



1101 30th St. NW, Suite 500
Washington, DC 20007



Policy

HHS Proposed Grant Rules Conflicts with OMB Guidelines and ISDEAA

Resources

[HHS Proposed Rule RIN 0991-AC06](#)

[NAFOA Comment Letter](#)

[Hobbs, Straus, Dean & Walker, LLP Comment Letter](#)

[Sonosky, Chambers, Sachse, Endreson & Perry, LLP Comment Letter](#)

The Department of Health and Human Services (HHS) has published a [notice of proposed rulemaking](#) that would add new regulatory requirements to Indian Self-Determination and Education Assistance Act (ISDEAA) self-determination contracts and self-governance compacts entered into by tribes and tribal organizations. The proposed rule would affect how HHS enforces remedies for non-compliance - including withholding cash payments and suspending or terminating federal awards.

The general HHS federal funding remedies for non-compliance in the proposed grant rules violates the ISDEAA. During the development of the Uniform Guidance, the OMB consulted with tribal governments, NAFOA, and other organizations to include language that makes clear that other than the Single Audit Act, where a provision in the Uniform Guidance conflicts with the ISDEAA, that the ISDEAA provision will govern. Instead of applying this clear, overarching principle to the proposed rule, HHS does the opposite and creates a new regulatory framework that, in part, conflicts with the ISDEAA.

Although the comment date has passed, we strongly recommend that tribes submit a letter of support requesting that the HHS exempt tribal health programs from these general grant management rules. In the resource section of this broadcast, you will find comment letters. Comments can be submitted to Stacey Ecoffey, Principal Advisor for Tribal Affairs, Office of Intergovernmental and External Affairs, Department of Health and Human Services at Stacey.Ecoffey@hhs.gov.

For questions or comments please contact Jennifer Parisien at Jennifer@nafoa.org or (202) 558-8040.

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