

## § 309.05

## 45 CFR Ch. III (10–1–04 Edition)

Section 455(f) of the Act authorizes direct grants to Indian Tribes and Tribal organizations to operate child support enforcement programs.

(b) These regulations establish the requirements that must be met by Indian Tribes and Tribal organizations to be eligible for grants under section 455(f) of the Act. They establish requirements for: Tribal IV-D plan and application content; submission, approval, and amendment; program funding; program operation; uses of funds; accountability; reporting; and other program requirements and procedures.

### § 309.05 What definitions apply to this part?

The following definitions apply to this part:

*IV-D services* are the services that are authorized or required for the establishment of paternity, establishment, modification, and enforcement of support orders, and location of noncustodial parents under title IV-D of the Act, this rule, the Tribal IV-D plan and program instructions issued by the Department.

*ACF* means the Administration for Children and Families, U.S. Department of Health and Human Services.

*Act* means the Social Security Act, unless otherwise specified.

*Assistant Secretary* means the Assistant Secretary for Children and Families, Department of Health and Human Services.

*Central office* means the Office of Child Support Enforcement.

*Child support order* and *child support obligation* mean a judgment, decree, or order, whether temporary, final or subject to modification, issued by a court of competent jurisdiction, tribunal or an administrative agency for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing jurisdiction, or of the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.

The *Department* means the U.S. Department of Health and Human Services.

*Income* means any periodic form of payment due to an individual regardless of source, except that a Tribe may expressly decide to exclude per capita, trust, or Individual Indian Money (IIM) payments.

*Indian* means a person who is a member of an Indian Tribe.

*Indian Tribe* and *Tribe* mean any Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe and includes in the list of Federally-recognized Indian Tribal governments as published in the FEDERAL REGISTER pursuant to 25 U.S.C. 479a-1.

*Location* means information concerning the physical whereabouts of the noncustodial parent, or the noncustodial parent's employer(s), and other sources of income or assets, as appropriate, which is sufficient and necessary to take the next appropriate action in a case.

*Non-cash support* is support provided to a family in the nature of goods and/or services, rather than in cash, but which, nonetheless, has a certain and specific dollar value.

*Notice of Disapproval* refers to the written notification from the Department that the Tribal IV-D application, IV-D plan, or plan amendment fails to meet the requirements for approval under applicable Federal statutes and regulations.

*OCSE* refers to the Federal Office of Child Support Enforcement.

*Program development plan* means a document detailing the specific steps a Tribe or Tribal organization will take to come into compliance with the requirements of § 309.65(a), and the timeframe associated with each step.

*Regional office* refers to one of the regional offices of the Administration for Children and Families.

*Secretary* means the Secretary of the Department of Health and Human Services or designee.

*TANF* means the Temporary Assistance for Needy Families program as found at section 401 *et seq.* of the Social Security Act (42 U.S.C. 601 *et seq.*).

*Title IV-D* refers to the title of the Social Security Act that authorizes the Child Support Enforcement Program, including the Tribal Child Support Enforcement Program.

*Tribal IV-D agency* means the organizational unit in the Tribe or Tribal organization that has the authority for administering or supervising the Tribal IV-D program under section 455(f) of the Act.

*Tribal custom* means unwritten law having the force and effect of law within a particular Tribe.

*Tribal organization* means any legally established organization of Indian Tribes which is sanctioned or chartered as a single governing body representing two or more Indian Tribes.

**§ 309.10 Who is eligible to apply for and receive Federal funding to operate a Tribal IV-D program?**

The following Tribes or Tribal organizations are eligible to apply to receive Federal funding to operate a Tribal IV-D program meeting the requirements of this part:

(a) An Indian Tribe with at least 100 children under the age of majority as defined by Tribal law or code, in the population subject to the jurisdiction of the Tribal court or administrative agency.

(b) A Tribal organization that has been designated by two or more Indian Tribes to operate a Tribal IV-D program on their behalf, with a total of at least 100 children under the age of majority as defined by Tribal laws or codes, in the population of the Tribes subject to the jurisdiction of the Tribal court (or courts) or administrative agency (or agencies).

(c) A Tribe or Tribal organization that can demonstrate to the satisfaction of the Secretary the capacity to operate a child support enforcement program and provide justification for operating a program with less than the minimum number of children may be granted a waiver of paragraph (a) or (b) of this section as appropriate.

(1) A Tribe or Tribal organization's request for waiver of paragraph (a) or (b) of this section must include documentation sufficient to demonstrate that meeting the requirement is not

necessary. Such documentation must state:

(i) That the Tribe or Tribal organization otherwise complies with the requirements established in subpart C of these regulations;

(ii) That the Tribe or Tribal organization has the administrative capacity to support operation of a child support program under the requirements of this part;

(iii) That the Tribal IV-D program will be cost effective; and

(iv) The number of children under the jurisdiction of the Tribe or Tribal organization.

(2) A Tribe or Tribal organization's request for a waiver may be approved if the Tribe or Tribal organization demonstrates to the satisfaction of the Secretary that it can provide the services required under 45 CFR part 309 in a cost effective manner even though the population subject to Tribal jurisdiction includes fewer than 100 children.

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

**§ 309.15 What is a Tribal IV-D program application?**

(a) *Initial application.* The initial application for funding under § 309.65(a) may be submitted at any time. The initial application must include:

(1) Standard Form (SF) 424, "Application for Federal Assistance;"

(2) SF 424A, "Budget Information—Non-Construction Programs," including the following information:

(i) A quarter-by-quarter estimate of expenditures for the funding period; and

(ii) Notification of whether the Tribe or Tribal organization is requesting funds for indirect costs and if so, an election of a method under paragraph (a)(3) of this section to calculate estimated indirect costs; and

(iii) A narrative justification for each cost category on the form; and either:

(iv) A statement that the Tribe or Tribal organization has or will have the non-Federal share of program expenditures available, as required; or

(v) A request for a waiver of the non-Federal share in accordance with § 309.130(e), if appropriate.