

half of the leveraging funds available, in this case \$12,500,000).

Column I is a preliminary calculation of the total amount of leveraging incentive funds a grantee would receive under this two-part formula, if there were no limit on the amount of funds a grantee could receive (column F plus column H).

Column J is the final calculation of the total amount of leveraging incentive funds a grantee received. Because the interim rule provided that no grantee may receive a leveraging incentive award larger than its regular LIHEAP allotment, where the amount in column I exceeds the amount in column C, the "excess" funds were distributed on a proportionate basis to the other leveraging grantees.

We were surprised that this formula resulted in some tribal grantees receiving very large grants in proportion to the amount of leveraging they carried out (and the awards would have been even larger for half of the tribal grantees in FY 1994, had it not been for the limit that no grantee could receive a leveraging incentive award larger than its regular LIHEAP allotment). Under the first part of the formula in FY 1994, each grantee received about \$12,000 for each tenth of a percent (0.1 percent) that appears in column E in the chart above, no matter how large the grantee's regular allotment or the value of its approved leveraging activities. The basic determining factor in this first half of the formula is the value of the leveraging activities an individual grantee carries out in relation to the size of its regular allotment. For example, the State of Virginia leveraged \$1,471,001 and had a regular allotment in FY 1993 of \$25,817,067, which means it leveraged 5.7 percent of its regular grant amount, translating to 0.15 percent in column E. Based on these results, Virginia received \$18,631 under the first part of the formula. By comparison, the Yakima Indian Nation of Washington State leveraged \$15,000 and had a regular allotment in FY 1993 of \$267,855, which means it leveraged 5.6 percent of its regular grant amount, translating to 0.15 percent in column E. Based on these results, the Yakima Nation received \$18,312 under the first part of the formula. (Numbers are slightly different because of rounding.) Grantees that leveraged large dollar amounts made up for any "shortfall" under the first half of the formula by receiving large amounts under the second half of the formula, which rewards grantees based on the amount of leveraging they accomplished as a proportion of the amount leveraged by all grantees. In this case, Virginia

carried out 0.26 percent of all the leveraging activities carried out by all grantees for the year and received \$32,412 under the second half of the formula, while the Yakima Nation carried out 0.00264 percent of all the leveraging activities for the year (rounded to 0.00 percent in the chart above) and received \$331 under the second half of the formula. (Both Virginia and the Yakima Nation received additional funds when "excess awards" for other grantees were redistributed.) Grantees that carried out more leveraged activities did even better under the second half of the formula, as can be seen in the table above.

Based on these results, we do not believe it would be fair to all grantees to distribute the leveraging incentive funds on the basis of Formula Two. We believe the second half of Formula One balances out the first half, and makes it more fair to all. In addition, the first table above shows that Formula Three would skew the leveraging allocations much too heavily in favor of larger grantees, and thus would remove or reduce the incentive for smaller grantees to leverage resources. For these reasons, we decided to retain Formula One in the final rule.

Comments and Response

Some tribal grantees expressed concern that prohibiting a grantee from receiving a leveraging incentive award that is larger than the size of its regular allotment would unfairly affect tribal grantees, which are generally in greater need than State grantees. The prohibition against receiving more in leveraging incentive funds than in regular block grant funds affected only tribal grantees in fiscal years 1992 and 1993, and tribal and territorial grantees in FY 1994. Tribes in general did very well under the interim rule's formula, in most cases receiving considerably more than the value of the leveraging activities they carried out. (The amount awarded to tribal grantees under this formula was still relatively small compared with the amount awarded to States. In FY 1992, the eight tribal grantees receiving leveraging incentive funds received 2.27 percent of the leveraging incentive funds awarded. In FY 1993, the 19 tribal leveraging fund recipients received 4.58 percent of the leveraging incentive funds awarded. In FY 1994, the 24 tribal leveraging fund recipient received 3.53 percent of the leveraging incentive funds awarded.) As noted, several of the tribes would have received more than their regular grant amount under this formula were it not for the prohibition against this (we redistributed those "excess" funds on a

proportionate basis among the other grantees). In an extreme example, shown in the table above, the Port Gamble S'Klallam Tribe of Washington State leveraged \$970 in FY 1993 and received a leveraged grant award in FY 1994 of \$11,145, the same amount as its regular allotment in the base period of FY 1993. It would have received a grant award of \$28,491 had it not been for the limit on receiving no more than the size of its regular allotment. We think the actual grant award of \$11,145, based on \$970 in countable leveraging activities, is disproportionate and unfair to other grantees. An award of \$28,491 clearly would have been excessive.

Accordingly, we considered various ways of changing the formula or its limits to make the awards for tribes and other small grantees more equitable, while still giving them an advantage to compensate for their smaller size, reduced leverage, and generally higher level of poverty, compared with States.

Therefore, this final rule changes the formula at section 96.87(i) to provide that a grantee cannot receive a leveraging incentive award that is more than the smaller of (1) its regular LIHEAP net allotment during the base period, or (2) twice the net value of its countable leveraged resources for the base period. This means that the Port Gamble S'Klallam Tribe's leveraging award in FY 1994 would have been \$1,940 (twice the amount of the \$970 in countable leveraging carried out in the base period of FY 1993), rather than the \$11,145 the tribe received (the same amount as its regular FY 1993 allotment). We believe that this revision will be fairer to all grantees.

Comments and Response

Four commenters expressed concern that the bulk of the leveraging incentive funds should not go to one or just a few large grantees that carry out a large amount of leveraging, leaving little for others. Several other persons made similar comments informally. In general, we found that the formula as a whole tended to favor smaller grantees and to dampen the effect of large amounts of leveraging carried out by large grantees. For example, New York had countable leveraging activities in FY 1993 valued at \$136 million (with a regular FY 1993 allotment of \$167.7 million), which is about 24 percent of the total amount of \$567.3 million in leveraging carried out by all grantees. Its incentive grant award, however, was \$4.6 million, which is about 18.4 percent of the \$25 million in incentive grants. By comparison, Wyoming had countable leveraging activities of \$61,886 (0.01 percent of the total