



DEPARTMENT OF EDUCATION

[Docket ID ED-2023-OCTAE-0193]

**Proposed Waiver and Extension of the Project Period for the
Tribally Controlled Postsecondary Career and Technical
Institutions Program**

AGENCY: Office of Career, Technical, and Adult Education,
Department of Education.

ACTION: Proposed waiver and extension of the project
period.

SUMMARY: The Secretary proposes to waive the requirements
in the Education Department General Administrative
Regulations that generally prohibit project periods
exceeding five years and project period extensions
involving the obligation of additional Federal funds.
Under the proposed waiver and extension, for projects funded
in fiscal year (FY) 2019 under the Tribally Controlled
Postsecondary Career and Technical Institutions Program
(TCPCTIP), Assistance Listing Number 84.245A, the project
period would be extended through FY 2027, if Congress
continues to appropriate funds under the existing program
authority.

DATES: We must receive your comments on or before [INSERT
DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL
REGISTER].

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail or commercial delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to www.regulations.gov to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "FAQ."
- Postal Mail or Commercial Delivery: If you mail or deliver your comments, address them to Hugh Reid, U.S. Department of Education, 400 Maryland Avenue, SW, room 4A-172, Washington, DC 20202-7241.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Hugh Reid. Telephone: (202) 245-7491. Email: hugh.reid@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this proposed waiver and extension. We are particularly interested in receiving comments on the potential impact that the proposed waiver and extension may have on TCPCTIP and on potential applicants that may be eligible to apply for grant awards under any new TCPCTIP notice inviting applications, should there be one.

Eligible applicants for TCPCTIP are Tribally controlled postsecondary career and technical institutions that do not receive Federal support under Title I of the Tribally Controlled College or University Assistance Act of 1978 ([25 U.S.C. 1801](#) *et seq.*) or the Navajo Community College Act ([25 U.S.C. 640a](#) *et seq.*).

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 14094 and their overall requirement of reducing regulatory burden that might result from the proposed waiver and extension. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program. During and after the comment period, you may inspect public comments about the proposed waiver and

extension by accessing Regulations.gov. To inspect the public comments in person, please contact the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed waiver and extension. If you want to schedule an appointment for this type of aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Background

Section 117 of the Carl D. Perkins Career and Technical Education Act of 2006 (Pub. L. 115-224) (Perkins V or the Act), authorizes the Secretary to make grants to Tribally controlled postsecondary career and technical institutions that do not receive Federal support under Title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1802, *et seq.*) or the Navajo Community College Act (Pub. L. 92-189; 85 Stat. 646) for career and technical education programs for Native American students and for the institutional support costs of the grant.

Current TCPCTIP grantees, selected based on the TCPCTIP notice inviting applications published in the *Federal Register* (84 FR 29854) on June 25, 2019 (NIA), operate career and technical education programs for Native American students as authorized by section 117 of Perkins V (20 U.S.C. 2327). The budget and project period for the two TCPCTIP grantees is scheduled to end with funds awarded in FY 2023.

For these projects, the Secretary proposes to waive the requirements of [34 CFR 75.250](#) and [34 CFR 75.261\(c\)\(2\)](#), which limit project periods to 60 months and restrict project period extensions that involve the obligation of additional Federal funds. The Secretary makes these proposals because section 117(i) of Perkins V authorizes appropriations for activities under section 117 of the Act, through FY 2024 (20 U.S.C. 2327(i)). The Secretary also proposes to extend the project period for the two current TCPCTIP grantees (20 U.S.C. 2327(a)) through FY 2027, if Congress continues to appropriate funds under the existing program authority. The proposed waiver and extension would enable the two current TCPCTIP grantees to request and continue to receive Federal funds beyond the 60-month limitation set by [34 CFR 75.250](#).

Moreover, with the proposed waiver and extension, the Department would not announce a new competition or make new awards until FY 2027, if Congress continues to authorize

and appropriate funds under the existing program authority. Instead, current TCPCTIP projects funded under the NIA could be continued at least through the FY 2027 budget and project period, if Congress continues to appropriate funds for TCPCTIP under the existing program authority.

We believe that the proposed waiver and extension is in the public interest, given that the Navajo Technical University and the United Tribes Technical College are the only two eligible entities for the TCPCTIP program, and those entities are the current grantees. Running another competition in which the same entities would receive awards is not an effective use of Department and grantee resources. Further, allowing these grantees to continue their projects would provide continuity in the current projects and resources for the current beneficiaries of the grantees' programs.

If we announce the proposed waiver and extension as final, we will base our decisions regarding annual continuation awards on the program narratives, budgets, budget narratives, and program performance reports, submitted by current grantees, and the requirements in [34 CFR 75.253](#). Any activities to be carried out during the year or years of continuation awards would have to be consistent with, or be a logical extension of, the scope, goals, and objectives of each grantee's application, as approved following the 2019 TCPCTIP competition. If we

publish the proposed waiver and extension as final, we would award continuation grants based on information provided to us by each grantee, indicating that it is making substantial progress performing its TCPCTIP grant activities.

The proposed extension of the project period and waiver of [34 CFR 75.250](#) and [75.261\(c\)\(2\)](#) would not exempt the current TCPCTIP grantees from the appropriation account-closing provisions of [31 U.S.C. 1552\(a\)](#), nor would they extend the availability of funds previously awarded to current TCPCTIP grantees. As a result of [31 U.S.C. 1552\(a\)](#), appropriations available for a limited period may be used for payment of valid obligations for only five years after the expiration of their period of availability for Federal obligation. After that time, the unexpended balance of those funds would be canceled and returned to the U.S. Treasury Department and be unavailable for restoration for any purpose ([31 U.S.C. 1552\(b\)](#)).

Tribal Consultation: On September 5, 2023, the Department solicited Tribal input¹ on the proposed waiver and extension for TCPCTIP, pursuant to Executive Order 13175, Consultation and Coordination With Indian Tribal Governments. Tribal members participated by a video conference platform. A total of 66 Tribal members and

¹ Tribal Consultation on Tribally Controlled Postsecondary Career and Technical Institutions Program (TribalConsultationNotice_08172023.pdf (ed.gov)).

eight Tribal leaders participated. None of the participants raised objections to the proposed waiver and extension during the consultation or its written comment period that ended October 5, 2023.

Regulatory Flexibility Act Certification

The Secretary certifies that the proposed waiver and extension would not have a significant economic impact on a substantial number of small entities.

The only small entities that would be affected by the proposed waiver and extension are the two grantees selected based on the NIA currently receiving Federal funds. These are the only entities eligible to receive a grant under this program.

The Secretary certifies that the proposed waiver and extension would not have a significant economic impact on these entities because the proposed waiver and extension would impose minimal compliance costs to extend projects already in existence, and the activities required to support the additional year or years of funding would not impose additional regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

The proposed waiver and extension do not contain any information collection requirements.

Intergovernmental Review

The TCPCTIP is not subject to Executive Order 12372 and the regulations in [34 CFR part 79](#).

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C 2327.

Amy Loyd,
*Assistant Secretary for Career, Technical, and Adult
Education.*

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