

program authorization. EPA intends to continue to support the development and authorization of these programs as well as implementation of authorized programs as budget constraints allow. This Notice has been developed based on the knowledge that some States, Tribes, and Territories have received authorization and that several States and Indian Tribes are continuing to develop their programs. This Notice addresses the criteria EPA will consider when evaluating the grant proposals submitted to the Agency.

Under TSCA section 404, EPA authorizes States, Territories, and eligible Indian Tribes and Intertribal Consortia to administer lead-based paint programs in lieu of the corresponding Federal program. These lead-based paint programs are intended to reduce the incidence of childhood lead poisoning by ensuring that individuals conducting lead-based paint activities are properly trained and certified and that renovation contractors provide lead-hazard information to building owners and residents. EPA issued regulations to establish these lead-based paint programs under the authority of TSCA sections 402 and 406.

In 40 CFR part 745, subpart L, EPA promulgated regulations pursuant to TSCA section 402 that cover the training and certification of individuals engaged in lead-based paint activities. In 40 CFR part 745, subpart E, EPA issued regulations pursuant to TSCA section 406. The regulation requires persons performing renovation in residential housing to provide a lead hazard information pamphlet to the owner and occupant of the housing prior to renovation. The procedures for authorizing States, Territories, and eligible Indian Tribes and Intertribal Consortia to implement these lead-based paint programs are found at 40 CFR part 745, subpart Q.

2. *Goal and objectives.* Pursuant to Title IV of TSCA, EPA encourages States, Territories, Indian Tribes, and Intertribal Consortia to seek authorization of their own lead-based paint programs. EPA's goal is to have authorized programs in all States and a large number of Territories, and on a large number of Indian Tribal lands. EPA therefore recommends that parties seek funding through the TSCA Title IV section 404(g) assistance program, which is being implemented to assist with development and implementation of lead-based paint programs.

Since 1994, EPA has been offering financial assistance under TSCA section 404(g) in the form of cooperative agreements without matching-fund requirements. In the upcoming funding

cycle, the Agency will continue to work with eligible applicants to develop cooperative agreements consistent with the objectives critical to the ultimate success of implementation of a national lead program, with the emphasis on State, Territorial, Indian Tribal, and Intertribal Consortium programs. Although EPA's goal is to have authorized programs in all States and a large number of Territories, and on a large number of Indian Tribal lands, the Agency and Congress anticipated that there would be a number of States, Territories, and Indian Tribes that would not seek program authorization. Consistent with authority granted in the Agency's FY 1998 Appropriation Act (Ref. 1), and the provisions contained within, EPA is authorized to use section 404(g) funds to implement a Federal lead-based paint program for non-authorized States, Territories, and Indian Tribes. See 40 CFR 35.116 and 40 CFR 35.516. [Note: Where the Agency has direct implementation responsibilities, EPA cannot provide financial assistance under this grant program to non-authorized States, Indian Tribes, or Intertribal Consortia, or Territories to assist the Agency in implementing and enforcing a Federal program under TSCA section 404(h).]

The cooperative agreements must be used to develop and implement authorized programs. States, Territories, Indian Tribes, and Intertribal Consortia that do not have authorized programs may receive cooperative agreement funding, but only for the continued development of lead-based paint programs which will meet the requirements of TSCA Title IV. To receive continued funding, States, Territories, Indian Tribes, and Intertribal Consortia without an authorized program must be making progress toward an authorized program. Therefore, the Regional Offices, as part of their grant oversight responsibilities, will work with the grantees to determine the appropriate amount of continued funding based upon the amount of developmental work to be completed as the grantee makes progress toward authorization. Eligible parties may utilize this grant support in a way that complements and does not duplicate activities for which they already receive or could receive financial assistance from other Federal sources (e.g., Center for Disease Control (CDC) and U.S. Department of Housing and Urban Development (HUD)).

This section 404(g) Notice is one of two Notices that announce the availability of funds for Indian Tribes and Intertribal Consortia conducting various lead-based paint activities. A

separate **Federal Register** notice titled *Educational Outreach and Baseline Assessment of Existing Exposure and Risks of Exposure to Lead Poisoning of Tribal American Children*, also called Title X Tribal Lead Grant Program, will be published at a later date. As stated in this unit, Indian Tribes and Intertribal Consortium, as well as all grantees, will not be awarded grants to fund the same activities from more than one source. Although a Tribe may apply to receive grant funding from both Notices, they each have very distinct objectives. The grant program opportunities described in the other Notice may serve as precursors to, but not as equivalents or supplements to, the section 404(g) lead-based paint grant program described in this Notice. Grant funds will not be awarded to Tribes who apply for both grant programs during the same time. The section 404(g) lead-based paint grant program, for which funding is provided in this Notice, involves infrastructure development for the anticipated implementation of a lead program and does not include activities (testing for lead in blood, paint, dust, or soil samples, or general outreach and education activities) listed in the other Notice.

Under TSCA, authorized lead-based paint training and certification programs are required to collect fees to cover certain costs incurred by the program. These fees are considered "program income," which is defined as "gross income received by a grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period." See 40 CFR 31.25(b). It includes income from fees for services performed by the recipient. Program income generated by activities supported under TSCA section 404(g) grants may include fees that a State, Territory, Indian Tribe, or Intertribal Consortium charges for training, accreditation, certification, licensing or other services performed by the lead training and certification programs, as well as fees that are collected which provide for enforcement of standards and regulations. Consequently, States, Indian Tribes, Intertribal Consortia, and Territories must comply with the rules governing "program income," found at 40 CFR 31.25, and use the funds generated by grant supported activities to assist with program operation costs.

3. *Eligibility.* States, Territories, Indian Tribes, and Intertribal Consortia are eligible to apply for financial assistance under this program if they are either implementing an EPA-authorized lead-based paint program pursuant to 40 CFR part 745, subpart Q or developing