

(c) A Tribe or Tribal organization must submit Tribal IV-D program statistical and narrative reports required by paragraph (b) of this section no later than 90 days after the end of each funding period.

PART 310—COMPUTERIZED TRIBAL IV-D SYSTEMS AND OFFICE AUTOMATION

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Subpart A—General Provisions

§ 310.0 What does this part cover?

This part addresses conditions for funding and requirements governing Computerized Tribal IV-D Systems and Office Automation including:

(a) The automated systems options for comprehensive Tribal IV-D programs in § 310.5 of this part;

(b) The functional requirements for the Model Tribal IV-D Systems in § 310.10 of this part;

(c) The security and privacy requirements for Computerized Tribal IV-D Systems and Office Automation in § 310.15 of this part;

(d) The conditions for funding the installation, operation, maintenance, and enhancement of Computerized Tribal IV-D Systems and Office Automation in § 310.20 of this part;

(e) The conditions that apply to acquisitions of Computerized Tribal IV-D Systems in § 310.25 of this part; and

(f) The accountability and monitoring of Computerized Tribal IV-D Systems in § 310.40 of this part.

§ 310.1 What definitions apply to this part?

(a) The following definitions apply to this part and part 309:

(1) *Automated Data Processing Services (ADP Services)* means services for installation, maintenance, operation, and enhancement of ADP equipment and software performed by a comprehensive Tribal IV-D agency or for that agency through a services agreement or other contractual relationship with a State, another Tribe or private sector entity.

(2) *Comprehensive Tribal IV-D agency* means the organizational unit in the Tribe or Tribal organization that has the authority for administering or supervising a comprehensive Tribal IV-D program under section 455(f) of the Act and implementing regulations in part 309 of this chapter. This is an agency meeting all requirements of § 309.65(a) of this chapter which is not in the start-up phase under § 309.65(b) of this chapter.

(3) *Computerized Tribal IV-D System* means a comprehensive Tribal IV-D program's system of data processing that is performed by electronic or electrical machines so interconnected and

interacting as to minimize the need for human assistance or intervention. A Computerized Tribal IV-D System is:

- (i) The Model Tribal IV-D System; or
- (ii) Access to a State or comprehensive Tribal IV-D agency's existing automated data processing computer system through an Intergovernmental Service Agreement;

(4) *Installation* means the act of installing ADP equipment and software, performing data conversion, and turn-over to operation status.

(5) *Maintenance* is the totality of activities required to provide cost-effective support to an operational ADP system. Maintenance is generally routine in nature and can include activities such as: Upgrading ADP hardware, and revising/creating new reports, making limited data element/data base changes, minor data presentation changes, and other software corrections.

(6) *Model Tribal IV-D System* means an ADP system designed and developed by OCSE for comprehensive Tribal IV-D programs to include system specifications and requirements as specified in this part. The Model Tribal IV-D System effectively and efficiently allows a comprehensive Tribal IV-D agency to monitor, account for, and control all child support enforcement services and activities pursuant to part 309 of this chapter.

(7) *Office Automation* means a generic adjunct component of a computer system that supports the routine administrative functions in an organization (e.g., electronic mail, word processing, internet access), as well as similar functions performed as part of an automated data processing system. Office Automation is not specifically designed to meet the programmatic and business-centric needs of an organization.

(8) *Reasonable Cost* means a cost that is determined to be reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness with regard to ADP systems cost, consideration shall be given to:

- (i) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of a comprehensive Tribal IV-D agency;

- (ii) The restraints or requirements imposed by such factors as: Sound business practices; arms-length bargaining; Federal, Tribal laws and regulations; and terms and conditions of any direct Federal funding;

- (iii) Whether the individual concerned acted with prudence in the circumstances considering his or her responsibilities to the comprehensive Tribal IV-D agency, its employees, the public at large, and the Federal Government;

- (iv) Market prices for comparable goods or services;

- (v) Significant deviations from the established practices of the comprehensive Tribal IV-D agency which may unjustifiably increase the cost; and

- (vi) Whether a project's Total Acquisition Cost is in excess of the comprehensive Tribal IV-D agency's total Tribal IV-D program grant award for the year in which the request is made.

(9) *Service Agreement* means a document signed by the Tribe or Tribal organization operating a comprehensive Tribal IV-D program under §309.65(a) and the State or other comprehensive Tribal IV-D program whenever the latter provides data processing services to the former and identifies those ADP services that the State or other comprehensive Tribal IV-D program will provide to the Tribe or Tribal organization. Additionally, a Service Agreement would include the following details:

- (i) Schedule of charges for each identified ADP service and a certification that these charges apply equally to all users;

- (ii) Description of the method(s) of accounting for the services rendered under the agreement and computing service charges;

- (iii) Assurances that services provided will be timely and satisfactory;

- (iv) Assurances that information in the computer system as well as access, use and disposal of ADP data will be safeguarded in accordance with proposed §310.15;

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(v) Beginning and ending dates of the period of time covered by the Service Agreement; and

(vi) Schedule of expected total charges for the period of the Service Agreement.

(10) *Simplified Acquisition Threshold* for ADP systems, equipment, and service acquisitions means a Tribe or Tribal organization's monetary threshold for determining whether competitive acquisition rules are required for a given procurement or \$100,000, whichever is less.

(b) The following terms apply to this part and are defined in §95.605 of this title: "Acquisition"; "Advance Planning Document (APD)"; "Design or System Design"; "Development"; "Enhancement"; "Federal Financial Participation (FFP)"; "Operation"; "Project"; "Software"; and "Total Acquisition Cost".

(c) All of the terms defined in §309.05 of this chapter apply to this part.

Subpart B—Requirements for Computerized Tribal IV-D Systems and Office Automation

§310.5 What options are available for Computerized Tribal IV-D Systems and office automation?

(a) *Allowable computerized support enforcement systems for a Comprehensive Tribal IV-D agency.* A comprehensive Tribal IV-D agency may have in effect an operational computerized support enforcement system that meets Federal requirements under this part.

(b) *Computerized Tribal IV-D Systems.* A Computerized Tribal IV-D System must be one of the design options listed below. A comprehensive Tribal IV-D program may automate its case processing and recordkeeping processes through:

(1) Installation, operation, maintenance, or enhancement of the Model Tribal IV-D System designed by OCSE to address the program requirements defined in a Tribal IV-D plan in accordance with §309.65(a) of this chapter and the functional requirements in §310.10 of this part;

(2) Establishment of Intergovernmental Service Agreements with a State or another comprehensive Tribal IV-D agency for access to that agen-

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cy's existing automated data processing computer system to support comprehensive Tribal IV-D program operations.

(c) *Office Automation.* A comprehensive Tribal IV-D agency may opt to conduct automated data processing and recordkeeping activities through Office Automation. Allowable activities under this paragraph include procurement, installation, operation and maintenance of essential Office Automation capability as defined in §310.1 of this part.

(d) *Alternative to Computerized Tribal IV-D Systems and Office Automation.* A comprehensive Tribal IV-D agency may design, develop, procure, or enhance an automated data processing system funded entirely with Tribal funds.

§310.10 What are the functional requirements for the Model Tribal IV-D System?

A Model Tribal IV-D System must:

(a) Accept, maintain and process the actions in the support collection and paternity determination processes under the Tribal IV-D plan, including:

(1) Identifying information such as Social Security numbers, names, dates of birth, home addresses and mailing addresses (including postal zip codes) on individuals against whom paternity and support obligations are sought to be established or enforced and on individuals to whom support obligations are owed, and other data as may be requested by OCSE;

(2) Verifying information on individuals referred to in paragraph (a)(1) of this section with Tribal, Federal, State and local agencies, both intra-tribal and intergovernmental;

(3) Maintaining information pertaining to:

(i) Applications and referrals for Tribal IV-D services, including:

- (A) Case record;
- (B) Referral to the appropriate processing unit (i.e., locate or paternity establishment);
- (C) Caseworker notification;
- (D) Case Identification Number; and
- (E) Participant Identification Number;

(ii) Delinquency and enforcement activities;

(iii) Intra-tribal, intergovernmental, and Federal location of the putative father and noncustodial parents;

(iv) The establishment of paternity;

(v) The establishment of support obligations;

(vi) The payment and status of current support obligations;

(vii) The payment and status of arrearage accounts;

(4) Maintaining data on case actions administered by both the initiating and responding jurisdictions in intergovernmental cases;

(b) Update, maintain and manage all IV-D cases under the Tribal IV-D plan from initial application or referral through collection and enforcement, including any events, transactions, or actions taken therein;

(c) Record and report any fees collected, either directly or by interfacing with State or Tribal financial management and expenditure information;

(d) Distribute current support and arrearage collections in accordance with Federal regulations at §309.115 of this chapter and Tribal laws;

(e) Maintain, process and monitor accounts receivable on all amounts owed, collected, and distributed with regard to:

(1) Detailed payment histories that include the following:

(i) Amount of each payment;

(ii) Date of each collection;

(iii) Method of payment;

(iv) Distribution of payments; and

(v) Date of each disbursement;

(2) Automated income withholding activities such as:

(i) Recording and maintaining any date the noncustodial parent defaults on payment of the support obligation in an amount equal to the support payable for one month;

(ii) Generating the Standard Federal Income Withholding Form; and

(iii) Allocating amounts received by income withholding according to §§309.110 and 309.115 of this chapter.

(f) Maintain and automatically generate data necessary to meet Federal reporting requirements on a timely basis as prescribed by OCSE. At a minimum this must include:

(1) Yearly notices on support collected, which are itemized by month of collection and provided to families re-

ceiving services under the comprehensive Tribal IV-D program as required in §309.75(c) of this chapter, to all case participants regarding support collections; and

(2) Reports submitted to OCSE for program monitoring and program performance as required in §309.170 of this chapter;

(g) Provide automated processes to enable OCSE to monitor Tribal IV-D program operations and to assess program performance through the audit of financial and statistical data maintained by the system; and

(h) Provide security to prevent unauthorized access to, or use of, the data in the system as detailed in §310.15 of this part.

§310.15 What are the safeguards and processes that comprehensive Tribal IV-D agencies must have in place to ensure the security and privacy of Computerized Tribal IV-D Systems and Office Automation?

(a) *Information integrity and security.* The comprehensive Tribal IV-D agency must have safeguards on the integrity, accuracy, completeness, access to, and use of data in the Computerized Tribal IV-D System and Office Automation. Computerized Tribal IV-D Systems and Office Automation should be compliant with the Federal Information Security Management Act, and the Privacy Act. The required safeguards must include written policies and procedures concerning the following:

(1) Periodic evaluations of the system for risk of security and privacy breaches;

(2) Procedures to allow Tribal IV-D personnel controlled access and use of IV-D data, including:

(i) Specifying the data which may be used for particular IV-D program purposes, and the personnel permitted access to such data;

(ii) Permitting access to and use of data for the purpose of exchanging information with State and Tribal agencies administering programs under titles IV-A, IV-E and XIX of the Act to the extent necessary to carry out the comprehensive Tribal IV-D agency's responsibilities with respect to such programs;

(3) Maintenance and control of application software program data;

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(4) Mechanisms to back-up and otherwise protect hardware, software, documents, and other communications; and,

(5) Mechanisms to report breaches or suspected breaches of personally identifiable information to the Department of Homeland Security, and to respond to those breaches.

(b) *Monitoring of access.* The comprehensive Tribal IV-D agency must monitor routine access to and use of the Computerized Tribal IV-D System and Office Automation through methods such as audit trails and feedback mechanisms to guard against, and promptly identify, unauthorized access or use;

(c) *Training and information.* The comprehensive Tribal IV-D agency must have procedures to ensure that all personnel, including Tribal IV-D staff and contractors, who may have access to or be required to use confidential program data in the Computerized Tribal IV-D System and Office Automation are adequately trained in security procedures.

(d) *Penalties.* The comprehensive Tribal IV-D agency must have administrative penalties, including dismissal from employment, for unauthorized access to, disclosure or use of confidential information.

Subpart C—Funding for Computerized Tribal IV-D Systems and Office Automation

§ 310.20 What are the conditions for funding the installation, operation, maintenance and enhancement of Computerized Tribal IV-D Systems and Office Automation?

(a) *Conditions that must be met for FFP at the applicable matching rate in § 309.130(c) of this chapter for Computerized Tribal IV-D Systems.* The following conditions must be met to obtain 90 percent FFP in the costs of installation of the Model Tribal IV-D System and FFP at the applicable matching rate under § 309.130(c) of this chapter in the costs of operation, maintenance, and enhancement of a Computerized Tribal IV-D System:

(1) A comprehensive Tribal IV-D agency must have submitted, and OCSE must have approved, an Advance Planning Document (APD) for the in-

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stallation and enhancement of a Computerized Tribal IV-D System;

(2) An APD for installation of a Computerized Tribal IV-D System must:

(i) Represent the sole systems effort being undertaken by the comprehensive Tribal IV-D agency under this part;

(ii) Describe the projected resource requirements for staff, hardware, software, network connections and other needs and the resources available or expected to be available to meet the requirements;

(iii) Contain a proposed schedule of project milestones with detail sufficient to describe the tasks, activities, and complexity of the initial implementation project;

(iv) Contain a proposed budget including a description of expenditures by category and amount for items related to installing, operating, maintaining, and enhancing the Computerized Tribal IV-D System; and

(v) Contain a statement that the comprehensive Tribal IV-D agency agrees in writing to use the Computerized Tribal IV-D System for a minimum period of time;

(3) The following conditions, in addition to those in paragraphs (a)(1) and (2) of this section, must be met to obtain FFP in the installation costs of access to a State or another comprehensive Tribal IV-D program's ADP system established under an Intergovernmental Service Agreement. The comprehensive Tribal IV-D agency must:

(i) Maintain a copy of each intergovernmental cooperative agreement and Service Agreement in its files for Federal review; and

(ii) Ensure that the:

(A) Service Agreement for which FFP is being sought, meets the definition of a Service Agreement as defined in § 310.1 of this title;

(B) Claims for FFP conform to the timely claim provisions of part 95 subpart A of this title; and

(C) Service Agreement was not previously disapproved by the Department.

(4) The following conditions, in addition to those in paragraphs (a)(1) through (3) of this section, must be met in order for a comprehensive Tribal IV-

D agency to obtain FFP in the costs of enhancements to its Computerized Tribal IV-D System:

(i) The project's Total Acquisition Cost cannot exceed the comprehensive Tribal IV-D agency's total Tribal IV-D program grant award for the year in which the acquisition request is made; and

(ii) The APD budget, schedule and commitment to use the Computerized Tribal IV-D System for a specified minimum period of time must be updated to reflect the enhancement project.

(5) To receive FFP in the costs of the operation and maintenance of a Computerized Tribal IV-D System installed under §310.20 or developed under §309.145(h)(5), which refers to a Tribal automated data processing system that is funded entirely with Tribal funds, the comprehensive Tribal IV-D agency must include operation and maintenance costs in its annual Title IV-D program budget submission in accordance with §309.15(c) of this chapter;

(6) To receive FFP in the costs of the installation, operation, and maintenance of essential Office Automation capabilities, the comprehensive Tribal IV-D agency must include such costs in its annual Title IV-D program budget submission in accordance with §309.15(c) of this chapter;

(b) *Procedure for APD Submittal.* The comprehensive Tribal IV-D agency must submit an APD for a Computerized Tribal IV-D System to the Commissioner of OCSE, Attention: Division of State and Tribal Systems. The APD submitted by the comprehensive Tribal IV-D agency must be approved and signed by the comprehensive Tribal IV-D agency Director and the appropriate Tribal officials prior to submission to OCSE for approval.

§310.25 What conditions apply to acquisitions of Computerized Tribal IV-D Systems?

(a) *APD Approval.* A comprehensive Tribal IV-D agency must have an approved APD in accordance with the applicable requirements of §310.20 of this part prior to initiating acquisition of a Computerized Tribal IV-D System.

(b) *Procurements.* Requests for Proposals (RFP) and similar procurement

documents, contracts, and contract amendments involving costs eligible for FFP, must be submitted to OCSE for approval prior to release of the procurement document, and prior to the execution of the resultant contract when a procurement is anticipated to or will exceed the Simplified Acquisition Threshold;

(c) *Software and ownership rights.* (1) All procurement and contract instruments must include a clause that provides that the comprehensive Tribal IV-D agency will have all ownership rights to Computerized Tribal IV-D System software or enhancements thereof and all associated documentation designed, developed or installed with FFP. Intergovernmental Service Agreements are not subject to this paragraph.

(2) OCSE reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal Government purposes, such software, modifications and documentation.

(3) FFP is not available for the costs of rental or purchase of proprietary application software developed specifically for a Computerized Tribal IV-D System. Commercial-off-the-shelf (COTS) software packages that are sold or leased to the general public at established catalog or market prices are not subject to the ownership and license provisions of this requirement.

(d) *Requirements for acquisitions under the threshold amount.* A comprehensive Tribal IV-D agency is not required to submit procurement documents, contracts, and contract amendments for acquisitions under the Simplified Acquisition Threshold unless specifically requested to do so in writing by OCSE.

§310.30 Under what circumstances would FFP be suspended or disallowed in the costs of Computerized Tribal IV-D Systems?

(a) *Suspension of APD approval.* OCSE will suspend approval of the APD for a Computerized Tribal IV-D System approved under this part as of the date that the system ceases to comply substantially with the criteria, requirements, and other provisions of the APD. OCSE will notify a Tribal IV-D

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agency in writing in a notice of suspension, with such suspension effective as of the date on which there is no longer substantial compliance.

(b) *Suspension of FFP.* If OCSE suspends approval of an APD in accordance with this part during the installation, operation, or enhancement of a Computerized Tribal IV-D System, FFP will not be available in any expenditure incurred under the APD after the date of the suspension until the date OCSE determines that the comprehensive Tribal IV-D agency has taken the actions specified in the notice of suspension described in paragraph (a) of this section. OCSE will notify the comprehensive Tribal IV-D agency in writing upon making such a determination.

§ 310.35 Under what circumstances would emergency FFP be available for Computerized Tribal IV-D Systems?

(a) *Conditions that must be met for emergency FFP.* OCSE will consider waiving the approval requirements for acquisitions in emergency situations, such as natural or man-made disasters, upon receipt of a written request from the comprehensive Tribal IV-D agency. In order for OCSE to consider waiving the approval requirements in § 310.25 of this part, the following conditions must be met:

(1) The comprehensive Tribal IV-D agency must submit a written request to OCSE prior to the acquisition of any ADP equipment or services. The written request must be sent by registered mail and include:

(i) A brief description of the ADP equipment and/or services to be acquired and an estimate of their costs;

(ii) A brief description of the circumstances which resulted in the comprehensive Tribal IV-D agency's need to proceed prior to obtaining approval from OCSE; and

(iii) A description of the harm that will be caused if the comprehensive Tribal IV-D agency does not acquire immediately the ADP equipment and services.

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(2) Upon receipt of the information, OCSE will, within 14 working days of receipt, take one of the following actions:

(i) Inform the comprehensive Tribal IV-D agency in writing that the request has been disapproved and the reason for disapproval; or

(ii) Inform the comprehensive Tribal IV-D agency in writing that OCSE recognizes that an emergency exists and that within 90 calendar days from the date of the initial written request under paragraph (a)(1) of this section the comprehensive Tribal IV-D agency must submit a formal request for approval which includes the information specified at § 310.25 of this title in order for the ADP equipment or services acquisition to be considered for OCSE's approval.

(b) *Effective date of emergency FFP.* If OCSE approves the request submitted under paragraph (a)(2) of this section, FFP will be available from the date the comprehensive Tribal IV-D agency acquires the ADP equipment and services.

Subpart D—Accountability and Monitoring Procedures for Computerized Tribal IV-D Systems

§ 310.40 What requirements apply for accessing systems and records for monitoring Computerized Tribal IV-D Systems and Office Automation?

In accordance with Part 95 of this title, a comprehensive Tribal IV-D agency must allow OCSE access to the system in all of its aspects, including installation, operation, and cost records of contractors and subcontractors, and of Service Agreements at such intervals as are deemed necessary by OCSE to determine whether the conditions for FFP approval are being met and to determine the efficiency, effectiveness, reasonableness of the system and its cost.

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