

**How-to Effectively Implement  
General Assistance into a  
P.L. 102-477 Plan**

**A GUIDE on HOW-TO:  
include the BIA, General Assistance program in a P.L. 102-477 Plan**

*Public Law 102-477*

Public Law 102-477 is the Indian Employment, Training, and Related Services Demonstration Act of 1992, as amended by Public Law 106-568, the Omnibus Indian Advancement Act of 2000. Public Law 102-477 is unique among Federal legislation, in that it allows Federally-recognized Tribes and Alaska Native entities to combine formula-funded Federal grant funds, which are employment and training-related into a single plan with a single budget and a single reporting system.

Participation in P.L. 102-477 is completely voluntary. The lead Federal agency for this inter-Departmental demonstration is the Department of the Interior (DOI), Office of Indian Energy & Economic Development. There are a number of programs involved in including the Bureau of Indian Affairs (BIA), the Department of Health and Human Services (DHHS), the Department of Labor (DOL) and the Department of Education (DOE).

There are no separate funds associated with Public Law 102-477. All the funds in a 477-plan are those which the tribe would receive under the authority of the individual programs which the tribe chooses to consolidate in its' 477-plan.

*The Bureau of Indian Affairs, General Assistance Program*

General Assistance is one component of the BIA's Welfare Assistance and Social Services programs. The BIA, General Assistance component of the Welfare Assistance program is the only one that can be included in a tribe's P.L. 102-477 plan. The other types of BIA Welfare Assistance programs, including child assistance, adult care assistance, burial assistance, and emergency assistance **cannot be used** through a P.L. 102-477 plan. The BIA no longer funds Disaster Assistance or the Tribal Work Experience Program (TWEPE), and these programs cannot be included in a 477-plan. General Assistance funds must be used for essential needs of food, clothing, shelter and utilities to clients deemed eligible for services under 25 CFR part 20.

Tribes seeking approval or renewal of their P.L. 102-477 plan must ensure that all references to the programs listed above, are removed from their 477-plan prior to submitting the plan to the Office of Indian Energy and Economic Development.

Tribes may obtain a copy of the Code of Federal Regulations, 25 CFR Part 20 at <http://www.gpoaccess.gov/cfr/index.html>.

Pursuant to provisions under the authority of P.L. 102-477, the BIA, Office of Indian Services, Division of Human Services, is the lead agency, and reviews and approves the use of BIA General Assistance funds in a P.L. 102-477 plan.

By choosing to access BIA Financial Assistance and Social Service funds for the operation of the General Assistance program component within the authority of P.L. 102-477, a tribe agrees to follow the provisions of the Code of Federal Regulations, 25 CFR Part §20. Therefore, unless a Tribe receives BIA approval to waive a BIA regulatory requirement to modify a designated service area, payment rate, or eligibility, it must follow the BIA regulations at 25 CFR Part §20.201 through §20.210. Most importantly, other BIA Financial Assistance and Social Service program components, such as Burial Assistance, Emergency Assistance, Child Assistance, Adult Care Assistance, and/or the unfunded Disaster Assistance and Tribal Work Experience Program (TWEP), are not permitted to be expended for purposes related to the provisions of P.L. 102-477 and are not to be written into a program plan.

## CHECKLIST

### General Assistance requirements to include in a P.L. 102-477 Plan

#### Per 25 CFR part 20

The following checklist is a guide to the requirements for the use of General Assistance funds. The P.L. 102-477 plan should address each component, including, eligibility, the employment policy, payment standards, and determination of need and income.

#### I. ELIGIBILITY

1. Enrolled member of a **federally** recognized American Indian/Alaska Native tribe. Direct descendants or other state recognized American Indian/Alaska Native individuals are not eligible to receive General Assistance services (§20.300(a));
2. Does not have sufficient resources to meet the essential need items of food, clothing, shelter, and utilities ((§20.300(b), 20.100);
3. Must reside in a service area or designated service area authorized by the Assistant Secretary-Indian Affairs (§20.300(c));
4. Must apply concurrently for financial assistance from other state, tribal, county, local, or other federal agency programs for which he/she is eligible (§20.303(b));
5. Does not receive any comparable public assistance (§20.303(c)); and,
6. Develop and sign an employment strategy in the Individual Self-Sufficiency Plan (ISP) with the assistance of the social service worker to meet the goal of employment through specific action steps including job readiness and job search activities (§20.303(d)).

## II. EMPLOYMENT REQUIREMENTS: What is the policy on employment?

**EMPLOYABLE:** If an applicant or recipient is determined to be “employable,” then he/she must follow the policy on employment in order to remain eligible for General Assistance. This includes:

1. Actively seeking employment including the use of available state, tribal, county, local or BIA funded employment services (§20.314(a)(1)), and provide evidence of monthly efforts to obtain employment (§20.316(a));
2. Make satisfactory progress in an ISP (§20.314(a)(2)); and,
3. Accept local and seasonable employment when it is available (§20.314(a)(3)).

**INELIGIBILITY:** How will an individual become ineligible for services?

1. If a head of household does not comply with this section (§20.314(a)(1-3)), or refuses or quits a job (§20.317(a)), he/she will no longer be eligible for General Assistance for a period of at least 60 days but not more than 90 days (§20.314(b)). Suspension will be reduced to 30 days if evidence is presented to show that he/she has sought local and seasonable employment. This will only affect the client, not other eligible members of a household (§20.317(b)(c)).

**UNEMPLOYABLE:** The employment policy does not apply to persons who meet the following criteria (see the box below §20.315). The P.L. 102-477 plan should address both employables and unemployables.

The employment policy in §20.314 does not apply to...	If...	And...
(a) Anyone younger than 16.		
(b) A fulltime student under the age of 19...	He/she is attending an elementary or secondary school or a vocational or technical school equivalent to a secondary school.	He/she is making satisfactory progress.
(c) A person enrolled at least half-time in a program of study under Section 5404 of P.L. 100-297	He/she is making satisfactory progress...	He/she was an active General Assistance recipient for a minimum of 3 months before determination/redetermination of eligibility * <i>(see statement below)</i>
(d) A person suffering from a temporary medical injury or illness.	It is documented in the case plan that the illness or injury is serious enough to temporarily prevent employment.	The assessment is documented in the case plan.
(e) An incapacitated person who has not yet received Supplemental Security Income (SSI) assistance	A physician, psychologist, or social service worker certifies that a physical or mental impairment (either by itself, or in conjunction with age) prevents the individual from being employed.	The assessment is documented in the case plan.
(f) A caretaker who is responsible for a person in the home who has a physical or mental impairment.	A physician or certified psychologist verifies the condition.	The case plan documents that: the condition requires the caretaker to be home on a virtually continuous basis; and no other appropriate household member is available to provide this care.
(g) A parent or other individual who does not have access to child care.	He/she personally provides full-time care to a child under the age of 6.	
(h) A person for whom employment is not accessible.	There is a minimum commuting time of one hour each way.	

*\*No Child Left Behind: Title X; Section 1045: (a) In General.—The Secretary of the Interior shall not disqualify from continued receipt of general assistance payments from the Bureau of Indian Affairs an otherwise eligible Indian for whom the Bureau is making or may make general assistance payments (or exclude such an individual from continued consideration in determining the amount of general assistance payments for a household) because the individual is enrolled (and is making satisfactory progress toward completion of a program or training that can reasonably be expected to lead to gainful employment) for at least half-time study or training in—”*

### **III. CASE REVIEW:**

1. Review individual eligibility for General Assistance every 3 months for individuals who are employable and are not exempt from seeking employment in accordance with §20.315 or the ISP (§20.304(a));
2. Review eligibility every 6 months for all recipients (§20.304(b)); and,
3. Review eligibility whenever there is a change in status (§20.304(c))

### **IV. REDETERMINATION**

Redetermination is an evaluation by a social service worker to assess the need for continued financial assistances and includes (25 CFR §20.305(a-c)):

1. A home visit;
2. An estimate of income, living circumstances, household composition for the month(s) for which financial assistance is to be provided; and,
3. Appropriate revisions to the case plan and the ISP.

### **V. PAYMENT STANDARD**

The payment standard for General Assistance is based on the TANF payment standard and any associated rateable reduction that exists in the state or designated service area (§20.306 (a)(b))

### **VI. DETERMINATION OF NEED & INCOME (Conducted by Case Manager)**

All income, earned or unearned must be calculated in the month it is received and as a resource thereafter if converted to cash in accordance with (§20.307 through §20.313)

### **VII. ADMINISTRATIVE PROCEDURES**

*Who can apply for financial assistance or social services? (25 CFR § 20.600)*

An applicant can apply for financial assistance or social services if he/she:

1. Believes they are eligible to receive benefits; or
2. Is applying on behalf of someone who they believe is eligible to receive benefits. The following is a list of individuals who may apply for benefits on behalf of another person: relatives, interested individuals, social service agencies, law enforcement agencies, courts, or other persons or agencies.

*How can applications be submitted? (25 CFR § 20.601)*

An individual can apply for financial assistance or social services by:

1. Completing an application that he/she gets from a social service worker or tribe; or
2. Through an interview with a social service worker who will complete an application for an applicant based on an oral interview.

## VII. ADMINISTRATIVE PROCEDURES (CONTINUED...)

*How do you verify eligibility for social services? (25 CFR § 20.602)*

The applicant is the primary source of information used to determine eligibility and need. If it is necessary to secure information such as medical records from other sources, the applicant must authorize the release of information. An applicant must immediately report to the social services worker any changes in circumstances that may affect his/her eligibility or the amount of financial assistance they receive.

*How is an application approved or denied? (25 CFR § 20.603)*

1. Each application must be approved if the applicant meets the eligibility criteria in t§20.300 through §20.303. Financial assistance will be made retroactive to the application date.
2. An application must be denied if the applicant does not meet the eligibility criteria in §20.300 through §20.303.
3. The social service worker must approve or deny an application within 30 days of the application date.
4. The local social service worker must issue written notice of the approval or denial of each application within 45 days of the application date;
5. If, for a good reason, the social service worker cannot meet the deadline, he or she must notify the applicant in writing of:
  - a. The reason(s) why the decision cannot be made; and,
  - b. The deadline by which the social services worker will send the applicant a decision.

*How is an applicant or recipient notified that benefits or services are denied or changed? (25 CFR § 20.604)*

If a program increases, decreases, suspends, or terminates financial assistance, the social service worker must mail or hand deliver to the applicant or recipient a written notice of the action. The notice must:

1. State the action taken, the effective date, and the reason(s) for the decision;
2. Inform the applicant or recipient of the right to request a hearing if dissatisfied with the decision;
3. Advise the applicant or recipient of the right to be represented by an authorized representative at no expense to the Bureau;
4. Include the address of the local Superintendent or his/her designated representative to whom the request for a hearing must be submitted;
5. Advise the applicant or recipient that failure to request a hearing within 20 days of the date of the notice will cause the decision to become final and not subject to appeal under 25 CFR part 2; and,
6. Be delivered to the applicant 20 days in advance of the effective date of the action.

## **VII. ADMINISTRATIVE PROCEDURES (CONTINUED...)**

*What happens when an applicant or recipient appeals a decision? (25 CFR § 20.605)*

If an applicant or recipient appeals a decision made under §20.604, the applicant or recipient can continue to receive assistance while the appeal is pending. For this to happen, the applicant or recipient must submit their appeal by the deadline in §20.604(e).

*How is an incorrect payment adjusted or recovered? (25 CFR § 20.606)*

1. When an incorrect payment of financial assistance has been made to an individual or family, a proper adjustment or recovery is required.
2. The proper adjustment or recovery is based upon individual need as appropriate to the circumstances that resulted in an incorrect payment.
3. Before adjustment or recovery, the recipient will be notified of the proposal to correct the payment and given an informal opportunity to resolve the matter.
4. If an informal resolution cannot be attained, the recipient must be given a written notice of decision and the procedures of §20.604 will apply.
5. If a hearing is requested, the hearing will be conducted in accordance with the procedures under §20.700 through §20.705 (*see Section VIII. Hearing and Appeals*).

*What happens when applicants or recipients knowingly and willfully provide false or fraudulent information? (25 CFR § 20.607)*

Applicants or recipients who knowingly and willfully provide false or fraudulent information are subject to prosecution under 18 U.S.C. §1001, which carries a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both. The social service worker will prepare a written report detailing the information considered to be false and submit the report to the Superintendent or his/her designated representative for appropriate investigative action.

## **VIII. HEARINGS AND APPEALS**

*Can an applicant or recipient appeal a decision? (25 CFR § 20.700)*

An applicant or recipient can appeal a decision if he/she is dissatisfied with a BIA decision. He/she can request a hearing before the Superintendent or his/her designated representative. An applicant or recipient must submit a request by the deadline in §20.604. The Superintendent or his/her designated representative can extend the deadline if the recipient shows good cause.

*Does a recipient receive financial assistance while an appeal is pending? (25 CFR § 20.701)*

Financial assistance will be continued or reinstated to insure there is no break in financial assistance until the Superintendent or his/her designated representative makes a decision. The Superintendent or his/her designated representative can adjust payments or recover overpayments to conform with his/her decision.

## VIII. HEARINGS AND APPEALS (CONTINUED...)

*When is an appeal hearing scheduled? (25 CFR § 20.702)*

The Superintendent or his/her designated representative must set a date for the hearing within 10 days of the date of request for a hearing and give written notice to the applicant or recipient.

*What must the written notice of hearing include? (25 CFR § 20.703)*

The written notice of hearing must include the following:

1. The date, time and location of the hearing;
2. A statement of the facts and issues giving rise to the appeal;
3. The applicant or recipient's right to be heard in person, or to be represented by an authorized representative at no expense to the Bureau;
4. The applicant or recipient's right to present both oral and written evidence during the hearing;
5. The applicant or recipient's right to confront and cross-examine witnesses at the hearing;
6. The applicant or recipient's right of one continuance of not more than 10 days with respect to the date of hearing; and
7. The applicant or recipient's right to examine and copy, at a reasonable time before the hearing, his/her case record as it relates to the proposed action being contested.

*Who conducts the hearing or appeal of a BIA decision or action and what is the process? (25 CFR § 20.704)*

1. The Superintendent or his/her designated representative conducts the hearing in an informal but orderly manner, records the hearing, and provides the applicant or recipient with a transcript of the hearing upon request.
2. The Superintendent or his/her designated representative must render a written decision within 10 days of the completion of the hearing. The written decision must include:
  - a. A written statement covering the evidence relied upon and reasons for the decision; and
  - b. The applicant or recipient's right to appeal the Superintendent or his/her designated representative's decision pursuant to 25 CFR part 2 and request technical assistance in preparation of the appeal.

*Can an applicant or recipient appeal a tribal decision? (25 CFR § 20.705)*

Yes, the applicant or recipient must pursue the appeal process applicable to the Public Law 93-638 contract, Public Law 102-477 grant, or Public Law 103-413 self-governance annual funding agreement. If no appeal process exists, then the applicant or recipient must pursue the appeal through the appropriate tribal forum.



## IX. SINGLE BUDGET, WAIVER REQUESTS, AND TRIBAL RESOLUTION

- \_\_\_\_\_ 1. A P.L. 102-477 plan must include a breakdown of the budget that identifies the projected expenditures in a single budget (25 USC 3405, Section 6, Plan Requirements(5));
- \_\_\_\_\_ 2. The tribe must submit all waiver requests, that identify statutory provisions, regulations, policies, or procedures that the tribal government believes need to be waived in order to implement the P.L. 102-477 plan (25 USC 3405, Section 6, Plan Requirements(6)); and,
- \_\_\_\_\_ 3. A tribal resolution must be submitted along with the P.L. 102-477 Plan. The governing body of the tribe must approve the implementation and submission of a P.L. 102-477 Plan on behalf of the tribe (25 USC 3405, Section 6, Plan Requirements(7)).

If you have any questions pertaining to the information provided please contact:

**Sue V. Settles, Chief**

**BIA, Division of Human Services**

**1849 C Street, NW**

**MS-4513-MIB**

**Washington, DC 20240**

**[sue.settles@bia.gov](mailto:sue.settles@bia.gov)**

**(202) 513-7621**