Part IV. Specific Responsibilities of the Applicant

An applicant under this announcement must:

- A. Provide the resolutions from the participating tribes designating the applicant to operate the Protection and Advocacy system, to receive the federal funds available for this program, and to be responsible for reporting and accounting for such funds to ADD.
- B. Indicate that the System shall have the authority to:
- 1. Pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of individuals with developmental disabilities within the exterior boundaries of the Tribes who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to enrolled members of the Tribes (142(a)(2)(A)(i)):
- 2. Provide information on and referral to programs and services addressing the needs of persons with developmental disabilities (142(a)(2)(A)(ii));
- 3. Investigate incidents of abuse and neglect of persons with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred (142(a)(2)(B)); and
- 4. Educate policymakers (142(a)(2)(K)).
- C. Specify that the system, on an annual basis:
- 1. Develops a statement of objectives and priorities for the system's activities (142(a)(2)(C)); and
- 2. Provide to the public including individuals with developmental disabilities attributable to either physical impairment, mental impairments, and their representatives, as appropriate, or a combination of physical or mental impairments, non-Tribal agency representatives, and non-State agency representatives of the State Developmental Disabilities Council, and the university affiliated program (if applicable within a State,) an opportunity to comment on—
- (a) The objectives and priorities established by the system and the rationale for the establishment of such objectives; and
- (b) The activities of the system, including the coordination with the advocacy programs under the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for Mentally Ill Individual Act of 1986 and with other related programs, including the

- parent training and information centers, education ombudsman programs and assistive technology projects (142(a)(2)(D)).
 - D. Demonstrate that the system:
- 1. Has or will establish a grievance procedure for clients or prospective clients of the system to assure that persons with developmental disabilities have full access to services of the system (142(a)(2)(E));
- 2. Is not being administered by the State Developmental Disabilities Council authorized under Part B (142(a)(2)(F));
- 3. Is independent of any agency which provides treatment, services, or habilitation to individuals with developmental disabilities (142(a)(2)(G));
- 4. Has access at reasonable times and locations to any resident who is an individual with a developmental disability in a facility that is providing services, supports, and other assistance to such a resident (142(a)(2)(H));
 - 5. Has access to all records of-
- (a) Any individual with developmental disabilities who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access (142(a)(2)(I)(i));
- (b) Any individual with developmental disabilities—
- (i) Who, by reason of such individual's mental or physical condition, is unable to authorize the system to have access (142(a)(2)(I)(ii)(I));
- (ii) Who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the Tribe (142(a)(2)(I)(ii)(II)); and
- (iii) With respect to whom a complaint has been received by the system or with respect to whom as a result of monitoring or other activities there is probable cause to believe that such individual has been subject to abuse or neglect (142(a)(2)(I)(ii)(III)); and
- (c) Any individual with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—
- (i) Such representative has been contacted by the system upon receipt of the name and address of such representative (142(a)(2)(I)(iii)(I));
- (ii) The system has offered assistance to such representative to resolve the situation (142(a)(2)(I)(iii)(II)); and

- (iii) Such representative have failed or refused to act on behalf of the individual (142(a)(2)(I)(iii)(III));
- 6. Has hired and maintains sufficient numbers and types of staff, qualified by training and experience, to carry out such system's function except that such system shall not apply hiring freezes, reductions in force, or prohibitions on staff travel, or other policies, to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the system from carrying out its functions under the Act (142(a)(2)(J));
- 7. Will provide assurances to the Secretary that funds awarded to the consortium under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds (142(a)(2)(L)); and
- 8. Will submit to: Administration on Developmental Disabilities, Division of Program Operation, Room 329–D, HHH Building, 200 Independence Avenue, SW, Washington, DC 20201 the following reports: Financial status reports (269s) bi-annually, Program Performance Report (PPRs) annually and the Statement of Objectives and Priorities (SOPs) annually.
- E. Describe how the system will assure that a multimember governing board is selected according to the policies and procedures of the system except that—
- 1. The governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system and include individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family member, guardians, advocates, or authorized representative of such individuals;
- 2. Not more than ½ of the membership of the governing board may be appointed by the chief executive officers of the tribes involved, in the case of any tribe in which such officer has the authority to appoint the membership of the board; and
- 3. Any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs.

Part V. Intergovernmental Review of Federal Programs

This program is covered by the State Plan Consolidation Section of E.O. 12372, but is excluded from intergovernmental consultation review.