

### **Subpart A–Tribal IV-D Program: General Provisions**

- §309.01 What does this part cover?
- §309.05 What definitions apply to this part?
- §309.10 Who is eligible to apply for and receive Federal funding to operate a Tribal IV-D program?

### **Subpart B–Tribal IV-D Program Application and Review Procedures**

- §309.15 What is a Tribal IV-D program application?
- §309.16 What rules apply to start-up funding?
- §309.20 Who submits a Tribal IV-D program application? Where does the Tribe or Tribal organization submit the application?
- §309.35 What are the procedures for review of a Tribal IV-D program application, plan or plan amendment?
- §309.40 What is the basis for disapproval of a Tribal IV-D program application, plan or plan amendment?
- §309.45 When and how may a Tribe or Tribal organization request reconsideration of a disapproval action?
- §309.50 What are the consequences of disapproval of a Tribal IV-D program application, plan or plan amendment?

### **Subpart C–Tribal IV-D Plan Requirements**

- §309.55 What does this subpart cover?
- §309.60 Who is responsible for administration of the Tribal IV-D program under the Tribal IV-D plan?
- §309.65 What must a Tribe or Tribal organization include in a Tribal IV-D plan in order to demonstrate capacity to operate a Tribal IV-D program?
- §309.70 What provisions governing jurisdiction must a Tribe or Tribal organization include in a Tribal IV-D plan?
- §309.75 What administrative and management procedures must a Tribe or Tribal organization include in a Tribal IV-D plan?
- §309.80 What safeguarding procedures must a Tribe or Tribal organization include in a Tribal IV-D plan?
- §309.85 What records must a Tribe or Tribal organization agree to maintain in a Tribal IV-D plan?
- §309.90 What governing Tribal law or regulations must a Tribe or Tribal organization include in a Tribal IV-D plan?
- §309.95 What procedures governing the location of custodial and noncustodial parents must a Tribe or Tribal organization include in a Tribal IV-D plan?
- §309.100 What procedures for the establishment of paternity must a Tribe or Tribal organization include in a Tribal IV-D plan?
- §309.105 What procedures governing child support guidelines must a Tribe or Tribal organization include in a Tribal IV-D plan?

- §309.110 What procedures governing income withholding must a Tribe or Tribal organization include in a Tribal IV-D plan?
- §309.115 What procedures governing the distribution of child support must a Tribe or Tribal organization include in a Tribal IV-D plan?
- §309.120 What intergovernmental procedures must a Tribe or Tribal organization include in a Tribal IV-D plan?

#### **Subpart D–Tribal IV-D Program Funding**

- §309.125 On what basis is Federal funding of Tribal IV-D programs determined?
- §309.130 How will Tribal IV-D programs be funded and what forms are required?
- §309.135 What requirements apply to funding, obligating and liquidating Federal title IV-D grant funds?
- §309.145 What costs are allowable for Tribal IV-D programs carried out under §309.65(a) of this part?
- §309.150 What start-up costs are allowable for Tribal IV-D programs?
- §309.155 What uses of Tribal IV-D program funds are not allowable?

#### **Subpart E–Accountability and Monitoring**

- §309.160 How will OCSE determine if Tribal IV-D program funds are appropriately expended?
- §309.165 What recourse does a Tribe or Tribal organization have to dispute a determination to disallow Tribal IV-D program expenditures?

#### **Subpart F–Statistical and Narrative Reporting Requirements**

- §309.170 What statistical and narrative reporting requirements apply to Tribal IV-D programs?

## **Summary of Changes to the Final Tribal Rule**

### **Tribal TANF Provisions—Payments to Families**

- Currently, Tribal TANF agencies are required to have procedures for ensuring child support collections in excess of the amount of Tribal TANF received by the family must be paid to the family. This was modified to eliminate references to payments to the family because distribution of these collections is addressed in this tribal IV-D program rule.

### **State Plan Requirements—Intergovernmental Cooperation**

- Currently, state plan requirements include provisions for states to cooperate with other states in interstate IV-D cases. This was modified to include cooperation with all Tribal IV-D programs. The section now requires a state to extend the full range of services available under its IV-D plan to all Tribal IV-D programs.

### **Comprehensive Tribal Child Support Enforcement (CSE) Programs**

#### **Subpart A—Tribal Child Support Enforcement Program (IV-D) Program: General Provisions—Waiver of the 100-child Rule**

- If a Tribe or Tribal organization can demonstrate capacity to operate a child support enforcement program and provide justification for operating a cost effective program with less than the minimum number of children, it may request a waiver of the 100-child rule.

#### **Subpart B—Tribal IV-D Program Application Procedures**

- The SF 424A, “Budget Information—Non-Construction Programs,” must include:
  1. a quarter-by-quarter estimate of expenditures for the funding period;
  2. notification of whether the Tribe or Tribal organization is requesting funds for indirect costs and if so, an election of a method to calculate estimated indirect costs;
  3. a narrative justification for each cost category on the form;
  4. a statement that the Tribe or Tribal organization has or will have the non-Federal share of program expenditures available, or
  5. a request for a waiver of the non-Federal share.
- Option regarding the inclusion of indirect costs in full or start-up applications. Requests may be submitted in one of two ways.
  1. For applications which include indirect costs, either calculate the estimated indirect costs by documenting the dollar amount of indirect costs allocable to the IV-D program, or

2. Submit its current indirect cost rate negotiated with the Department of the Interior and a dollar amount of indirect costs based on that rate.
  3. If the Tribe elects to submit actual estimated costs attributable to the Tribal IV-D program, the methodology used to arrive at the dollar amount must be included in the application.
- Approval and disapproval procedures for applications for start-up funding are found in §§309.35, 309.40, 309.45 and 309.50.
  - Disapproval of start-up funding or of a request for waiver of the 100-child rule or waiver of the required Tribal share of expenditures is not subject to administrative appeal.
  - Tribal IV-D programs are given the opportunity for a hearing prior to disapproval of an existing Tribal IV-D plan to avoid the dire consequences of Tribal plan disapproval and immediate cessation of all IV-D funding.

### **Subpart C—Tribal IV-D Plan Requirements**

- Removed the following proposed future requirements:
  1. Employers report information about newly hired employees to the Tribal IV-D agency
  2. Employers report wage information to the Tribal IV-D agency
  3. Tribal IV-D agency report new hire and quarterly wage information to the NDNH
  4. Tribal IV-D agency submit cases to the FCR
  5. Procedures for submitting IV-D cases to the Tax Refund Offset Program.
- Tribal IV-D agencies may charge an application fee
  1. If the Tribal IV-D agency charges an application fee, the fee cannot exceed \$25.00;
  2. For intergovernmental cases, the application fee may only be charged by the agency in which the application was made;
  3. Fees may not be charged to individuals receiving TANF, foster care assistance or Medicaid.
- Tribal IV-D agencies may assess a fee and/or recover costs of providing services.

#### Data Security

- Tribal IV-D programs are authorized to disclose information to individuals for purposes authorized by Federal statute. If a Federal statute requires a Tribal IV-D program to share information, the agency would have to comply.

### Location of custodial parents

- Tribal IV-D agencies are required to locate custodial parents to ensure that locate sources are used to find custodial parents for whom support has been collected and whom the Tribe may be unable to find.

### Genetic Testing

- In a contested paternity case [unless otherwise barred by Tribal law] the child and all other parties must submit to a genetic test upon the request of any party. This language is consistent with the language found at section 466(a)(5)(B) of the Act, which mandates genetic testing in contested cases to ensure that the rights of both parties are protected.

### In-kind Support

- Non-cash child support payments may not be used to satisfy assigned support obligations.

### Income Withholding

- Income withholding will not be required in any case where either parent demonstrates, and the tribunal finds, that there is good cause not to require income withholding. A signed written agreement between the custodial and noncustodial parent would also be sufficient.
  1. The Tribal IV-D agency must allocate amounts withheld across multiple withholding orders and that, in no case, shall the allocation result in a withholding for one of the orders not being implemented.
  2. The Tribal IV-D agency is responsible for receiving and processing income withholding orders from states or other Tribes and ensuring orders are promptly served on employers.

### Distribution

- Specific rules for tribal responsibilities with respect to distribution for different kinds of cases:
  1. The family is currently receiving or formerly received assistance from the Tribal TANF program
  2. The Tribal IV-D agency has received a request for assistance in collecting support on behalf of the family from a state or tribal IV-D agency
  3. Support is owed to both states and tribes

- Any collections attributable to the Federal Income Tax Refund Offset must be applied to satisfy child support arrears.

## **Subpart D – Tribal IV-D Program Funding**

### Tribal Grants

- The Tribe or Tribal organization will receive funds in the amount equal to the percentage specified of the total amount of approved and allowable expenditures.
- Tribes receiving grants of less than \$1 million per 12-month funding period will receive a single annual award.
- Tribes that receive grants of \$1 million or more per 12-month funding period will receive four equal quarterly awards.
- To request a waiver of the Tribal share of Tribal IV-D program costs:
  1. A request for a waiver must be submitted with an application, or, in the event of an emergency situation, as soon as the adverse effect of the emergency situation is known.
  2. Emergency situations may include, hurricane, flood or fire.
  3. The tribe must demonstrate that it lacks sufficient funds; has made reasonable efforts to obtain non-Federal contributions and had provided all required information.
- The following statements are considered insufficient to merit a waiver without satisfactory documentary evidence:
  1. funds have been committed to other budget items
  2. high rate of unemployment
  3. generally poor economic conditions
  4. lack of or decline of revenue from gaming, fishing, timber, mineral rights and other similar revenue sources
  5. small or declining tax base
  6. little or no economic development
- A temporary waiver will expire on the last day of the funding period for which the waiver was approved.
- No tribal matching funds required for start-up funding.

## **Subpart E – Accountability and Monitoring**

### Appeals

If a Tribe or Tribal organization disputes a decision to disallow Tribal IV-D program expenditures, the grant appeals procedures at 45 CFR Part 16 is applicable.

### **Tribal Automated Systems**

Federal funding is available for:

- planning efforts in the identification, evaluation, and selection of a new or replacement automated data processing computer system solution
- operation and maintenance of existing Tribal automated data processing computer systems
- essential office automation capability
- establishment of intergovernmental agreements with states and Tribes for use of an existing automated computer data processing system.

The costs of designing, developing and implementing high speed automated data processing systems are not allowable at this time.

Regulations establishing minimum standards for automated systems (beyond planning provisions articulated under this rule) will be published after consultation with all stakeholders.