.* Second priority will be given to projects located in the immediate vicinity of a reservation that will:

(1) Utilize Indian resources, both natural and human.

(2) Create the highest ratio of Indian jobs to the total amount of dollars to be invested, including market value of materials and equipment contributed to the project.

(3) Generate the most non-Bureau financing.

### § 286.9 Environmental and flood disaster protection.

Grant funds will not be advanced until there is assurance of compliance with any applicable provisions of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), the National Environmental Policy Act (Pub. L. 91-190), 42 U.S.C. 4321 and Executive Order 11514.

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### § 286.10 Preservation of historical and archeological data.

The Assistant Secretary before approving a grant where the grant funds and/or the loan funds will be used to finance activities involving excavations, road construction, and land development or involving the disturbance of land on known or reported historical or archeological sites, will take appropriate action to assure compliance with applicable provisions of the Act of June 27, 1960 (74 Stat. 220 (16 U.S.C. 469)), as amended by the Act of May 24, 1974 (Pub. L. 93-291, 88 Stat. 174), relating to the preservation of historical and archeological data.

### § 286.11 Management and technical assistance.

(a) Prior to and concurrent with the making of a grant to finance an Indian economic enterprise, the Assistant Secretary—Indian Affairs will insure that competent management and technical assistance is available to the grantee in the preparation of the application for a grant and/or administration of the funds granted, consistent with the grantee's knowledge and experience and the nature and complexity of the economic enterprise being financed. The competence of the management and technical assistance provided will be determined by the local agency superintendent after consultation with the applicant concerning his business needs.

(b) The lender providing the loan funds under § 286.17(b) to finance an economic enterprise will include with the grantee's application the need for equity capital, the lender's evaluation of the applicant's need for management and technical assistance, specific areas of need and whether the lender will provide such assistance to the applicant.

[39 FR 44748, Dec. 27, 1974. Redesignated at 47 FR 13328, Mar. 30, 1982, as amended at 55 FR 36274, Sept. 5, 1990]

### § 286.12 Content of application.

Applications shall be on a form prescribed by the Assistant Secretary which shall at the minimum include:

(a) Total capital requirement, including operating capital required until such time as the cash generated from

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operations will be sufficient to make the enterprise self-sustaining.

(b) Amount of total financing required as well as what is obtainable from other sources, including the applicant's personal resources, and a statement of terms and conditions under which any borrowed portion is obtainable.

(c) Capital deficiency, which will be the basis for the amount of grant requested.

(d) Pro forma balance sheets and operating statements showing estimated expenses, income and net profit from operations for three years following receipt of the requested grant.

(e) Annual operating statements and balance sheets, audited if available, for the prior two years or applicable years for enterprises already in operation.

(f) Current financial statements, consisting of a balance sheet and operating statement.

(g) A plan of operation which shall be acceptable to the lender making the loan and the Assistant Secretary.

### §§ 286.13–286.14 [Reserved]

### § 286.15 Application procedures.

Applications are to be submitted to the Superintendent having administrative jurisdiction over the reservation on which an enterprise will be or is located. If the enterprise site is near two or more reservations, application is to be made to the Superintendent having administrative jurisdiction over the reservation nearest to the location of the enterprise which the enterprise will benefit economically.

### § 286.16 Grant approval authority.

Applications for grants require approval by the Assistant Secretary.

### § 286.17 Grant limitations and requirements.

(a) Grants will be made to assist in establishing new economic enterprises, or in purchasing or expanding established ones. However, a grant may be made only when in the opinion of the Assistant Secretary the applicant is unable to obtain adequate financing from other sources. Prior to making any grant, the Assistant Secretary shall assure that, to the extent prac-

tical, the applicant's own resources have been invested in the proposed project. The applicant shall not be required to invest own resources to the extent that they are already committed to endeavors deemed by the Assistant Secretary to be essential to the welfare of the applicant. If the information in an application, which must include personal financial statements, indicates that it may be possible for the applicant to obtain financing without a grant, the Assistant Secretary will require the applicant to furnish letters from two customary lenders in the area, if available, who are making loans for similar purpose, showing whether or not they will make a loan to the applicant for the total financing needed without a grant.

(b) A grant may be made only to an applicant who is able to obtain at least 75 percent of the necessary financing from other sources.

(c) No grant in excess of \$250,000 may be made to an Indian tribe or in excess of \$100,000 to an Indian individual, partnership, corporation, or cooperative association.

(d) Revolving loan funds as prescribed in title I of the Indian Financing Act of 1974 and guaranteed or insured loans as prescribed in title II of said Act may not be used as the sources of the loan portion of the total financing requirement if financing from other governmental or institutional lenders is available on reasonable terms and conditions. If a loan is not available from other sources, guaranteed or insured loans under the provisions of title II of said Act may then be considered. If a guaranteed or insured loan is not available loans under the provisions of title I of said Act may then be considered. Applicants for a loan from either source must meet the eligibility requirements for such loans.

(e) A grant will not be approved unless there is assurance the applicant can and will be provided with needed competent technical and management assistance commensurate with the nature of the enterprise to be funded and the knowledge and management skills of the applicant.

(f) Grant funds may not be used for refinancing or debt consolidation unless approval is justified and required