

§ 309.115

45 CFR Ch. III (10–1–04 Edition)

(m) The Tribal IV-D agency must allocate withheld amounts across multiple withholding orders to ensure that in no case shall allocation result in a withholding for one of the support obligations not being implemented.

(n) The Tribal IV-D agency is responsible for receiving and processing income withholding orders from States, Tribes, and other entities, and ensuring orders are properly and promptly served on employers within the Tribe's jurisdiction.

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

A Tribe or Tribal organization must specify in its Tribal IV-D plan procedures for the distribution of child support collections in each Tribal IV-D case, in accordance with this section.

(a) *General Rule:* The Tribal IV-D agency must, in a timely manner:

(1) Apply collections first to satisfy current support obligations, except as provided in paragraph (e) of this section; and

(2) Pay all support collections to the family unless the family is currently receiving or formerly received assistance from the Tribal TANF program and there is an assignment of support rights to the Tribe's TANF agency, or 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.

(b) *Current Receipt of Tribal TANF:* If the family is currently receiving assistance from the Tribal TANF program and has assigned support rights to the Tribe and:

(1) There is no request for assistance in collecting support on behalf of the family from a State or Tribal IV-D agency under § 309.120 of this part, the Tribal IV-D agency may retain collections on behalf of the family, not to exceed the total amount of Tribal TANF paid to the family. Any remaining collections must be paid to the family.

(2) There is a request for assistance in collecting support on behalf of the family from a State or Tribal IV-D agency under § 9.120 of this part, the Tribal IV-D agency may retain collections, not to exceed the total amount

of Tribal TANF paid to the family. Except as provided in paragraph (f) of this section, the Tribal IV-D agency must send any remaining collections, as appropriate, to the requesting State IV-D agency for distribution under section 457 of the Act and 45 CFR 302.51 or 302.52, or to the requesting Tribal IV-D agency for distribution in accordance with this section.

(c) *Former Receipt of Tribal TANF:* If the family formerly received assistance from the Tribal TANF program and there is an assignment of support rights to the Tribe and:

(1) There is no request for assistance in collecting support from a State or Tribal IV-D agency under § 309.120 of this part, the Tribal IV-D agency must pay current support and any arrearages owed to the family to the family and may then retain any excess collections, not to exceed the total amount of Tribal TANF paid to the family. Any remaining collections must be paid to the family.

(2) There is a request for assistance in collecting support from a State or Tribal IV-D agency under § 309.120 of this part, the Tribal IV-D agency must send all support collected, as appropriate, to the requesting State IV-D agency for distribution under section 457 of the Act or 45 CFR 302.51 or 303.52, or to the requesting Tribal IV-D agency for distribution under this section, except as provided in paragraph (f) of this section.

(d) *Requests for Assistance from State or Tribal IV-D Agency:* If there is no assignment of support rights to the Tribe as a condition of receipt of Tribal TANF and the Tribal IV-D agency has received a request for assistance in collecting support on behalf of the family from a State or another Tribal IV-D agency under § 309.120 of this part, the Tribal IV-D agency must send all support collected to either the State IV-D agency for distribution in accordance with section 457 of the Act and 45 CFR 302.51 and 302.52, or to the Tribal IV-D agency for distribution under this section, as appropriate, except as provided in paragraph (f) of this section.

(e) *Federal Income Tax Refund Offset Collections:* Any collections received

based on Federal income tax refund offset under section 464 of the Act and distributed by the Tribal IV-D agency must be applied to satisfy child support arrearages.

(f) *Option to Contact Requesting Agency for Appropriate Distribution:* Rather than send collections to a State or another Tribal IV-D agency for distribution as required under §309.115 (b)(2), (c)(2) and (d), a Tribal IV-D agency may contact the requesting State IV-D agency to determine appropriate distribution under section 457 of the Act, or the other Tribal IV-D agency to determine appropriate distribution under this section, and distribute collections as directed by the other agency.

§ 309.120 What intergovernmental procedures must a Tribe or Tribal organization include in a Tribal IV-D plan?

A Tribe or Tribal organization must specify in its Tribal IV-D plan:

(a) That the Tribal IV-D agency will extend the full range of services available under its IV-D plan to respond to all requests from, and cooperate with, State and other Tribal IV-D agencies; and

(b) That the Tribe or Tribal organization will recognize child support orders issued by other Tribes and Tribal organizations, and by States, in accordance with the requirements under the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. 1738B.

Subpart D—Tribal IV-D Program Funding

§ 309.125 On what basis is Federal funding of Tribal IV-D programs determined?

Federal funding of Tribal IV-D programs is based on information contained in the Tribal IV-D application. The application must include a proposed budget and a description of the nature and scope of the Tribal IV-D program and must give assurance that the program will be administered in conformity with applicable requirements of title IV-D of the Act, regulations contained in this part, and other official issuances of the Department that specifically state applicability to Tribal IV-D programs.

§ 309.130 How will Tribal IV-D programs be funded and what forms are required?

(a) *General mechanism.* (1) Tribes and Tribal organizations with approved Tribal plans under title IV-D will receive Federal grant funds in an amount equal to the percentage specified in paragraph (c) of this section of the total amount of approved and allowable expenditures under the plan for the administration of the Tribal child support enforcement program.

(2) Tribes and Tribal organizations eligible for grants of less than \$1 million per 12-month funding period will receive a single annual award. Tribes and Tribal organizations eligible for grants of \$1 million or more per 12-month funding period will receive four equal quarterly awards.

(b) *Financial Form Submittal Requirements.* Tribes and Tribal organizations receiving Federal funding under this part are required to submit the following financial forms, and such other forms as the Secretary may designate, to OCSE:

(1) Standard Form (SF) 424, "Application for Federal Assistance," to be submitted with the initial grant application for funding under §309.65(a) and (b) (60 days prior to the start of the funding period);

(2) SF 424A, "Budget Information—Non-Construction Programs," to be submitted annually, no later than August 1 (60 days prior to the start of the funding period) in accordance with §309.15(a)(2) of this part. With each submission, the following information must be included:

(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 an election of a method to calculate estimated indirect costs; and

(iii) A narrative justification for each cost category on the form; and for funding under §309.65(a) either:

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