



4184-34-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Request for Public Comment on the Proposed Adoption of Administration for Native Americans Program Policies and Procedures

[CFDA Numbers: 93.581, 93.587, 93.612]

AGENCY: Administration for Native Americans, ACF, HHS

ACTION: Notice for Public Comment

SUMMARY: Pursuant to Section 814 of the Native American Programs Act of 1974 (NAPA), as amended, the Administration for Native Americans (ANA) is required to provide members of the public an opportunity to comment on proposed changes in interpretive rules and general statements of policy and to give notice of the final adoption of such changes no less than 30 days before such changes become effective. In accordance with notice requirements of NAPA, ANA herein describes proposed interpretive rules and general statements of policy that relate to ANA's funding opportunities beginning in Fiscal Year (FY) 2018. Changes to FY 2018 Funding Opportunity Announcements (FOAs) will be based on the following previously published programs: Environmental Regulatory Enhancement (ERE) HHS-2017-ACF-ANA-NR-1221, Native American Language Preservation and Maintenance-Esther Martinez Immersion (EMI) HHS-2017-ACF-ANA-NB-1226, Native American Language Preservation and Maintenance (P&M) HHS-2017-ACF-ANA-NL-1235, Social and Economic Development Strategies (SEDS) HHS-2017-ACF-ANA-NA-1236, Social and Economic Development Strategies-Alaska (SEDS-AK) HHS-2015-ACF-ANA-NK-0960,

and Native Youth Initiative for Leadership, Empowerment, and Development (ILEAD) HHS-2017-ACF-ANA-NC-1263. This notice of public comment also provides additional information about ANA's plan for administering grant programs.

DATES: The deadline for receipt of comments is 30 days from the date of publication in the *Federal Register*. No FOA will be published prior to 30 days from publication of this Notice.

ADDRESSES: Comments in response to this notice should be addressed to Carmelia Strickland, Director of Program Operations, Administration for Native Americans, 330 C Street, SW., Washington, DC 20201. Delays may occur in mail delivery to federal offices; therefore, a copy of comments should be e-mailed to ANAComments@acf.hhs.gov . Comments will be available for inspection by members of the public at the Administration for Native Americans, 330 C Street, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Carmelia Strickland, Director, Division of Program Operations, Administration for Native Americans (877) 922-9262.

SUPPLEMENTARY INFORMATION: Section 814 of NAPA, as amended, incorporates provisions of the Administrative Procedure Act (APA) that require ANA to provide notice of its proposed interpretive rules and statements of policy and to seek public comment on such proposals. This notice serves to fulfill the statutory notice and public comment requirement. ANA has also chosen to provide notice of its proposed rules of agency practice and procedure. The proposed interpretive rules, statements of policy, and rules of ANA practice and procedure reflected in clarifications, modifications, and new text will appear in the six FY 2018 FOAs: Environmental Regulatory

Enhancement (ERE), Native American Language Preservation and Maintenance-Esther Martinez Immersion (EMI), Native American Language Preservation and Maintenance (P&M), Social and Economic Development Strategies (SEDS), Social and Economic Development Strategies-Alaska (SEDS-AK), and Native Youth Initiative for Leadership, Empowerment, and Development (ILEAD). This notice also reflects ANA's elimination of the Sustainable Employment and Economic Strategies (SEEDS) FOA.

For information on the types of projects funded by ANA, please refer to the following for information on current and previously funded ANA grants at <https://www.acf.hhs.gov/ana/grants>.

Pre-publication information on ANA's FOAs is available at <https://www.grants.gov/web/grants/search-grants.html> by clicking on 'Forecasted' under Opportunity Status and 'Administration for Children and Families – ANA [HHS-ACF-ANA]' on the left side of the page. ANA's FOAs can be accessed at: <http://www.acf.hhs.gov/grants/open/foa/office/ana> or <http://www.acf.hhs.gov/grants/open/foa/>. Synopses and application forms will be available on <https://www.grants.gov/>

A. Interpretive rules, statements of policy, procedures, and practice. The proposals below reflect ANA's proposed changes in rules, policy, or procedure which will take effect in the FY 2018 FOAs.

1. Application periods. ANA proposes to provide an open application period of no less than 90 days to respond to FOAs. ANA is increasing the open application period to provide applicants with additional time to review proposed changes that are actualized in the FY 2018 FOAs, and to develop their applications according to FOA requirements. ANA intends to maintain the 90 day open application period for subsequent years.
2. Two-File Upload Requirement. ANA proposes to include the grant application submission requirement established by the Administration for Children and Families (ACF), which specifies “applicants submitting their applications electronically are required to upload only two electronic files. No more than two files will be accepted for the review and additional files will be removed. Standard Forms will not be considered as additional files.” ANA requested to deviate from this policy in order to provide rural communities and lower capacity organizations an opportunity to adjust to any technological, or bandwidth requirements that go along with transfer and upload of large files. The policy has now been in existence for several years for other ACF Programs, therefore ANA will no longer request a deviation from this standard ACF policy.
3. Reduced project period for ILEAD. ANA proposes to maintain the reduced maximum project period for awards made under the ILEAD FOA from four years (four 12- month budget periods) to three years (three 12-month budget periods). The reduced project period was made in FY 2017 FOAs to align the program with ANA’s Social and Economic Development Strategies (SEDS) program, which is published under the same CFDA number as ILEAD.
4. FY 2018 FOA- Project Description. ANA proposes to modify the information requested in the project description for FY 2018 application submissions. Modifications are being proposed to reflect a shift away from a deficit approach, towards a strength-based

approach to defining projects and addressing long-term community goals, and to align the application request for information with common terminology related to program evaluation. The following is applicable to project description requests, and evaluation criterion for all ANA FOAs published beginning in FY 2018:

- a) ANA will no longer require the “Problem Statement” or include the section titled “Objectives and Need for Assistance”. Instead, ANA proposes to focus on long term community goals, the community condition, and how the project outcomes relate to the community condition. Information will be requested under the Expected Outcomes section of the Project Description request.
- b) To shift terms included in the FOA towards commonly used evaluation terminology, objectives will no longer be referred to as Specific, Measureable, Achievable, Relevant, and Time-bound (SMART). ANA proposes to define objectives with population, targets, indicators, and timelines. In addition the terms “results” and “benefits” will be replaced with “outcomes” and “outputs.”
- c) ANA proposes to require information that addresses elements of a “Project Framework”. The project framework will include the following elements: long-term community goal, current community condition, outcomes; project goal, objectives, indicators, and outputs. The project framework includes elements previously requested in ANA FOAs, in combination with new elements, to fully identify the project in relation to overall community goals; identify project outcomes related to the enhancement of a current community condition; and establish a framework for monitoring changes and identifying tangible results from the project.

- d) ANA will no longer require the identification of impact or an impact indicator; instead, ANA proposes the requirement of an outcome tracking strategy. The outcome tracking strategy will require applicants to identify an indicator and outcome for each objective; a means for measuring change to the indicator, which includes data points and establishes targets to be met throughout project implementation; and a list of project outputs related to each project objective. Within the FY 2018 FOAs, ANA intends to include a suggested format for organizing the information included in the outcome tracking strategy, similar to the suggestion included in the FY 2017 FOAs for organizing impact indicators.
- e) To prioritize community based projects, ANA proposes to require information to identify a community-based strategy for project implementation. The requirement will include information to describe how the proposed project relates to community based priorities, how the community was involved in project development, and how the community will be involved in implementation and sustainability.
- f) The ANA Objective Work Plan (OWP) [current OMB form 0970-0452] will be modified. The terms “results” and “benefits” will no longer be used; instead, applicants will be required to identify outcomes and outputs. Key project activities will be included separately from administrative activities. Requirements for key activities will include alignment to outputs that are created by project implementation and a maximum of 25 key activities per objective during each year of implementation.
- a) To accommodate modifications to ANA’s application information request, ANA proposes the following evaluation criteria headings and scoring values: Outcomes Expected (0-25

points), Outcome Tracking Strategy (0-10 points), Approach (0-25 points), Organizational Capacity (0-15 points), OWP (0-15 points), and Budget (0-10 points).

- b) A scoring table will be included in all FOAs to provide additional guidance to panel reviewers regarding the allocation of points in relation to the quality of information provided in the application.

5. ANA Administrative Policies. The following modifications are applicable to the ANA Administrative Policies included in all FY 2018 FOAs:

- a) ANA proposes to add an administrative policy to prioritize the award of funds to applicant organizations that are local, community based organizations. In the case of national, regional, or non-local based organizations, ANA may provide support to organizations that have provided information to justify they are the appropriate applicant organization to administer the proposed project in support of the community and project beneficiaries being served. The policy is proposed as follows:

Prioritized Funding for Local, Native American Community Based Organizations:

ANA reserves the right to prioritize funding to local Native American community-based organizations serving their local communities and populations. Applications from national and regional organizations that propose projects that are performed in a different geographic location must clearly demonstrate how the target community was selected. They must also demonstrate a need for the project, explain how the project originated, discuss the community-based delivery strategy of the project, identify and describe the intended beneficiaries, describe and relate the actual project benefits to the community and organization, and describe a community-based delivery system. National and regional organizations must describe their membership, define how the organization operates and demonstrate Native community and/or Tribal government involvement in the development of the project and support for the project. The type of community to be served will determine the type of documentation necessary to support the project.

This proposed administrative policy is based on the priority for self-sufficiency for Native American communities, and follows the premise that self-sufficiency is best obtained when local organizations are leading efforts to achieve community goals. The policy will state ANA's priority for community local, community based organizations, and describe information requirements for national, regional, or non-local based organizations.

- b) Limitation on Number of Awards Based on Two Consecutively Funded Projects: ANA proposes to edit language for this policy to clarify that a no cost extension (NCE) will be included as a period of project implementation, towards consecutively funded projects.

The policy is proposed as follows:

Limitation on Number of Awards Based on Two Consecutively Funded Projects:

ANA will maximize the reach of its limited funding. Therefore, applicants that have implemented at least two consecutive projects within one CFDA number may not be funded for a third consecutive project within the same CFDA number if other applicants who have not received ANA funding in the past 3 years are within the scoring range to be funded. Project implementation periods are comprised of newly awarded first year project periods, Non Competing Continuation (NCC) periods, and any No Cost Extensions (NCE) periods.

Therefore grantees that have been approved for a NCE must complete a year after the end of the NCE period without implementing an ANA project under the same CFDA number before they are considered to be exempt from this policy. This specific issue has raised several questions during the implementation period for ANA projects. Editing the policy is meant to clarify its application prior to the start of an award.

6. Ineligible Activities. ANA proposes to revise language describing ineligible third party training and technical assistance, which is included in the list of Projects Ineligible for Funding in all FY 2018 FOAs. The revision will remove the statement that describes third party training and technical assistance as activities that duplicate training and technical assistance provided by ANA T/TA providers, and the language will directly align the ineligible activity with language in Subchapter D- The Administration for Native Americans, Native American programs, 45 CFR § 1336.33(b).

Ineligible Third Party Training and Technical Assistance activities will be stated in the FOAs as follows:

Projects for which a grantee will provide training and technical assistance to other tribes or Native American organizations or to non-members of the grantee organization (third party training or technical assistance).

7. Disqualification Factors. ANA proposes the following edits to the ANA Disqualification Factors included in all FY 2018 FOAs:
 - a) ANA will include language to clarify that Tribal Colleges and public agencies serving native peoples from Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, are required to submit Assurance of Community Representation and Governing Body Documentation from the governing body of the Tribal College. Documentation from the governing body of the Tribe will not fulfill the requirements for this documentation. This clarification is proposed to reduce the number of applications that are disqualified due to misunderstanding the requirements.
 - b) ANA will revise the categories for community representation, as described under the Assurance of Community Representation on Board of Directors. ANA proposes to

remove the second category of affiliation/relationship to the community being served. This category was listed as: “persons eligible to be a participant in, or beneficiary of the project.” The Assurance of Community Representation is included to ensure ANA funds are awarded to organizations that directly represent the Native American community that will be served (See 45 CFR 1336.33). However, ANA does not limit project participants or beneficiaries to individuals that represent the community being served. Therefore ANA has determined that the inclusion of this category does not support the intention of this policy.

The revised policy is proposed as follows:

Assurance of Community Representation on Board of Directors

Applicants other than tribes or Alaska Native Villages applying for funding must show that a majority of board members are representative of a Native American community to be served. Applicants must submit documentation that identifies each board member by name and indicates his/her affiliation or relationship to at least one of ANA’s three categories of community representation, which include: (1) members of federally or state-recognized tribes; (2) persons who are recognized by members of the eligible Native American community to be served as having a cultural relationship with that community; or (3) persons considered to be Native American as defined in 45 CFR § 1336.10 and Native American Pacific Islanders as defined in Section 815 of the Native American Programs Act. Applicants that do not include this documentation will be considered non-responsive, and the application will not be considered for competition. See Section IV.2. Project Description, Additional Eligibility Documentation.

Public agencies serving native peoples from Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, and Tribal Colleges governed by a board that is separate from the governing body of a tribe, must include Assurance of Community Representation from the governing body of the Tribal College, and not from the governing body of the Tribe. If the documentation is not included by the submission deadline, the application will be considered unresponsive and will be disqualified from the competition.

8. Review and Selection Process. ANA will modify the implementation of the Review and Selection process, as stated in all FY 2018 FOAs as follows:

a) ANA's commissioner has the discretion to make all final funding decisions. In exercising this discretion, the commissioner includes a list in Section V.2. Review and Selection Process of projects that may not be chosen for funding. For the FY 2018 FOAs, ANA proposes the following:

Additions:

- Projects that have not demonstrated a community-based strategy as described in Section I. Program Description, Key Project Features.
- Projects proposed by national, regional, and non-local organization that have not justified their position as the best applicant organization to address long term community goals for a local community. Please see Section I. Administrative Policies, Prioritized Funding for Local, Native American Community Based Organizations.
- Projects proposing activities that were previously implemented without Federal Assistance.

Because ANA funding is limited, ANA proposes adding these items to the list in order to align with new language emphasizing community-based strategies, and to highlight the priority for funding these projects. ANA also wants to ensure that its limited funding is being used for projects that are not able to secure other sources

of funding for activities that were being previously implemented without support from the Federal Government.

Deletion:

- Projects that provide couples or family counseling activities that are medically-based.

ANA has stated in other administrative policies that it will not fund human research, or projects that may cause unintended harm to project participants. Outside of these limitations, and in an effort to support the Native American community's ability to determine if these activities are actually beneficially to achievement of their long-term goals, ANA will no longer limit the proposal of projects that include medically-based couples or family counseling activities.

9. Native American Preservation and Maintenance Program. The following modifications are being proposed to the "Native American Languages Preservation and Maintenance," and "Native American Languages Preservation and Maintenance Esther Martinez Immersion" FOAs only:

- a) ANA proposes the identification of language specific outcomes that relate to one of the following categories: language fluency, increased community member use of language learning resources; certified language teachers; or increased capacity to implement a language program. The categories are being proposed in order to further define the outcomes for ANA language projects, and to support the monitoring and evaluation of ANA's language and preservation program.

- b) ANA will include language in the FY 2018 FOAs to restate application requirements included in Section 803C(c)(5-6) of the Native American Programs Act (NAPA) of 1974.

The requirements are as follows:

(5) if appropriate, an identification of opportunities for the replication of such project or the modification of such project for use by other Native Americans; and

(6) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons”

This language will be added directly as stated in ANA’s authorizing legislation to ensure that applications meet the requirements of NAPA.

STATUTORY AUTHORITY: Section 814 of the Native American Programs Act of 1974 (NAPA), as amended.

Kimberly Romaine
Deputy Commissioner
Administration for Native Americans

[FR Doc. 2017-17099 Filed: 8/11/2017 8:45 am; Publication Date: 8/14/2017]