

127168

AGREEMENT

This agreement, made and entered into this day,
February 24, 1989, by and between the Director's
Office of the Department of Human Resources, hereinafter referred
to as "Director's Office," and Eureka County, hereinafter referred
to as "Recipient."

WITNESSETH

THAT WHEREAS, Director's Office is authorized by law to
enter into interlocal agreements pursuant to NRS 277.110; and

WHEREAS, Director's Office is the agency which
administers the State Legalization Impact Assistance Grant,
hereinafter referred to as "SLIAG," program in the State of Nevada;
and

WHEREAS, the SLIAG program was established to reimburse
the costs of services provided to eligible legalized aliens under
programs of public assistance, public health assistance, and
education; and

WHEREAS Recipient provides services which may be
reimbursable from SLIAG funds:

NOW THEREFORE, in consideration of the mutual covenants
hereinafter set forth, the parties hereto agree as follows:

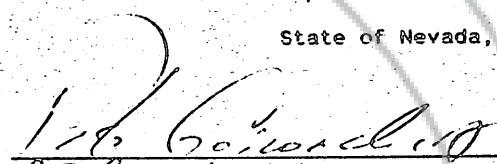
1. To the extent that SLIAG funds are available,
Director's Office shall reimburse Recipient
for all valid and allowable SLIAG-related
costs. Reimbursement will be made upon receipt
of expense reports described in paragraph 2,
not to exceed the amount of federal funds
available.

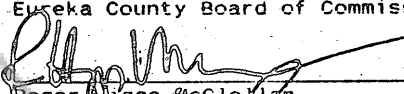
2. Recipient shall make expense reports to Director's Office on a quarterly basis, or more frequently, if desired. Such reports shall include actual SLIAG-related costs for the period and other information in such detail as the Director's Office may request. These reports are due 30 days after the last day of each quarter.
3. Recipient shall prepare sufficient accounting records to determine the amount of SLIAG-related costs incurred by Recipient. Records of all such costs shall be maintained for a period of five (5) years.
4. Recipient shall make all books and records available to Director's Office or its agent for review at any time during the five (5) year period, to determine the validity and allowability of the SLIAG-related costs.
5. Recipient shall prepare such additional reports as the Director's Office may require in order to administer the SLIAG program and comply with federal regulations.
6. Recipient must repay any funds received for costs which are determined not to be SLIAG-related costs.
7. For purposes of this agreement, the terms "eligible legalized aliens" and "SLIAG-related costs" have the same meaning as in Federal Regulation 45CFR402.2, which is attached hereto and incorporated by reference.

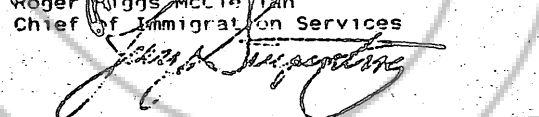
8. Recipient shall neither assign, transfer nor delegate any rights, obligations or duties under this agreement without the prior written consent of the Director's Office.

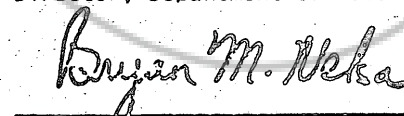
9. It is expressly agreed and understood that the recipient of SLIAG funds is not an agent, servant or employee of the Director's Office. The Recipient shall be responsible for all damages to property and personal injury of any kind resulting from any act, omission, neglect or misconduct of said Recipient in the manner or method of performing the services for the duration of this agreement. Recipient agrees to indemnify the Director's Office from any such liability to the extent allowable by law.

10. This agreement shall remain in effect until the earlier of September 30, 1994, or the expenditure of all SLIAG funds received by the State of Nevada, unless subsequently amended.


Peter Conover, Chairman
Eureka County Board of Commissioners


Roger Higgs McClellan
Chief of Immigration Services


Jerome F. Griepentrog
Director, Department of Human Resources


Bryan Nelson
Chief Deputy Attorney General
Human Resources Division
As To Form Only

602.33 Allotment of excess funds.

Subpart E—State Applications

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Authority: Sec. 204, Pub. L. 95-603.

Subpart A—Introduction

§ 602.1 General.

These regulations implement section 204 of Pub. L. 95-603, the Immigration Reform and Control Act of 1985 (IRCA), which establishes State Legalization Impact Assistance Grants (SLIAG) for States for fiscal year 1988 and for each of the three succeeding fiscal years. The purpose of SLIAG is to lessen the financial impact on State and local governments resulting from the adjustment of immigration status under the Act of certain groups of aliens residing in the States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam. Funds appropriated by this section may be applied by States with approved applications to certain State and local government costs incurred in providing public assistance and public health assistance to eligible legalized aliens and for making payments to State educational agencies for the purpose of assisting local educational agencies in providing certain educational services to eligible legalized aliens.

§ 602.2 Definitions.

As used in this Part—

"The Act" means the Immigration Reform and Control Act of 1985, Pub. L. 95-603.

"Allocation" means an amount designated for a State for a fiscal year, as determined under § 602.31.

"Allotment" means the total amount awarded to a State for a fiscal year, as determined under § 602.33 or, if applicable, § 602.35.

"Department" means the U.S. Department of Health and Human Services.

"Educational Services" means:

- (1) For eligible legalized aliens regardless of age enrolled in elementary or secondary school, services allowable under section 607 of the Emergency Immigrant Education Act, 20 U.S.C. 4109, et seq. (Pub. L. 95-511), as in effect on November 6, 1985.
- (2) For adult eligible legalized aliens:

- (i) Services authorized under the Adult Education Act, 20 U.S.C. 1201 et

seq. (Pub. L. 89-754), as amended), as in effect November 6, 1985, and

- (ii) English language and other programs designed to enable eligible legalized aliens to attain the citizenship skills required by section 265A(b)(1)(D)(i) of the INA.

"Eligible legalized alien" means an alien whose status has been adjusted to lawful temporary resident under section 205A, 210, or 210A of the Immigration and Nationality Act, beginning on the effective date of such adjustment as established by the Immigration and Naturalization Service, and continuing until the end of the five-year period beginning on the effective date of such adjustment, provided that during that time the alien remains in lawful temporary or permanent resident status granted under the Act.

"INA" means the Immigration and Nationality Act, 8 U.S.C. 1101, et seq.

"Local educational agency" means—

- (a) A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform service functions for, public elementary or secondary schools in—

- (1) A city, county, township, school district, or other political subdivision of a State; or

- (2) Such combination of school districts or counties a State recognizes as an administrative agency for its public elementary or secondary schools;

(b) Any other public institution or agency that has administrative control and direction of a public elementary or secondary school.

"Local government" has the same meaning as in 45 CFR Part 74.

"Nongovernmental" as applied to an agency, organization, or institution, means that the agency, organization, or institution is nonprofit and is not under Federal or public supervision or control.

"Public" as applied to an agency, organization, or institution, means that the agency, organization, or institution is under the administrative supervision or control of a government other than the Federal Government.

"Public assistance" means cash, medical, or other assistance provided to meet the basic subsistence needs or health needs of individuals

- (1) That is generally available to needy individuals residing in a State and

- (2) That is provided with funds from units of State or local government. As used in this definition, basic subsistence needs are minimal living requirements, including food, shelter and clothing. For purposes of this definition, assistance is considered to

have been provided to needy individuals if specified income or resource

requirements are used to determine eligibility or the amount of a fee or other charge to be paid for services. "Other assistance" means assistance and services, other than cash or medical assistance, that are directed at meeting basic subsistence needs, and that meet all of the criteria in this definition.

"Other assistance" also means assistance and services in which participation is required as a condition of receipt of cash or medical assistance.

"Public health assistance" means health services (1) that are generally available to needy individuals residing in a State; (2) that receive funding from units of State or local government; and (3) that are provided for the primary purpose of protecting the health of the general public, including, but not limited to, immunizations for immunizable diseases, testing and treatment for tuberculosis and sexually-transmitted diseases, and family planning services.

"Recipient" has the same meaning as in 45 CFR Part 74.

"Secretary" means the Secretary of the Department of Health and Human Services.

"SLIAG-related costs" means expenditures made to provide public assistance, public health assistance, or educational services, as defined in this Part, to eligible legalized aliens, as defined in this Part, regardless of whether those expenditures actually are reimbursed or paid for with funds allotted to the State under this Part. SLIAG-related costs for education are limited to the amount of payment that can be made under the Act for educational services, as described in § 602.11(a). SLIAG-related costs include: (1) expenditures by a State or local government for costs which are reimbursed or paid for by Federal programs other than SLIAG; and (2) program costs (as defined in 45 CFR 74.42) received from or on behalf of eligible legalized aliens residing in a State for which payment or reimbursement may be made under this Part.

"State" means the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

"State educational agency" means—

- (1) The State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools in a State. In the absence of this officer or agency, it is an officer or agency designated by the Governor or State law; or

(2) The State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools; or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools, then that agency or officer may be designated for the purpose of the Act by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, the term means an appropriate agency or officer designated for the purpose of the Act by the Governor.

Subpart B—Use of Funds

§ 402.10 Allowable use of funds.

(a) Funds provided under this Part for a fiscal year may be used only with respect to allowable SLIAC-related costs incurred in that fiscal year or succeeding fiscal years in providing assistance with services to eligible legalized aliens subject to § 402.20(a). States may use funds for:

- (1) Public assistance, public health assistance, and educational services provided to eligible legalized aliens;
- (2) Public health assistance provided to an alien applying on a timely basis to become an eligible legalized alien under section 205A of the INA, but not to those applying under section 210 or 210A of the INA;
- (3) SLIAC and program administrative costs, as described in § 402.22 (c) and (d).

(b) Unless specifically prohibited by a statute enacted subsequent to November 8, 1958, a State may use SLIAC funds to pay the non-Federal share of costs allowable under (c) of this section incurred in providing assistance or services to eligible legalized aliens under Federal programs that have a matching or cost-sharing requirement, subject to the provisions of § 402.11(f) of this Part.

(c) To the extent consistent with 45 CFR Part 74 and § 402.22 of this Part, funds provided under this Part may be used for State and local costs associated with meeting the administrative requirements established by the Act and this Part and the administrative costs associated with providing assistance or services to eligible legalized aliens under a program or activity that receives funds under this Part.

(d) Funds under this Part may be used to reimburse or pay costs of providing assistance or services to eligible legalized aliens that are incurred prior to the approval of a State's FY 1988 application and, for all fiscal years, prior to the approval of a State's amendment to its application, pursuant to Subpart E

of this Part, provided that such reimbursement or payment is consistent with the Act and this Part.

§ 402.11 Limitations on Use of SLIAC Funds.

(a) Funds provided under this Part that are used for public assistance, public health assistance, and educational services may only be used only with respect to programs in a State or local jurisdiction that (1) meet the definitions of § 402.2, above, and (2) are otherwise consistent with the rules and procedures governing such programs.

(b) Funds provided under this Part may not be used for costs to the extent that those costs are otherwise reimbursed or paid for under other Federal programs.

(c) Funds provided under this Part may be used to reimburse State and/or local expenditures associated with providing public assistance and public health assistance to eligible legalized aliens and to make payments to State educational agencies for the purpose of providing educational services to eligible legalized aliens. However, the amount of reimbursement or payment may not exceed 100 percent of SLIAC-related costs, as defined in this Part, associated with providing public assistance, public health assistance, and educational services.

(d) A State may not use a maximum of 10 percent of its allotment under this Part in any fiscal year for costs associated with each of the following program categories: public assistance, public health assistance, and educational services. In the event that a State does not request use of a full 10 percent in any of the above categories, it must allocate the unused portion equally among the remaining categories.

(e) Payments for educational services in any fiscal year may not exceed the amounts described in (c) (1), (4) and (5) of this section, and are subject to the limitations in (c) (1), (3), and (4) of this section.

(f) Payments may be made to a local educational agency in a fiscal year for the purpose of providing educational services to eligible legalized aliens enrolled in elementary or secondary school only if 800 eligible legalized aliens meeting the conditions in (c)(2) of this section, or enrolled in elementary or secondary public or non-public schools in that local educational agency's jurisdiction in that fiscal year or if such eligible legalized aliens represent at least 5 percent of the total number of students enrolled in elementary or secondary public or non-

educational agency's jurisdiction in that fiscal year.

(2) In computing payments to local educational agencies or to providers of educational services described in section 204(c)(3)(C) of the Act, State educational agencies may take into account only eligible legalized aliens who have been enrolled in elementary or secondary school, public or non-public school or in educational activities for adults described in § 402.2 in the United States for fewer than three complete academic years.

(3) The amount that may be paid in any fiscal year to a local educational agency with respect to eligible legalized aliens enrolled in elementary and secondary public or non-public school may not exceed an amount equal to \$300 (less, in States receiving Emergency Immigrant Education Act (EIEA) funds, the amount described in (c)(6) of this section) multiplied by the number of eligible legalized aliens meeting the criteria specified in (c)(2) of this section who are enrolled in public or private non-profit elementary and secondary schools in the jurisdiction of that local educational agency in that fiscal year.

(4) The amount that may be paid in any fiscal year to a local educational agency or other provider of educational services for adults (who are not enrolled in elementary or secondary school), as described in section 204(c)(3)(C) of the Act, may not exceed an amount equal to \$300 multiplied by the number of eligible legalized aliens meeting the criteria in paragraph (c)(2) of this section who receive educational services from that provider in that fiscal year.

(5) In no event may the amount paid to a local educational agency or other provider of educational services exceed the actual cost of providing those services to eligible legalized aliens, as determined in accordance with this Part and 45 CFR Part 74.

(6) The maximum amount of payment to a local educational agency with respect to eligible legalized aliens enrolled in elementary and secondary school will be reduced from the amount described in (c)(3) of this section, by an amount equal to the amount of funds received by the local educational agency with respect to such eligible legalized aliens pursuant to section 205 of the Emergency Immigrant Education Act.

(7) Funds provided under this Part may not be used to provide assistance under the programs of financial assistance from which eligible legalized aliens are barred by section 205A(b)(1), 210(f), or 210A(d)(9) of the INA. However, such funds may be used for the State and local share of the costs of

providing such assistance to eligible legalized aliens who are exempted from the bar by section 245A(h) (2) or (3), 216(f), or 216A(d)(1) of the INA, provided that such individuals are otherwise eligible for benefits under such programs, and that the costs of providing those benefits are otherwise allowable under the Act, this regulation, and the State's approved application.

(g) Funds provided under this Part shall not be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

(h) Funds provided under this Part shall not be used to reimburse or pay costs incurred by any public or private entity or any individual, in the conduct of a medical examination as required for application for adjustment to lawful temporary resident status under 8 CFR 245a.2(i) (52 FR 16212, May 1, 1987) or 9 CFR 210.2(d) (52 FR 16201, May 1, 1987).

§ 402.12 Use of SLIAC Funds for Costs Incurred Prior to October 1, 1987.

(a) Except as indicated in (b) and (c) of this section, States may not use funds provided under this Part for costs incurred prior to October 1, 1987.

(b) A State may use funds provided under this Part for administrative costs incurred prior to October 1, 1987, but after November 6, 1986, that are directly associated with implementation of this Part. Such costs may include planning, preparing the application, establishing fund accounting and reporting systems, data development associated with the application, and other costs directly resulting from planning for implementation of this Part.

(c) A State may use funds provided under this Part for costs incurred prior to October 1, 1987, but after November 6, 1986, in providing public health services to eligible legalized aliens and to applicants for lawful temporary residence under section 245A of the INA, in conformity with the provisions of § 402.11(c).

Subpart C—Administration of Grants

§ 402.20 General provisions.

Except where otherwise required by Federal law, the Department's rules located at 45 CFR Part 74, relating to the administration of grants, apply to funds provided under this Part.

§ 402.21 Fiscal control.

(a) Fiscal control and accounting procedures must be sufficient to permit preparation of reports required by the Act, this regulation, and other applicable statutes and regulations. States must have accounting procedures in place which allow funds

provided under this Part to be traced from drawdown to allowable SLIAC-related costs. Allowability of the amount and purpose of expenditures must be established for each recipient of SLIAC funds. States must demonstrate that SLIAC-related costs, as defined in this Part, incurred in providing assistance or services to eligible legalized aliens equal or exceed the amount of SLIAC funds provided for those particular assistance and service activities. Documentation of the method of accounting and appropriate supporting information must be available for audit purposes and for Federal program reviews. To establish allowability of expenditures, States may use methods prescribed in (c) of this section. Alternatively, the State may use any other reliable method of cost calculation, subject to Federal review.

(c)(1) For public assistance, States may establish allowability by accounting for actual expenditures made to or on behalf of identifiable eligible legalized aliens who qualify for and receive assistance and/or services from the recipient, or by use of a statistically valid sampling of a recipient's public assistance caseload.

(2) For public health assistance, States may establish allowability by accounting for actual expenditures made to or on behalf of identifiable eligible legalized aliens who qualify for and receive such assistance and/or services, by use of a statistically valid sampling of clients in the public health system of the State or local government, or by using the ratio of eligible legalized aliens to a service population to all members of the relevant service population.

(3) For educational services, States must be able to demonstrate that:

(i) Funds provided under this Part were used to provide educational services, as defined in this Part, to eligible legalized aliens, as defined in this Part; and

(ii) Payments to local educational agencies or other providers of educational services, as described in section 245(c)(3)(C) of the Act, did not exceed the amounts described in § 402.11(c) of this Part.

§ 402.22 SLIAC and program administrative costs.

(a) SLIAC administrative costs allowable under this Part include the direct and indirect costs related to administration of this Part, including: planning and consultation with local officials, preparing the application, audits, allocation of funds, tracking and recordkeeping, monitoring use of funds, and reporting.

(b) Program administrative costs are those costs associated with administering allowable assistance or services provided to eligible legalized aliens. Such costs may be based on the proportion of eligible legalized aliens provided assistance and/or services allowable under this Part by a recipient, relative to all persons provided such assistance and/or services; on the proportion of program or service costs actually incurred in providing assistance and/or services allowable under this Part by a recipient, relative to all costs of providing the same assistance and/or services allowable under this Part by the recipient; or, on such other basis as will document that administrative costs incurred in providing such assistance and/or services and reimbursed under this Part are allowable, allocable to SLIAC, and reasonable.

(c) Consistent with section 603 of the Emergency Immigrant Education Act, of the amount paid to a State educational agency for educational services, only 1.5 percent may be used for administrative costs incurred by the State educational agency in carrying out its function under this Part.

§ 402.23 Repayment.

The Department will order a State to repay amounts found not to have been expended in accordance with Federal law, regulations, the State's approved application, or terms of the State's grant. If a State refuses to repay such amounts, the Department may effect the amount repaid by other means to which the State is or may become entitled under this Part.

§ 402.24 Withdrawal.

After notice and opportunity for a hearing, the Secretary may withhold payment of funds to any State which is not using its allotment in accordance with the Act, these regulations, 45 CFR Part 74, and terms of the grant award.

§ 402.25 Appeals.

Appeals under this Subpart will be subject to 45 CFR Part 16, Procedures of the Departmental Grant Appeals Board.

§ 402.26 Time Period for Obligation and Expenditure of Grant Funds.

(a) Any amount awarded to a State for a fiscal year and remaining unobligated at the end of each year shall remain available to the State for obligation in subsequent fiscal years, but not after September 30, 1994.

(b) Obligations by the State must be liquidated within 12 months of the end of the Federal fiscal year in which the obligation was made. However, where a State can demonstrate extenuating

circumstances that prohibit compliance with this requirement, the Secretary may extend such date upon request by the State.

Subpart D—State Allocations

§ 402.30 Basis of awards.

The Secretary will award funds in a fiscal year to States with approved applications for that fiscal year in accordance with the apportionment of funds from the Office of Management and Budget. The grant award constitutes the authority to draw and expend funds for the purposes set forth in the Act and this regulation.

§ 402.31 Distribution of allocations.

(a) *Allocation formula.* Allocations will be computed according to a formula using the following factors and weights:

(1) 50 percent based on the State's eligible legalized alien population, with 49 percent based upon the number of eligible legalized aliens in a State relative to the number of such aliens in all States, and 1 percent to States which have higher-than-average ratios of eligible legalized aliens to total population relative to the average for all States, based on the proportional number of such aliens; and

(2) 50 percent based on the ratio of SLIAC-related costs in a State to the total of all such costs in all States.

(b) *Calculation of allocations.* Each time the Department calculates State allocations, we will use the best data then available to the Secretary on the distribution of eligible legalized aliens by State. Allocations will be calculated as follows:

(1) *Initial FY 1989 allocations.* In FY 1989, initial State allocations will be calculated by applying the formula described in (a) of this section to 60 percent of the SLIAC funds available for grants to States in FY 1989. SLIAC-related costs will be based on Federal estimates of such costs.

(2) *Final FY 1989 allocations.* Final allocations for FY 1989 will be calculated by applying the formula described in (a) of this section to 100 percent of the SLIAC funds available for grants to States for FY 1989. SLIAC-related costs for FY 1987 and FY 1988 will be obtained from States' FY 1989 applications, as required by § 402.41(c).

(3) *Final FY 1989 allocations.* If a State does not submit an application for FY 1989, it still must submit the information described in paragraph 402.41(c) in order to receive its final allocation for FY 1989.

(4) *FY 1989 allocations.* Allocations for FY 1989 will be determined by applying the allocation formula described in (a) of this section to the

total amount of funds available for grants to States in FY 1988 and FY 1989. For purposes of calculating State allocations, the Department will use the SLIAC-related costs for FY 1987, FY 1988, and FY 1989 reported in each State's application submitted pursuant to § 402.41(c) of this Part, as approved by the Secretary.

(5) *FY 1990 allocations.* Allocations for FY 1990 will be determined by applying the allocation formula described in paragraph (a) of this section to the total amount of funds available for grants to States in FY 1989, FY 1988, and FY 1990. For purposes of calculating FY 1990 State allocations, the Department will use the following sources of data for SLIAC-related costs:

(i) For FY 1987 and FY 1988, the report required by § 402.51(e). In the event that a State has not submitted this report, the Department will include no costs for FY 1987 or FY 1988 for that State in its calculation of FY 1990 allocations.

(ii) For FY 1989 and FY 1990, the estimates of SLIAC-related costs contained in States' applications submitted pursuant to § 402.41(c) of this Part, as approved by the Secretary.

(6) *Initial FY 1991 allocations.* Initial FY 1991 allocations will be calculated by applying the formula described in (a) of this section to the total amount of funds made available for grants to States for FY 1989, FY 1988, and FY 1991, plus 75 percent of funds available for grants to States for FY 1990. For purposes of calculating FY 1991 State allocations, the Department will use the following sources of data for SLIAC-related costs:

(i) For FY 1987, FY 1988, and FY 1989, the reports required by § 402.51(e). In the event that a State has not submitted a report for a fiscal year, the Department will include no costs for that fiscal year for that State in its calculation of initial FY 1991 allocations.

(ii) For FY 1989 and FY 1990, the estimates of SLIAC-related costs contained in the States' applications submitted pursuant to § 402.41(c) of this Part, as approved by the Secretary.

(7) *Final FY 1991 allocations.* Final allocations for FY 1991 will be determined by applying the allocation formula described in (a) of this section to the total amount of funds available for grants to States in FY 1989, FY 1988, FY 1990, and FY 1991. For purposes of calculating FY 1991 State allocations, the Department will use the following sources of data for SLIAC-related costs:

(i) For FY 1987, FY 1988, FY 1989, and FY 1990, the reports required by § 402.51(e). In the event that a State has not submitted a report for a fiscal year, the Department will include no costs for

that fiscal year for that State in its calculation of final FY 1991 allocations.

(ii) For FY 1991, the estimates of SLIAC-related costs contained in the States' applications submitted pursuant to § 402.41(c) of this Part, as approved by the Secretary.

§ 402.32 Determination of state allotments.

Except as noted below, a State's allotment is the difference between the amount determined under § 402.31(b) (2) through (6) of this regulation and the cumulative amount previously allotted to the State. In the event that the amount determined under § 402.31(b) (2) through (6) of this regulation and the cumulative amount previously allotted to a State, that State's allotment will be zero. The allotment of the remaining States would be calculated by multiplying the difference between the amount determined under § 402.31(b) (2) through (6) of this regulation and the cumulative amount previously allotted to the State by the ratio of the amount of funds available for grants to States to the sum of the difference between the amount determined under § 402.31(b) (2) through (6) and the amount previously awarded to those States. For purposes of determining final FY 1990 State allocations, the amount previously allotted to a State will be the amount allocated and awarded to the State pursuant to § 402.31(b)(1).

(3) *Amount of funds available for grants to States.* If a State fails to qualify for an allotment in a particular fiscal year because it did not submit an approvable application by the deadline established in § 402.40 of this Part, or in past allotments, the designated allocation amount because it is included in its application as that it does not intend to use, in the fiscal year for which the application is made or in the preceding fiscal year, the full amount of its allocation, funds in which would otherwise have been allotted to the State in that fiscal year shall be allotted among the remaining States submitting timely approved applications in proportion to the amount that otherwise would have been allotted to each State in that fiscal year.

Subpart E—Cost Applications

§ 402.40 General.

In order to be eligible for funds available under this Part in a fiscal year, a State must submit an annual application. A State's application must be approved by the Secretary prior to the award of funds to that State.

§ 402.41 General.

In order to be eligible for funds available under this Part in a fiscal year, a State must submit an annual application. A State's application must be approved by the Secretary prior to the award of funds to that State.

§ 402.41 Application content.

A State application must:

(a) Contain certifications by the chief executive officer or an individual specifically designated to make such certifications on behalf of the chief executive officer that, notwithstanding other contents of the application, the State assures that:

(1) Funds allotted to the State will be used only to carry out the purposes described in the Act and this Part.

(2) The State will provide a fair method for the allocation of funds among State and local agencies (as determined by the State) in accordance with the information in the application as required under (b) and (c) of this section and in accordance with the provisions of § 402.11(d) of this Part, which sets forth minimum funding levels for program categories.

(3) Fiscal control and accounting procedures used in the administration of SLIAG funds will be established that are adequate to meet the requirements established by the Act and this regulation.

(4) The State will comply with the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, and on the basis of sex or religion under section 2002b(1)(B) of the Immigration Reform and Control Act of 1986.

(b) Contain information on the number of eligible legalized aliens residing in the State. A State may either (1) adopt as its official State-level estimate the estimate of the State's number of eligible legalized aliens provided by the Department, or (2) provide its own estimate, including detailed information on the method and data used in deriving the estimate.

(c)(1) Contain an estimate of likely SLIAG-related costs for the fiscal year for which application is being made for each program or activity in which SLIAG-related costs will be incurred. Programs and activities must be identified by purposes described in § 402.10(a), that is, public assistance, public health assistance, educational services, and SLIAG administrative costs as defined in § 402.22 (e) and (f). Such estimates for FY 1988 should include, as a discrete subset, costs incurred in FY 1987, pursuant to § 402.12.

(2) For applications for FY 1988, FY 1989, and FY 1991, in addition to the information in (c)(1) of this section

contain updated estimates of SLIAG-related costs for each program or activity in which SLIAG-related costs have been or will be incurred in the fiscal year in which the application is being submitted. Programs and activities must be identified by the purposes described in § 402.10(a), that is, public assistance, public health assistance, educational services, and SLIAG administrative costs as defined in § 402.22(e). (SLIAG-related costs incurred in FY 1987 pursuant to § 402.12 of this Part are to be included, as a discrete subset, in the updated estimate of FY 1988 costs.)

(d) Contain the following information pertaining to the estimates required by (c)(1) and (2) of this section (the application must include sufficient detail to permit assessment by the Department of the reasonableness of such estimates and the allowability of such costs under the Act and this Part):

(1) Descriptions of the programs and activities for which SLIAG-related costs have been or will be incurred.

(2) Descriptions of the methodologies used to determine SLIAG-related costs. This description is to include (i) the methodology used in determining the properties (or actual number) of eligible legalized aliens who are likely to participate in or benefit from the program or service, and (ii) a description of how a unit or other measure of the cost of providing services or benefits was calculated, or, if the estimate is based on actual cost data, a description of how the data was obtained.

(e) Contain information on the criteria for and administrative methods of disbursing funds received under this Part.

(f) Designate a single point of contact (SPOC) to the State responsible for receiving and maintaining information required by the Act and this regulation and provide the name, title, mailing address, and telephone number of each official. If the primary agency is different from the SPOC, also provide the name, title, mailing address, and telephone number of the official in that agency responsible for State administration of funds available under this Part. In either case, provide the employer identification number of the grantee agency.

If a State has previously provided this information to the Department, it need not be included in the application unless the information has changed.

§ 402.42 Application format.

A State may determine the format of its application as long as it contains all the information required by § 402.41.

§ 402.43 Application deadline.

(a) An application from a State for SLIAG funds for Federal fiscal year 1988 must be received by the Department by May 18, 1988. Applications for Federal fiscal years 1989, 1990, and 1991 must be received no later than July 15, 1988, July 15, 1989, and July 15, 1990, respectively. If a State fails to submit an application by these dates, funds which it may otherwise have been eligible to receive shall be distributed among States submitting timely approved applications in accordance with § 402.33 of this Part.

(b) In order to receive funds under this Part for FY 1988, a State's application must be approvable by the Secretary by July 1, 1988. In order to receive funds under this Part for FY 1989, FY 1990, and FY 1991, a State's application must be approvable by the Secretary by October 1, 1988, October 1, 1989, and October 1, 1990, respectively. This may necessitate a State's providing clarification, revision, or additional material, as required, to render its application approvable by the Secretary. If a State fails to render its application approvable by the Secretary by these dates, funds which it may otherwise have been eligible to receive shall be distributed among States which have submitted approvable applications in accordance with § 402.33 of this Part.

§ 402.44 Costs for approval.

(a) The Department will review each State's application to ensure that it contains all of the required information and information and evidence is consistent with the Act and this Part.

(b) The Department will assess the reasonableness of each State's estimate of SLIAG-related costs, as required by § 402.41(c)(1) and (2), based on the following:

(1) Are the activities for which estimates are included in the application allowable under the Act and this Part?

(2) Are the rates of participation by eligible legalized aliens in the activities for which estimates of SLIAG-related costs are included in the application and other assumptions underlying the cost estimates based on reliable empirical data?

(3) To what extent are the estimates based on actual costs incurred? Are actual costs based on methodologies described in this Part or other methodologies likely to result in valid measures of SLIAG-related costs?

(4) Do current estimates appear to be consistent with past estimates, known actual costs pursuant to § 402.41(c)(2), and current INS eligible legalized alien population data?

(5) Are revised estimates a result (all or in part) of changes in program activities?

(c) The Department will notify the State that (1) its application has been approved or (2) its application has been disapproved, together with the reasons for disapproval.

§ 402.45 Amendments to applications.

(a) If, during the course of a fiscal year, a State adds a program or activity for which it intends to claim reimbursement or make payment in that fiscal year, it must submit an amendment (containing appropriate information pursuant to § 402.41(c)) to its approved application for that fiscal year.

(b) A State may use SLIAC funds received for a fiscal year to reimburse or pay SLIAC-related costs for programs or activities described in (a) of this section retroactive to the date the activity began, but no earlier than the first day of the fiscal year and only to the extent described in § 402.10(d). Costs incurred prior to October 1, 1987, are allowable only to the extent described in § 402.12.

Subpart F—Recordkeeping and Reporting

§ 402.49 Recordkeeping.

A State must provide for the maintenance of such records as are necessary:

(a) To meet the requirements of the Act and Department regulations relating to retention of and access to records.

(b) To allow the State to provide to the Department (1) an accurate description of its activities undertaken with SLIAC funds, and (2) a complete record of the purposes for which SLIAC funds were spent, and of the recipients of such funds; and

(c) To allow the Department and auditors of the State to determine the extent to which SLIAC funds were expended consistent with the Act and this regulation.

§ 402.51 Reporting.

(a) After the end of a Federal fiscal year for which it received or during which it obligated or expended SLIAC funds and by the due date indicated below, a State must submit annual reports containing the information identified in (c) and (d) of this section. The reports are due no later than 60 days after the end of a Federal fiscal year.

(b)(1) Failure to submit the annual report required in (a) of this section by the deadline, without prior written permission from the Secretary, constitutes a basis for withholding of SLIAC funds.

(2) Failure by a State to submit the required information prior to the calculation of allocations pursuant to Subpart D will result in the Secretary's including no SLIAC-related costs for the fiscal year for that State in the calculation of State allocations.

(c) A State's annual report must provide information on the status of each fiscal year's funds, as of September 30, for the fiscal year, including:

(1) Identification of the amount obligated and the amount expended by the State grantee agency;

(2) Identification of any amount remaining unobligated at the end of the fiscal year which the State intends to carry over to succeeding fiscal years; and

(3) Identification of any amount remaining unobligated at the end of the fiscal year which the State does not desire to carry over to the succeeding fiscal year.

(d) A State must use SF-289 in its reporting under paragraph (c) of this section, but it may determine the format of its annual report content under paragraph (e) of this section.

(e) A State's annual report must also provide the actual SLIAC-related costs incurred during the fiscal year. The report must provide for each program or activity identified in the State's application, the amount of the actual SLIAC-related costs incurred in that program or activity, identified as public assistance, public health assistance, educational services and SLIAC administrative costs, the amount of SLIAC funds obligated for that program or activity, and the time period for which the funds were obligated. The report must contain a description of the methodology used to determine actual SLIAC-related costs, if different from the descriptions provided in the State's application pursuant to § 402.41(d)(2). Federal and State costs of providing assistance under a State plan approved under title XVI of the Social Security Act to alien whose status has been adjusted under sections 245A and 245A of the INA by virtue of the exceptions to the bar to Medicaid eligibility (sections 245A(h)(3) and (3) of the INA) must be shown separately in States' reports.

PART 10—PROCEDURES OF THE DEPARTMENT GRANT APPEALS BOARD

2. The authority citation for Part 10 continues to read as follows:

Authority: U.S.C. 301 and secs. 1, 3, 6, and 7 of Reorganization Plan No. 3 of 1953, 10 FR 2053, 67 Stat. 631 and authority cited in the Appendix.

3. Appendix A to Part 10 is amended

by adding paragraph B(c)(6) to read as follows:

Appendix A—What Shapes the Record Review

(a) . . .

(6) Decisions relating to repayment and withholding under State Legislation Impact Assistance Grants as provided in 45 CFR 402.20 and 402.23.

[Editorial Note: The following appendix will not appear in the Code of Federal Regulations.]

APPENDIX A—TOTAL FISCAL YEAR 1980 STATE ALLOCATIONS*

State	Total Fiscal Year 1980 Allocations	Per cent of total
Alabama	\$129,000	0.04
Alaska	01,650	0.02
Arizona	0,000,000	1.00
Arkansas	220,124	0.03
California	535,474,250	97.18
Colorado	2,000,000	0.78
Connecticut	000,000	0.10
Delaware	113,000	0.02
District of Columbia	1,213,755	0.53
Florida	\$1,166,210	0.69
Georgia	1,400,001	0.59
Hawaii	00,000	0.01
Idaho	000,000	0.01
Illinois	2,142,000	0.43
Indiana	000,000	0.00
Iowa	000,000	0.00
Kansas	011,600	0.03
Kentucky	00,000	0.00
Louisiana	000,000	0.12
Maine	00,000	0.00
Maryland	000,000	0.00
Massachusetts	000,000	0.00
Michigan	000,000	0.00
Minnesota	000,000	0.00
Mississippi	000,000	0.00
Missouri	000,000	0.00
Montana	000,000	0.00
Nebraska	000,000	0.00
Nevada	000,000	0.00
New Hampshire	000,000	0.00
New Jersey	000,000	0.00
New Mexico	000,000	0.00
New York	000,000	0.00
North Carolina	000,000	0.00
North Dakota	000,000	0.00
Ohio	000,000	0.00
Oklahoma	000,000	0.00
Oregon	000,000	0.00
Pennsylvania	000,000	0.00
Rhode Island	000,000	0.00
South Carolina	000,000	0.00
South Dakota	000,000	0.00
Tennessee	000,000	0.00
Texas	000,000	0.00
Utah	000,000	0.00
Vermont	000,000	0.00
Virgin Islands	000,000	0.00
Virginia	000,000	0.00
Washington	000,000	0.00
West Virginia	000,000	0.00
Wisconsin	000,000	0.00
Wyoming	000,000	0.00
Total	4,420,000	100.00

* Based on a total of \$4.42 billion for 1980 allocations.

[FR Doc. 82-0017 Filed 3-9-82; 8:45 am]

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St. of Nevada, Dept. of Human Resources

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CLERK COUNTY, NEVADA
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