

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

### § 309.130

### 45 CFR Ch. III (10–1–12 Edition)

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

(v) A request for a waiver of the non-Federal share in accordance with paragraph (e) of this section;

(3) SF 269A, “Financial Status Report (Short Form),” to be submitted quarterly within 30 days after the end of each of the first three quarters of the funding period and within 30 days after the end of each of the first three quarters of the liquidation period. The final report for each period is due within 90 days after the end the fourth quarter of both the funding and the liquidation period; and

(4) Form OCSE-34A, “Quarterly Report of Collections” to be submitted within 30 days after the end of the first three quarters and 90 days after the end of the fourth quarter.

(c) *Federal share of program expenditures.* (1) During the period of start-up funding specified in § 309.16, a Tribe or Tribal organization will receive Federal grant funds equal to 100 percent of approved and allowable expenditures made during that period. Federal start-up funds are limited to a total of \$500,000.

(2) During a 3-year period, beginning with the first day of the first quarter of the funding grant specified under § 309.135(a)(2), a Tribe or Tribal organization will receive Federal grant funds equal to 90 percent of the total amount of approved and allowable expenditures made during that period for the administration of the Tribal child support enforcement program.

(3)(i) Except as provided in paragraph (c)(3)(ii) of this section, for all periods following the three-year period specified in paragraph (c)(2) of this section, a Tribe or Tribal organization will 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.

(ii) A Tribe or Tribal organization will receive Federal grant funds equal to 90 percent of pre-approved costs of installing the Model Tribal IV–D System.

(d) *Non-Federal share of program expenditures.* Each Tribe or Tribal organization that operates a child support enforcement program under title IV–D and § 309.65(a), unless the Secretary has granted a waiver pursuant to § 309.130(e), must provide the non-Federal share of funding, equal to:

(1) 10 percent of approved and allowable expenditures during the 3-year period specified in paragraph (c)(2) of this section or;

(2) 20 percent of approved and allowable expenditures during the subsequent periods specified in paragraph (c)(3) of this section.

(3) The non-Federal share of program expenditures must be provided either with cash or with in-kind contributions and must meet the requirements found in 45 CFR 74.23.

(e) *Waiver of non-Federal share of program expenditures.* (1) Under certain circumstances, the Secretary may grant a

temporary waiver of part or all of the non-Federal share of expenditures.

(i) If a Tribe or Tribal organization anticipates that it will be temporarily unable to contribute part or all of the non-Federal share of funding under paragraph (d) of this section, it must submit a written request that this requirement be temporarily waived. A request for a waiver of part or all of the non-Federal share must be sent to ACF, included with the submission of SF 424A, no later than 60 days prior to the start of the funding period for which the waiver is being requested, except as provided in paragraph (e)(1)(ii) of this section. An untimely or incomplete request will not be considered.

(ii) If, after the start of the funding period, an emergency situation such as a hurricane or flood occurs such that the grantee would need to request a waiver of the non-Federal costs, it may do so. The request for a waiver must be submitted in accordance with the procedures specified in paragraphs (e)(2), (3) and (4) of this section. Any waiver request other than one submitted with the initial application must be submitted as soon as the adverse effect of the emergency situation giving rise to the request is known to the grantee.

(2) A request for a waiver of part or all of the non-Federal share must include the following:

(i) A statement of the amount of the non-Federal share that the Tribe is requesting be waived;

(ii) A narrative statement describing the circumstances and justification for the waiver request;

(iii) Portions of the Tribal budget for the funding period sufficient to demonstrate that any funding shortfall is not limited to the Tribal IV-D program and that any uncommitted Tribal reserve funds are insufficient to meet the non-Federal funding requirement;

(iv) Copies of any additional financial documents in support of the request;

(v) A detailed description of the attempts made to secure the necessary funds and in-kind contributions from other sources and the results of those attempts, including copies of all relevant correspondence; and

(vi) Any other documentation or other information that the Secretary

may require to make this determination.

(3) The Tribe or Tribal organization must demonstrate to the satisfaction of the Secretary that it temporarily lacks resources to provide the non-Federal share. In its request for a temporary waiver, the Tribe or Tribal organization must be able to demonstrate that it:

(i) Lacks sufficient resources to provide the required non-Federal share of costs;

(ii) Has made reasonable, but unsuccessful, efforts to obtain non-Federal share contributions; and

(iii) Has provided all required information requested by the Secretary.

(4) All statements in support of a waiver request must be supported by evidence including, but not limited to, a description of how the Tribe or Tribal organization's circumstances relate to its capacity to provide child support enforcement services. The following statements will be considered insufficient to merit a waiver under this section without documentary evidence satisfactory to the Secretary:

(i) Funds have been committed to other budget items;

(ii) A high rate of unemployment;

(iii) A generally poor economic condition;

(iv) A lack of or a decline in revenue from gaming, fishing, timber, mineral rights and other similar revenue sources;

(v) A small or declining tax base; and

(vi) Little or no economic development.

(5)(i) If approved, a temporary waiver submitted under either paragraph (e)(1)(i) or (ii) of this section will expire on the last day of the funding period for which it was approved and is subject to review at any time during the funding period and may be revoked, if changing circumstances warrant.

(ii) Unless the Tribe receives a written approval of its waiver request, the funding requirements stated in paragraph (d) of this section remain in effect.

(iii) If the request for a waiver is denied, the denial is not subject to administrative appeal.

(f) *Increase in approved budget.* (1) A Tribe or Tribal organization may request an increase in the approved amount of its current budget by submitting a revised SF 424A to ACF and explaining why it needs the additional funds. The Tribe or Tribal organization should submit this request at least 60 days before additional funds are needed, to allow the Secretary adequate time to review the estimates and issue a revised grant award, if appropriate.

(2) If the change in Tribal IV-D budget estimate results from a change in the Tribal IV-D plan, the Tribe or Tribal organization must submit a plan amendment in accordance with § 309.35(e) of this part, a revised SF 424 and a revised SF 424A with its request for additional funding. The effective date of a plan amendment may not be earlier than the first day of the fiscal quarter in which an approvable plan is submitted in accordance with § 309.35(f) of this part. The Secretary must approve the plan amendment before approving any additional funding.

(3) Any approved increase in the Tribal IV-D budget will necessarily result in a proportional increase in the non-Federal share, unless a waiver of the non-Federal share has been granted.

(g) *Obtaining Federal funds.* Tribes and Tribal organizations will obtain Federal funds on a draw down basis from the Department's Payment Management System on a letter of credit system for payment of advances of Federal funds.

(h) *Grant administration requirements.* The provisions of part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants made to Tribes and Tribal organizations under this part.

[69 FR 16672, Mar. 30, 2004, as amended at 75 FR 8520, Feb. 25, 2010]

**§ 309.135 What requirements apply to funding, obligating and liquidating Federal title IV-D grant funds?**

(a) *Funding period*—(1) *Ongoing funding.* Federal title IV-D grant funds will be awarded to Tribes and Tribal organizations for use during a 12-month period equivalent to the Federal fiscal year of October 1 through September 30.

(2) *Initial grant.* A Tribe or Tribal organization may request that its initial IV-D grant be awarded for a funding period of less than one year (but at least six months) or more than one year (but not to exceed 17 months) to enable its program funding cycle to coincide with the funding period specified in paragraph (a)(1) of this section.

(b) *Obligation period.* A Tribe or Tribal organization must obligate its Federal title IV-D grant funds no later than the last day of the funding period for which they were awarded. Any of these funds remaining unobligated after that date must be returned to the Department.

(c) *Liquidation period.* A Tribe or Tribal organization must liquidate the Federal title IV-D grant funds obligated during the obligation period specified in paragraph (b) of this section no later than the last day of the 12-month period immediately following the obligation period. Any of these funds remaining unliquidated after that date must be returned to the Department.

(d) *Funding reductions.* As required under § 309.130(b)(3), a Tribe or Tribal organization will report quarterly on Form SF 269A the amount of Federal title IV-D grant funds that have been obligated and liquidated and the amounts that remain unobligated and unliquidated at the end of each fiscal quarter during the obligation and liquidation periods. The Department will reduce the amount of the Tribe or Tribal organization's Federal title IV-D grant funds for the funding period by any amount reported as remaining unobligated on the report following the last day of the obligation period. The Department will further reduce the amount of the Tribe or Tribal organization's Federal title IV-D grant funds for the funding period by any amount reported as remaining unliquidated on the report following the last day of the liquidation period.

(e) *Extension requests.* A Tribe or Tribal organization may submit a written request for an extension of the deadline for liquidating Federal title IV-D grant funds. Such a request must be sent to ACF, to the attention of the Federal grants officer named on the most recent grant award. The request must be