

BUILDING A TRIBAL IV-D PROGRAM: A GUIDE TO THE START-UP APPLICATION PROCESS

SECTION I: OVERVIEW

Background of the Child Support Enforcement Program

The Child Support Enforcement (CSE) program was established in 1975 under title IV-D of the Social Security Act (the Act) as a joint CSE Federal/State partnership. The goal of the CSE program (also known as the IV-D program) is to ensure that both parents financially support their children. The IV-D program is charged with locating noncustodial parents, establishing paternity, establishing and enforcing support orders, and collecting child support payments from parents who are legally obligated to pay.

The Office of Child Support Enforcement (OCSE) is located within the Administration for Children and Families (ACF), Department of Health and Human Services (DHHS). OCSE's mission is to provide direction, guidance, and oversight to State and Tribal IV-D program offices. The Assistant Secretary for Children and Families is the official Director of OCSE, but the Deputy Director/Commissioner directs daily operation of the Office. OCSE's central office is located in Washington, DC and is organized into various offices and divisions with specific duties and functions. OCSE's Division of Special Staffs works with Tribal IV-D programs. In addition, there are Federal CSE staff in each of ACF's 10 regional offices who are assigned to work on Tribal matters. Regional office staff work directly with States and Tribes on program implementation and operations. Central and regional offices collaborate to assess State and Tribal needs, and to provide technical assistance, policy clarification, training, and support for CSE programs.

Prior to enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), title IV-D of the Act placed authority to administer the delivery of IV-D services solely with the States. On most Indian reservations, the authority of State and local governments is limited or nonexistent. The Constitution, numerous court decisions, and Federal law clearly reserve to Indian Tribes important powers of self-government, including the authority to make and enforce laws, to adjudicate civil and criminal disputes (including domestic relations cases), to tax, and to license. Consequently, States that attempted to provide IV-D services on Tribal lands were constrained in their abilities to establish paternity and to establish and enforce child support orders. Cooperative agreements between Tribes and States helped bring child support services to some reservations.

For the first time in the history of the program, PROWRA provided authority under title IV-D of the Act for direct funding of Tribes and Tribal organizations for operating CSE programs. Section 455(f) of the Act provides:

“The Secretary may make direct payments under this part to an Indian Tribe or Tribal organization that demonstrates to the satisfaction of the

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Secretary that it has the capacity to operate a child support enforcement program meeting the objectives of this part, including establishment of paternity, establishment, modification, and enforcement of support orders, and location of absent parents. The Secretary shall promulgate regulations establishing the requirements which must be met by an Indian Tribe or Tribal organization to be eligible for a grant under this subsection.”

The Comprehensive Tribal Child Support Enforcement Programs; Interim Final Rule was published in the Federal Register on August 21, 2000 (65 FR 50786). At the time, a number of Tribes were developing Child Support Enforcement programs and participating in demonstration projects funded under Federal authorities. There was concern that those CSE programs would be unduly delayed or disrupted if they had to wait to apply for Federal funding with the publication of the Final Rule. Therefore, Tribes that were operating comprehensive Tribal CSE programs were permitted to apply for Federal funding under the Interim Final Rule. After the publication of the Interim Final Rule, nine Tribes applied for, and were approved for Federal funding. Today, those nine Tribes are operating IV-D programs. They are: the Chickasaw Nation; the Forest County Potawatomi; the Lac du Flambeau Tribe; the Lummi Nation; the Menominee Indian Tribe of Wisconsin; the Navajo Nation; the Port Gamble S’Klallam Tribe; the Puyallup Tribe; and the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation.

On March 30, 2004 the Final Rule on Tribal Child Support Enforcement programs was published in the Federal Register (69 FR 16638). The Rule implements section 455(f) of the Act and sets forth the requirements and related provisions for Tribes and Tribal organization of Tribal IV-D programs. The requirements can be found at 45 CFR part 309.

This regulation takes into account the government-to-government relationship between Indian Tribes and the Federal Government, the fact that Tribal IV-D programs are new and State IV-D programs have been operational for over 30 years, and that Tribal IV-D programs are part of the nationwide child support enforcement system. As a result of extensive consultation with Tribes and Tribal organizations, the regulation accommodates unique Tribal situations in many circumstances and balances Tribal flexibility with requirements that result in the effective and efficient operation of Child Support Enforcement programs.

During the first three years of operating a IV-D program under the Final Rule, Tribes and Tribal organizations receive Federal grant funds equal to 90 percent of the total amount of approved and allowable expenditures made for the administration of the Tribal Child Support Enforcement program. After the initial three-year period, Tribes and Tribal organizations receive Federal grant funds equal to 80 percent of the total

amount of approved and allowable expenditures made for the administration of the Tribal Child Support Enforcement program.

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Under the Final Rule on Tribal Child Support Enforcement programs, a Tribe may apply for Federal funding in one of two ways. A Tribe may apply to operate a Child Support Enforcement program meeting the requirements of the regulation. If a Tribe or Tribal organization does not currently meet the regulatory requirements, it may apply for start-up funding. During the start-up funding period, Tribes and Tribal organizations receive Federal grant funds equal to 100 percent of approved and allowable expenditures.

Start-up funding is available because OCSE realizes that some Tribes may need Federal funding to move toward an operational IV-D program meeting the requirements of the rule. That is, start-up funding enables Tribes and Tribal organizations with the basic governmental and administrative capabilities necessary to run a Child Support Enforcement program to put in place a program meeting the requirements of the regulation. Start-up funding is provided to Tribes whose applications demonstrate the reasonable expectation that they will be ready within two years of approval to operate a full, comprehensive IV-D program.

Introduction

The purpose of this Guide is to provide information to Tribes and Tribal organizations that have decided, after thoughtful review of the Tribal Child Support Enforcement Final Rule, to apply for Federal start-up funding to operate a Child Support Enforcement program. The application information in this Guide is not a template; rather it is information that Tribes and Tribal organizations should consider when writing an application and a Program Development Plan.¹

The Guide consists of four sections. Section I contains an overview of the Tribal IV-D program, the Tribal regulation, and a description of a Program Development Plan. Section II provides suggestions for developing start-up applications. Section III provides tools for writing a Program Development Plan. Section IV provides useful contact information including websites, ACF regional offices, and Tribal IV-D agencies.

This information is intended to assist Tribes and Tribal organizations in applying for start-up funding to operate Child Support Enforcement programs. Tribes and Tribal organizations are encouraged to work closely with ACF regional offices, currently operating Tribal IV-D agencies, and, if appropriate, State IV-D agencies. Please note: Use of the Guide does not guarantee a Tribe or Tribal Organization an approved start-up application.

The Provisions of the Regulation

This information is intended to be used in conjunction with the regulations and does not contain the regulations found at 45 CFR part 309. The regulation itself may be viewed at OCSE's website at: <http://www.acf.hhs.gov/programs/cse/fct/Tribal.htm>. The

¹ A Program Development Plan is a document detailing the specific steps a Tribe or Tribal organization will take to come into compliance with the requirements of 45 CFR 309.65(a), and the timeframe associated with each step.

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regulation contains detailed information on the requirements that must be met to receive Federal funding. The fourteen core requirements in the regulation are:

1. description of the population subject to the jurisdiction of the Tribal court or administrative agency;
2. procedures for accepting all applications;
3. due process protection;
4. administrative and management procedures;
5. safeguarding procedures;
6. records maintenance;
7. copies of applicable Tribal laws and regulations;
8. location of custodial and noncustodial parents;
9. establishment of paternity;
10. establishment and modification of child support obligations;
11. income withholding;
12. distribution;
13. intergovernmental case processing; and
14. tribally-determined performance targets for paternity establishment, support order establishment, amount of current support to be collected, and amount of past due support to be collected.

Who is Eligible to Apply for Start-up Funding?

Tribes that choose to administer a IV-D program must operate programs that meet the objectives of title IV-D of the Act in conformity with the Tribal Child Support Enforcement programs regulations, but have the opportunity to consider their unique circumstances and develop and administer programs consistent with Tribal laws and traditions. Tribes should review all of the regulatory requirements to determine if a Child Support Enforcement program is appropriate for their community.

There are minimum thresholds that a Tribe must meet in order to be eligible to apply for start-up funding to establish a IV-D program. A Tribe must be federally recognized. The Tribe must have at least 100 children under the age of majority within the population subject to the jurisdiction of the Tribal court or administrative agency. A Tribal organization that has been designated by two or more Tribes may operate a Child Support Enforcement program as long as there is a total of at least 100 children under the age of majority in the population of the Tribes subject to the jurisdiction of the Tribal court or administrative agency.

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 apply for a waiver of the 100 child rule. The Tribe may be granted a waiver provided it can demonstrate that it otherwise complies with the requirements of the regulation; that it has the administrative capacity to support the operation of a Child Support Enforcement program; that the IV-D program will be

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cost effective; and it must include the number of children subject to the jurisdiction of the Tribe or Tribal Organization.

The regulation provides for start-up funding to allow Tribes and Tribal organizations that currently have the basic governmental and administrative capabilities necessary to run a CSE program, to put in place a program meeting the requirements. Basic governmental and administrative capabilities include such things as an effective accounting system and experience in successfully managing other service programs. Tribes with these elements in place would be considered capable of running a Tribal IV-D program when they apply for start-up funding. An application for funding must also demonstrate the Tribe's commitment to meet all the program requirements and provide details sufficient to support the application requirements.

SECTION II: DEVELOPING THE START-UP APPLICATION

The key to developing an application for Tribal Child Support start-up funding may be summed up in three steps:

1. Researching and Analyzing: The Pre-Application Preparation
2. Writing the Application, Program Development Plan and Timeline
3. Putting the Application Together

Step 1: Researching and Analyzing: The Pre-Application Preparation

Prior to applying for start-up funding, a Tribe must analyze existing laws, procedures, and any child support enforcement services that the Tribe provides and determine which required child support services the Tribe does not provide. This pre-application analysis is critical to ensure a Tribe knows what must be done to meet all the regulatory requirements within two years. The Tribe also should identify the laws, regulations, and procedures that partially meet the Tribal IV-D requirements and what laws, regulations, and procedures are missing.

Suggested Steps in the Pre-Application Preparation

- Consider forming a project development team. Include representatives from the judicial, executive and/or legislative branches who can provide expert technical assistance regarding existing Tribal laws, customs, and programs. Other participants might include the Tribal Grants and Planning Office, Social Services Director, TANF Program Manager, and key staff from Domestic Violence,

Employment and Child Welfare programs, and Elders. This team could be assigned responsibility for the development of the start-up application or serve as an advisory group to provide expert technical assistance to the Tribal planner/grant writer.

- Review each of the 14 core requirements (including the sub-elements of each requirement) against current Tribal code, and/or Tribal administrative processes.

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Collect relevant documentation to ascertain whether the Tribe currently meets or partially meets one or more of the 14 core requirements.

- Consider a Project Manager or Team Leader position and appropriate support position to be assigned responsibility of overseeing the entire process to ensure seamless communication, assignment of tasks, consolidation of research, and adherence to project timeline.
- Talk with other Tribes that have completed the start-up application process. Talk with Tribes that have been operating a Child Support Enforcement program with IV-D funding. Learn about differences and similarities in these programs.
- Survey or meet with the general Tribal population to educate them about child support and to ensure that the program is structured in a culturally appropriate manner.
- Consult with ACF regional offices and, if appropriate, State IV-D programs.

Step 2: Writing the Application

The application for start-up funding must include a Standard Form (SF) 424, “Application for Federal Assistance”; a SF 424A, “Budget Information—Non-Construction Programs”, and a description of how the Tribe or Tribal organization satisfies the requirements in §309.65(a). With respect to those requirements that the Tribe does not meet, it must submit a Program Development Plan that demonstrates the Tribe has the capacity to operate a IV-D program and will have a program meeting all the requirements within two years.

A Program Development Plan is a document detailing the specific steps a Tribe or Tribal organization will take to come into compliance with the requirements and the timeframe associated with each step. Steps may include seeking revisions to existing laws and procedures that do not currently meet Federal requirements. Tribes may determine the specifics of those laws, procedures, and services, and how best to structure the IV-D program with start-up funding during the two year start-up period. As long as Tribes have a clear intent and include steps and timeframes to develop a IV-D program meeting the regulatory requirements, Tribes may use start-up funding to explore the numerous options available to Tribes when developing a specific component of a IV-D program.

Suggested Steps when Writing the Program Development Plan

- Determine if the Tribe must hire staff. The Program Development Plan might contain a general statement about the purpose, roles, and responsibilities and composition of the project team. The timeframe involved in recruiting and hiring staff would be included in the Program Development Plan.
- Develop a start-up application outline based on the requirements in 45 CFR 309.16.

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- **Note:** While the next three points are not essential, including these summaries will enable application reviewers to see an overall picture of Tribal operations.
 1. Consider including a brief Tribal history and a description of the Tribal population.
 2. Consider including a summary of the Tribe's governmental structure organization, (e.g., administrative, legislative and judicial branches, and respective responsibilities).
 3. Consider a brief summary and/or list of current ACF-funded programs administered by the Tribe, (e.g., Head Start, Child Care, Family Violence Prevention, Child Welfare, etc.) that support or provide an example of the Tribe's capacity to operate a Tribal Child Support Enforcement program.
- Organize the main body of the application in accordance with 45 CFR 309.65. This will ensure all information submitted relevant to a specific requirement is clearly identified for reviewing officials.
- State how each requirement is met. Attach all relevant documents to substantiate compliance.
- There may be requirements that are partially met. State how the requirements are partially met. Attach all relevant documents to substantiate partial compliance.
- Assign responsibility within the project development team for each of the tasks identified in the Program Development Plan. The completion of specified steps will constitute project milestones.
- Include a timeframe for accomplishing each identified task.
- Number the pages and include a table of contents for easy reference.

Step 3: Putting the Application Together

- Use an Appendix to include all support documentation or supplemental information that addresses application requirements with a clear link to the specific requirement.
- Prove the documentation used to support the SF 424 and 424A.
- Ensure that all necessary Tribal officials have signed the application.

SECTION III: TOOLS

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This section contains two tools. The first is a table which outlines the fourteen core requirements in 45 CFR 309.65. These requirements are listed individually in the table's first column. The second column outlines possible tasks associated with the development of the Program Development Plan for each requirement. The third column contains practical considerations associated with each of the tasks. This is not an all-inclusive list, but will be helpful in thinking through the development of the Program Development Plan.

The second tool is a checklist of required Tribal laws. Each requirement is broken into sections for ease of review. Tribes may use this tool to review existing laws and determine which laws are needed to meet the requirements of the regulation. It may be that a Tribe has a law that meets a portion of the requirement, and would simply need to amend the existing law to include the missing required elements.

In the absence of written laws and regulations, a Tribe or Tribal organization may provide in its plan detailed descriptions of any Tribal custom or common law with the force and effect of law which enables the Tribe or Tribal organization to satisfy the requirements of 45 CFR 309.90.

Use of these tools will help ensure that necessary assessments and needed actions are identified and addressed in the application.

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45 CFR 309.65 (a) Requirements

Tasks Associated with Developing a Plan

Practical Considerations

<p>1. A description of the population subject to the jurisdiction of the Tribal court or administrative agency for child support purposes as specified under §309.70</p>	<ul style="list-style-type: none"> • Determine if there are at least 100 children under the age of majority within the Tribe’s jurisdiction and provide a description. <i>(This may include non-Tribal residents of the reservation, or non-Indian residents of the reservation and non-members employed by the Tribe.)</i> 	<ul style="list-style-type: none"> • Does the description include certification from the Tribal entity authorized to certify Tribal membership or any other support documentation?
<p>2. Evidence that the Tribe or Tribal organization has in place procedures for accepting all applications for IV-D services and promptly providing IV-D services required by law and regulation</p>	<ul style="list-style-type: none"> • Review existing Tribal programs that require applications. • Research/review other Tribal IV-D programs’ applications. • Design Tribal application procedures and form. • Obtain Tribal approval of application process/procedures, as necessary. • Implement application/service procedures. 	<ul style="list-style-type: none"> • Will this require a Tribal ordinance? • Can existing application processes be modified for child support enforcement?
<p>3. Assurance that the due process rights of the individuals involved will be protected in all activities of the Tribal IV-D program, including establishment of paternity, and establishment, modification and enforcement of support orders</p>	<ul style="list-style-type: none"> • Review existing Tribal due process procedures. • Research/review other Tribal IV-D program due process procedures. • Determine how the Tribe will ensure that rights are protected for paternity establishment, and the establishment, modification and enforcement of support orders. • Design Tribal IV-D due process procedures. • Obtain Tribal approval of due process procedures, as necessary. 	<ul style="list-style-type: none"> • Are existing due process procedures appropriate for the child support enforcement program? • Will procedures need to be approved/written by Tribal court and/or Tribal governing body? • How much time will it take to accomplish any necessary tasks?

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45 CFR 309.65 (a) Requirements	Tasks Associated with Developing a Plan	Practical Considerations
<p>4. Administrative and management procedures as specified under §309.75</p>	<ul style="list-style-type: none"> • Designate an agency to administer the Tribal IV-D program. • Research/review other Tribal IV-D programs' structure, staffing, etc. • Determine the structure of the agency. • Determine required number of staff. • Develop position descriptions. • Develop roles/responsibilities within the agency. • Hire and train staff. • Determine if current Tribal insurance and/or bond is sufficient to meet the requirement against all losses. • Research/review existing Tribal programs requiring financial data collection and corresponding issuance of notices. • Design process for maintaining payment records of monthly Tribal child support amounts collected. (Research what other Tribes use, as necessary.) • Design notice of support collected, itemized by month of collection, and process for the notice. • Obtain Tribal approval of notice procedures, as necessary • Implement procedures to capture collections data and yearly notification of monthly support collected. (Research what other Tribes use, as necessary.) 	<ul style="list-style-type: none"> • Where will the agency fall within the Tribal government? • What are reasonable salaries for each position? • How many staff will be needed to operate the program once it is fully funded? • Will additional staff be added in the second year? • Will additional insurance/bonding be required? • Will notice be provided manually, electronically and/or by an automated voice response system?

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45 CFR 309.65 (a) Requirements	Tasks Associated with Developing a Plan	Practical Considerations
	<ul style="list-style-type: none"> • Research/review current Tribal programs requiring an application fee. • Research/review other Tribal IV-D program requiring an application fee. • Determine if an application fee is appropriate. 	
5. Safeguarding procedures as specified under §309.80	<ul style="list-style-type: none"> • Research/review existing U.S. Department of Health and Human Services supported Tribal programs requiring safeguarding of information procedures. • Research/review current Tribal safeguarding procedures. • Research/review other Tribal IV-D program safeguarding of information procedures. • Determine appropriate sanctions for breach of safeguarding procedures. • Develop safeguarding procedures. • Obtain Tribal approval of safeguarding procedures, as necessary. • Implement safeguarding procedures. 	<ul style="list-style-type: none"> • Will a Tribal ordinance/law need to be passed? • Are there current safeguarding policies in place that can be amended to meet child support requirements?
6. Assurance that the Tribe or Tribal organization will maintain records as specified under §309.85	<ul style="list-style-type: none"> • Research/review existing Tribal records maintenance procedures. • Research/review existing Tribal IV-D records maintenance procedures. • Design records maintenance procedures. • Obtain Tribal approval for records maintenance procedures, as necessary. • Implement records maintenance 	<ul style="list-style-type: none"> • Where will the records be physically located? • How will they be stored? • How will case files be organized? • Who will maintain the statistical information and files? • Who will maintain the fiscal

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45 CFR 309.65 (a) Requirements

Tasks Associated with Developing
a Plan

Practical Considerations

	procedures.	information and records?
<p>7. Copies of all applicable Tribal laws and regulations as specified under §309.90</p>	<ul style="list-style-type: none"> • Research/review current Tribal law for the establishment of paternity for any child up to and including 18 years of age. • Research/review current Tribal law for establishment and modification of child support obligations. • Research/review existing Tribal IV-D laws in other Tribal IV-D programs. • Research/review current Tribal law for income withholding. • Research/review current Tribal law for location of custodial and noncustodial parents. • Draft proposed Tribal laws. • Propose any necessary laws to Tribal counsel. • Obtain Tribal approval of any necessary laws, if necessary. 	<ul style="list-style-type: none"> • Are there unwritten Tribal customs having the force and effect of law that address these issues? • Are there current Tribal family law/codes that may be applicable for child support purposes? • Does the Tribe have a process in place for collecting debt that may be modified to accommodate income withholding? • How long will it take to get laws passed/codified? <i>(Factor that into the time line.)</i>
<p>8. Procedures for the location of noncustodial parents as specified under §309.95</p>	<ul style="list-style-type: none"> • Research/review current Tribal locate procedures. • Research/review existing Tribal IV-D locate procedures. • Establish agreements with various agencies for locate activities, if necessary. (For example, with the State IV-D agency to provide locate services) • Explore cooperative agreements with 	<ul style="list-style-type: none"> • <i>Tools for locate may include: local officials and employees administering social services; relatives and friends of custodial and noncustodial parents; current or past employers; the local telephone company; US Postal Service; financial references; unions; fraternal</i>

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45 CFR 309.65 (a) Requirements	Tasks Associated with Developing a Plan	Practical Considerations
	<p>other IV-D agencies (State and Tribal) for locate-only services.</p> <ul style="list-style-type: none"> • Design locate procedures. • Obtain Tribal approval of locate procedures, as necessary. 	<p><i>organizations; police, parole and probation records as appropriate and other tribal programs and entities.</i></p> <ul style="list-style-type: none"> • <i>State agencies may also be helpful: departments which maintain records of public assistance, wages and employment, unemployment insurance, income taxation, drivers' licenses, vehicle registration, criminal records, and other sources, as appropriate.</i>
<p>9. Procedures for the establishment of paternity as specified under §309.100</p>	<ul style="list-style-type: none"> • Research/review current Tribal paternity establishment procedures. • Research/review other Tribal IV-D paternity establishment procedures. • Research/review other Tribal I-D voluntary paternity acknowledgement procedures. • Research/review agreements with accredited laboratories which perform legally and medically-acceptable genetic tests. • Establish procedures for the establishment of paternity. • Obtain Tribal approval for the paternity establishment procedures, as necessary. 	<ul style="list-style-type: none"> • Is paternity established by Tribal custom? <i>(If so, a description of the custom should be included in the Program Development Plan.)</i> <p><i>It is not the intent of the regulation that paternity establishment for the purposes of child support enforcement will have an effect on Tribal enrollment.</i></p> <ul style="list-style-type: none"> • Are there current family law codes that address this issue?

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45 CFR 309.65 (a) Requirements

Tasks Associated with Developing
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	<ul style="list-style-type: none"> • Enter into agreement with accredited laboratory. 	
10. Guidelines for the establishment and modification of child support obligations as specified under §309.105	<ul style="list-style-type: none"> • Research/review current guidelines for the establishment and modification of child support obligations. • Research/review other Tribal IV-D guidelines for the establishment and modification of child support obligations. • Seek input from the Tribal community (custodial and noncustodial parents, Tribal judges, other social service agencies) concerning appropriate obligation amounts. • Determine appropriateness of in-kind (non-cash) support obligations. • Propose guidelines. • Obtain Tribal approval for guidelines, as necessary. 	<ul style="list-style-type: none"> • Are there current family law codes that address this issue? • Are there Tribal customs or practices that are used when determining parental obligations to children? • Is “in-kind” support appropriate for the Tribe and its community? • What types of non-cash payments will the Tribe accept? <i>(Examples may include: deer or fish from hunting and fishing, firewood, child care, auto repair, home repair, etc.)</i>
11. Procedures for income withholding as specified under §309.110	<ul style="list-style-type: none"> • Research/review current income withholding procedures. • Research/review other Tribal IV-D income withholding procedures. • Research/draft proposed Tribal law, as appropriate. • Establish procedures for income withholding. 	<ul style="list-style-type: none"> • How will the Tribe define “income” (45 CFR 309.05)? • Will the Tribe want to offset per capita payments, trust monies or Individual Indian Money (IIM) payments? • Will gaming winnings be subject to garnishment?

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45 CFR 309.65 (a) Requirements	Tasks Associated with Developing a Plan	Practical Considerations
	<ul style="list-style-type: none"> • Obtain Tribal approval for income withholding procedures, as necessary. 	<ul style="list-style-type: none"> • Will Tribal employers need training on their responsibilities concerning income withholding?
12. Procedures for the distribution of child support collections as specified under §309.115	<ul style="list-style-type: none"> • Research/review current distribution of child support collections • Research/review other Tribal IV-D income distribution procedures. • Work with Tribal TANF, if necessary, on distribution of TANF. • Establish procedures for distribution. • Obtain Tribal approval for distribution procedures, as necessary. 	<ul style="list-style-type: none"> • Will the collected monies be funneled through the Tribal financial office? • Will the distribution be done electronically or manually? • Is there a Tribal TANF program? • If there is a Tribal TANF program, does it require assignment of rights as a condition of receipt of Tribal TANF?
13. Procedures for intergovernmental case processing as specified under §309.120	<ul style="list-style-type: none"> • Research/review current intergovernmental case processing procedures. • Research/review other Tribal IV-D case processing procedures. • Meet with State and/or other Tribal IV-D programs to establish a relationship for case processing. • Establish procedures for intergovernmental case processing. • Obtain Tribal approval for intergovernmental case processing, as necessary. 	<ul style="list-style-type: none"> • Does the Tribe currently have intergovernmental agreements with states and/or Tribes that may be helpful?
14. Tribally-determined performance targets for paternity establishment, support order	<ul style="list-style-type: none"> • Research/review current performance targets in other social service programs. 	<ul style="list-style-type: none"> • What goals would the Tribe like to establish or the program?

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<p>establishment, amount of current support to be collected, amount of past-due support</p>	<ul style="list-style-type: none"> • Research/review other Tribal IV-D performance targets. • Meet with Tribal officials to determine what other targets the Tribe would like to monitor. • Review the National Child Support Enforcement Strategic Plan for FY 2005-2009 for possible performance targets. The plan can be found at: http://www.acf.hhs.gov/programs/cse/ • Establish performance targets. • Obtain Tribal approval for performance targets, as necessary. 	<ul style="list-style-type: none"> • How will these targets be monitored? • How will this information be recorded to report back to OCSE on performance goals as required?
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REQUIRED TRIBAL LAWS OR REGULATIONS

This form is designed to be used as a checklist in the analysis of Tribal legislation, regulations and/or procedures which have the effect of law developed to meet the requirements 45 CFR part 309. A Tribe may meet the requirement through enactment of Tribal law, regulations (including court rules) and/or custom or common law which have the force and effect of law.

In the absence of written laws and regulations, a Tribe or Tribal organization may provide in its plan detailed descriptions of any Tribal custom or common law with the full force and effect of law which enables the Tribe or Tribal organization to satisfy the requirements of 45 CFR 309.

<p>45 CFR 309.90 – What governing law or regulations must a Tribe or Tribal organization include in a Tribal IV-D plan?</p> <p>(a) A Tribe or Tribal organization must include in its Tribal IV-D plan Tribal law, code, regulations, and/or other evidence that provides for:</p> <ol style="list-style-type: none"> (1) Establishment of paternity for any child up to and including at least 18 years of age; (2) Establishment and modification of child support obligations; (3) Enforcement of child support obligations, including requirements that Tribal employers comply with income withholding as required under § 309.110; and (4) Location of custodial and noncustodial parents. <p>(b) In the absence of written laws and regulations, a Tribe or Tribal organization may provide in its plan detailed descriptions of any Tribal custom or common law which enables the Tribe or Tribal organization to satisfy the requirements in paragraph (a) of this section.</p>	<p><u>Meet/Cite</u></p>
<p>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?</p> <p>A Tribe or Tribal organizations must include in its Tribal IV-D plan the provisions governing the location of custodial and noncustodial parents and their assets as set forth in this section.</p> <p>(a) The Tribal IV-D agency must attempt to locate custodial or noncustodial parents or sources of income and/or assets when location is required to take necessary action in a case; and</p> <p>(b) The Tribal IV-D agency must use all sources of information and records reasonably available to the Tribe or Tribal organization to locate custodial or noncustodial parents and their sources of income and assets.</p>	<p><u>Meet/Cite</u></p>

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<p>309.100 – What procedures for the establishment of paternity must a Tribe or Tribal organization include in a Tribal IV-D plan?</p> <p>(a) A Tribe or Tribal organization must include in its Tribal IV-D plan the procedures for the establishment of paternity included in this section. The Tribe must include in its Tribal IV-D plan procedures under which the Tribal IV-D agency will:</p> <ul style="list-style-type: none"> • Attempt to establish paternity by the process established under Tribal law, code, and/or custom in accordance with this section; • Provide an alleged father the opportunity to voluntarily acknowledge paternity; and • In a contested paternity case (unless otherwise barred by Tribal law) require the child and all other parties to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party— <ul style="list-style-type: none"> ▪ Alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between parties; or ▪ Denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties. <p>(b) The Tribal agency need not attempt to establish paternity in any case involving incest or forcible rape, or in any case in which legal proceeds for adoption are pending, if, in the opinion of the Tribal IV-D agency, it would not be in the best interest of the child to establish paternity.</p>	<p><u>Meet/Cite</u></p>
<p>309.105 – What procedures governing child support guidelines must a Tribe or Tribal organization include in a Tribal IV-D plan?</p> <p>(a) A Tribal IV-D plan must:</p> <ul style="list-style-type: none"> • Establish one set of child support guidelines by law or action of the tribunal for setting and modifying child support obligation amounts; • Include a copy of child support guidelines governing the establishment and modification of child support obligations; • Indicate whether non-cash payments will be permitted to satisfy support obligations, and if so: <ul style="list-style-type: none"> ▪ Require that Tribal support orders allowing non-cash payments also state the specific dollar amount of the support obligations; and ▪ Describe the type(s) of non-cash support that will be permitted to satisfy the underlying specific dollar amount of the support order; and ▪ Provide that non-cash payments will not be permitted to satisfy 	<p><u>Meet/Cite</u></p>

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<p style="text-align: center;">assigned support obligations;</p> <ul style="list-style-type: none"> • Indicate that child support guidelines will be reviewed and revised, if appropriate, at least once every four years; • Provide that there shall be a rebuttable presumption, in any proceeding for the award of child support, that the amount of the award that would result from the application of the guidelines established consistent with this section is the correct amount of child support to be awarded; and • Provide for the application of the guidelines unless there is a written finding or a specific finding on the record of the tribunal that the application of the guidelines would be unjust or inappropriate in a particular case in accordance with criteria established by the Tribe or Tribal organization. Such criteria must take into consideration the needs of the child. Findings that rebut the guidelines must state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines. <p>(b) The guidelines established under paragraph (a) of this section must at a minimum:</p> <ul style="list-style-type: none"> • Take into account the needs of the child and the earnings and income of the noncustodial parent; and • Be based on specific descriptive criteria and result in a computation of the support obligation. 	
<p>309.110 – What procedures governing income withholding must a Tribe or Tribal organization include in a Tribal IV-D plan? A Tribe or Tribal organization must include in its Tribal IV-D plan copies of Tribal laws providing for income withholding in accordance with this section.</p> <p>(a) In the case of each noncustodial parent against whom a support order is or has been issued or modified under the Tribal IV-D plan, or is being enforced under such plan, so much of his or her income, as defined in §309.05, must be withheld as is necessary to comply with the order.*</p> <p>(b) In addition to the amount to be withheld to pay the current month’s obligation, the amount withheld must include an amount to be applied toward liquidation of any overdue support.</p> <p>(c) The total amount to be withheld under paragraphs (a) and (b) of this section may not exceed the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)), but may be set at a lower amount.</p>	<p><u>Meet/Cite</u></p>

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(d) Income withholding must be carried out in compliance with the procedural due process requirements established by the Tribe or Tribal organization.

(e) The Tribal IV-D agency will promptly refund amounts which have been improperly withheld.

(f) The Tribal IV-D agency will promptly terminate income withholding in cases where there is no longer a current order for support and all arrearages have been satisfied.

(g) If the employer fails to withhold income in accordance with the provision of the income withholding order, the employer will be liable for the accumulated amount the employer should have withheld from the noncustodial parent's income.

(h) Income shall not be subject to withholding in any case where:

- Either the custodial or noncustodial parent demonstrates, and the tribunal enters a finding, that there is good cause not to require income withholding; or
- A signed written agreement is reached between the noncustodial and custodial parent, which provides for an alternative arrangement, and is reviewed and entered into the record by the tribunal.

(i) Where immediate income withholding is not in place, the income of the noncustodial parent shall become subject to withholding, at the earliest, on the date on which the payments which the noncustodial parent has failed to make under a Tribal support order are at least equal to the support payable for one month.

(j) The only basis for contesting a withholding is a mistake of fact, which for the purposes of this paragraph, means an error in the amount of current or overdue support or in the identity of the alleged noncustodial parent.

(k) Tribal law must provide that the employer is subject to a fine to be determined under Tribal law for discharging a noncustodial parent from employment, refusing to employ, or taking disciplinary action against any noncustodial parent because of the withholding.

(l) To initiate income withholding, the Tribal IV-D agency must send the noncustodial parent's employer a notice using the standard Federal income withholding form.

(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

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<p>for one of the support obligations not being implemented.</p> <p>(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.</p> <p>*The term "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.</p>	
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SECTION IV: CONTACT INFORMATION

Information about the Child Support Enforcement program is located on our website at: <http://www.acf.hhs.gov/programs/cse/> . Information specific to the Tribal Child Support Enforcement program may be found at: <http://www.acf.hhs.gov/programs/cse/fct/tribal.htm>

Tribes and Tribal organizations are encouraged to work closely with ACF Regional offices, currently-operating Tribal IV-D agencies and State IV-D agencies, as appropriate.

Listed below is the ACF Central office contact information, Regional office contact information and currently operating Tribal IV-D Agency contact information. We encourage open communication between all parties involved.

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ACF Central Office Contacts

Jay Adams, Director
Division of Special Staffs
370 L'Enfant Promenade, SW
Washington, DC 20447
(202) 260-1527

Paige Biava, Policy Specialist
Division of Policy
370 L'Enfant Promenade, SW
Washington, DC 20447
(202) 401-5635

Joseph Lonergan, Office of Grants Management
Division of Mandatory Grants
370 L'Enfant Promenade, SW
Washington, DC 20447
(202) 401-6603

ACF Regional Office Contacts

Steve Henigson, Regional Administrator
Regional Office Lead Area: Tribal Programs
2201 6th Avenue, MS-70
Seattle, WA 98121
(206) 615-3660

Leon R. McCowan, Regional Administrator
Regional Office Lead Area: Child Support Enforcement
1301 Young Street, Suite 914
Dallas, Texas 75202
(214) 767-9648

RO I
John Perez
JFK Federal Building
Boston, MA 02203
(617) 565-2468

RO II
Joanne Krudys
26 Federal Plaza

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New York, NY 10278
(212) 264-2890, ext. 127

RO III
Juanita Devine
150 S. Independence Mall West
Philadelphia, PA 19106
(215) 861-4054

RO IV
Mary Gay
61 Forsyth Street
Atlanta, GA 30303
(404) 562-2953

RO V
Sally Kolanowski
233 North Michigan Avenue
Chicago, IL 60601
(312) 353-7073

RO VI
Carl Rich and/or Jane Martin
1301 Young Street, Suite 914
Dallas, TX 75202
(214) 767-3734

RO VII
Sherry Larkins
Federal Office Building
601 East 12th Street
Kansas City, MO 64106
(816) 426-2269

RO VIII
Doreen McNicholas
1961 Stout Street
Denver, CO 80294
(303) 844-1174

RO IX
Dossie Terrell

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50 UN Plaza
San Francisco, CA 94102
(415) 437-8455

RO X
Jan Jensen/Nancy Szeto
2201 6th Avenue, MS-70
Seattle, WA 98121
(206) 615-3668/(206) 615-2555

Tribal IV-D Contacts

Navajo Nation
Pierette Baldwin-Gumbrecht, Program Supervisor
Dept. of Child Support Enforcement
PO Box 7050
Window Rock, AZ 86515
(928) 871-7194

Chickasaw Nation
Jerry Sweet, Director
Child Support Enforcement Dept.
PO Box 1809, 125 S. Broadway
Ada, OK 74821
(580) 436-3419

Sisseton-Wahpeton Sioux Tribe
Rhonda Kampeska, Program Manager
Office of Child Support Enforcement
PO Box 808
Agency Village, SD 57262
(605) 698-7131

Port Gamble S'Klallam Tribe
Melody Bidtah, Program Coordinator
Child Support Program
31912 Little Boston Road N.E.
Kingston, WA 98346
(360) 297-9641

Lummi Nation
Karen Burke, Director

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Lummi Nation Child Support Enforcement
2616 Kwina Road
Bellingham, WA 98226
(360) 384-2326

Puyallup Tribe of Indians
Linda Tresaugue, Director
Child Support Enforcement Program
1850 Alexander Ave.
Tacoma, WA 98421
(253) 573-7808

Lac du Flambeau
Terry Hoyt, Director
LDF Tribal Child Support Agency
PO Box 1198
Lac du Flambeau, WI 54538
(715) 588-4236

Forest County Potawatomi Community
Jacquelyn Pische, Child Support Manager
FCPC Tribal Child Support Agency
8000 Potawatomi Trail, PO Box 340
Crandon, WI 54520
(715) 478-4812

Menominee Indian Tribe of WI
Jennifer K Gauthier, Administrative Services Officer
Menominee Tribal Child Support Agency
PO Box 910
Keshena, WI 54135
(715) 799-5154