

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

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

(3) If the Tribe or Tribal organization requests funding for indirect costs, estimated indirect costs may be submitted either by:

(i) Including documentation of the dollar amount of indirect costs allocable to the IV-D program; or

(ii) Submission of its current indirect cost rate negotiated with the Department of Interior and the estimated amount of indirect costs calculated using the negotiated cost rate.

(4) The Tribal IV-D plan. The initial application must include a comprehensive statement identifying how the Tribe or Tribal organization is meeting the requirements of subpart C of this part and that describes the capacity of the Tribe or Tribal organization to operate a IV-D program which meets the objectives of title IV-D of the Act, including establishment of paternity, establishment, modification, and enforcement of support orders, and location of noncustodial parents.

(b) *Additional application requirement for Tribal organizations.* The initial and subsequent annual budget submissions of a Tribal organization must document that each participating Tribe authorizes the Tribal organization to operate a Tribal IV-D program on its behalf.

(c) *Annual budget submission.* Following the initial funding period, the Tribe or Tribal organization operating a IV-D program must submit annually Form SF 424A, including all the necessary accompanying information and documentation described in paragraphs (a)(2) and (a)(3) of this section.

(d) *Plan Amendments.* Plan amendments must be submitted in accordance with the requirements of § 309.35(e).

§ 309.16 What rules apply to start-up funding?

(a) The application for start-up funding under § 309.65(b) 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 start-up period;

(ii) 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 under paragraph (a)(3) of this section; and

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

(3) If the Tribe or Tribal organization requests funding for indirect costs as part of its application for Federal start-up funds, estimated indirect costs may be submitted either by:

(i) Including documentation of the dollar amount of indirect costs allocable to the IV-D program including the methodology used to arrive at these amounts; or

(ii) Submission of its current indirect cost rate negotiated with the Department of Interior and the amount of estimated indirect costs using that rate.

(iii) The amount of indirect costs must be included within the limit of \$500,000 specified in paragraph (c) of this section.

(4) With respect to each requirement in § 309.65(a) that the Tribe or Tribal organization currently meets, a description of how the Tribe or Tribal organization satisfies the requirement; and

(5) With respect to each requirement in § 309.65(a) that the Tribe or Tribal organization does not currently meet, a program development plan which demonstrates to the satisfaction of the Secretary that the Tribe or Tribal organization has the capacity and will have in place a Tribal IV-D program that will meet the requirements outlined in § 309.65(a), within a reasonable, specific period of time, not to exceed two years. The Secretary must approve the program development plan. Disapproval of a program development plan is not subject to administrative appeal.

(b) The process for approval and disapproval of applications for start-up funding under this section is found in §§ 309.35, 309.40, 309.45, and 309.50. A disapproval of an application for start-up funding is not subject to administrative appeal.