

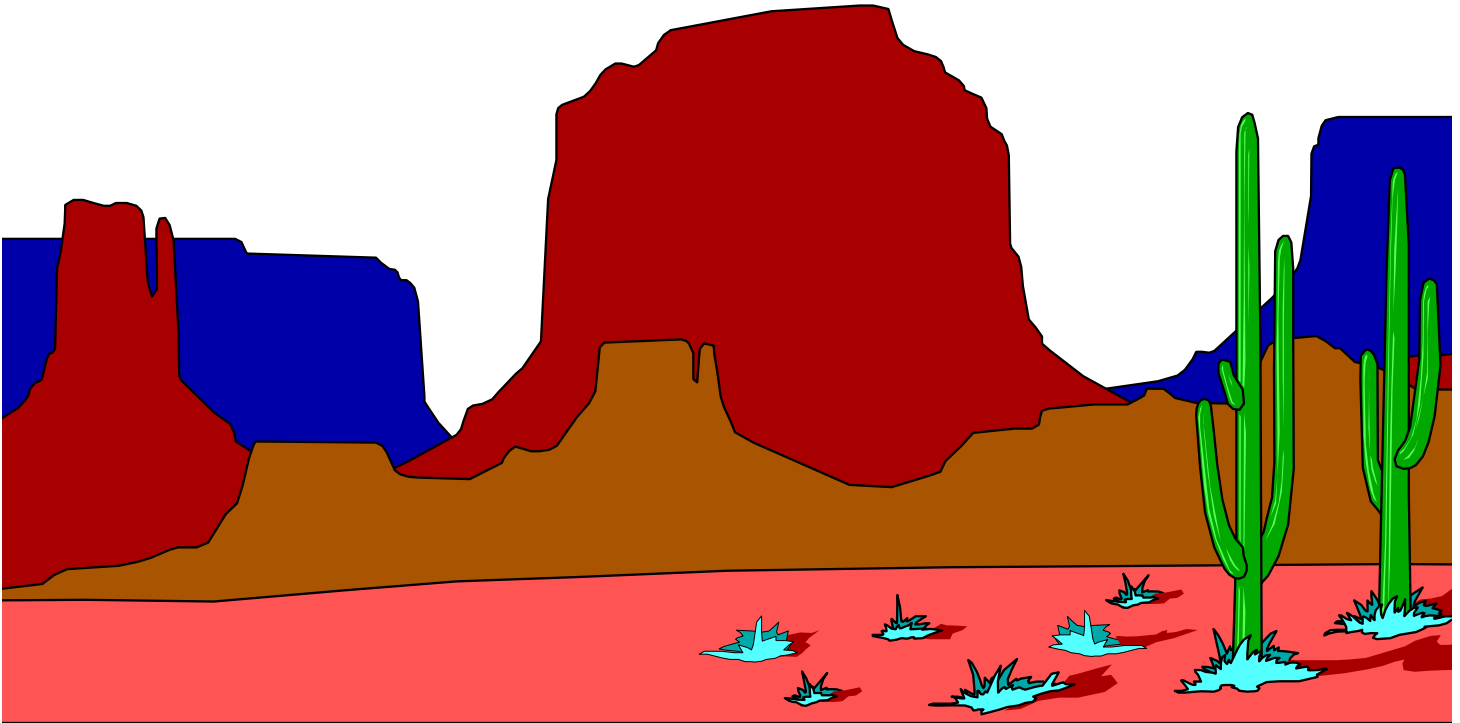
GUIDANCE

FOR THE

TRIBAL

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

PROGRAM



Department of Health and Human Services
Administration for Children and Families
Office of Family Assistance
370 L'Enfant Promenade, S.W., Washington, D.C. 20447
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PART A: INTRODUCTION

BACKGROUND

On August 22, 1996, Public Law 104-193, the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" was signed into law. Public Law 104-193 contains nine titles and is comprehensive in its effect on federal programs. Title I amends title IV-A of the Social Security Act¹ (the Act) and creates the Temporary Assistance for Needy Families (TANF) program. Title II creates revised eligibility standards for Supplemental Security Income (SSI). Title III makes changes to title IV-D of the Act to increase child support requirements on States and recipients, and make direct funding available to Indian tribes. Title IV establishes new restrictions on receipt of welfare and public benefits for non-citizens. Title V retains current law for titles IV-E and IV-B of the Act. Title VI consolidates the funding of the title IV-A child care programs with the Child Care Development Block Grant (CCDBG) into the Child Care Development Fund (CCDF). Title VII restructures several provisions of the School Nutrition Program. Title VIII retains the open entitlement structure of the Food Stamp Program, increases state flexibility and adds new work requirements. Title IX contains several miscellaneous provisions.

Public Law 105-33, the Balanced Budget Act of 1997, made some additional changes to title IV-A of the Social Security Act. Implementing regulations for Tribal TANF are 45 CFR Part 286 and were published in the Federal Register on February 18, 2000 (65 FR 6477). These final rules took effect June 19, 2000. This document reflects pertinent changes.

The purpose of this document, "Tribal Guidance for the Temporary Assistance for Needy Families Program", is to provide program information, TANF plan content guidance, and a suggested plan outline for an application under title I, direct funding and administration of the TANF program by Indian tribes. Complete requirements of Tribal TANF applications are found in the Tribal TANF final regulations at 45 CFR Part 286.

¹All references in this document to the Act are references to the Social Security Act, unless otherwise noted.

TANF PROGRAM

Title I of Pub.L. 104-193 amends part A of title IV of the Social Security Act by replacing the Aid to Families with Dependent Children (AFDC) program, the Job Opportunities and Basic Skills Training (JOBS) program and the Emergency Assistance (EA) program with the Temporary Assistance for Needy Families (TANF) program. Under the part A of title IV of the Social Security Act, open ended funding and guaranteed individual entitlement to public assistance have been repealed. TANF gives both States and Federally recognized Indian tribes flexibility in the design of welfare programs which promote work and responsibility and strengthen families. The purpose of the law is to support programs designed to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; reduce dependency on public benefits by promoting job preparation, work, and marriage; prevent and reduce the incidence of out-of-wedlock pregnancies; and encourage the formation and maintenance of two-parent families. Thus, the legislation provides both challenges and opportunities to help needy families.

TRIBAL TANF ELIGIBILITY

Federally recognized Indian tribes are eligible to apply for funding under section 412 of the Social Security Act, as amended by Pub.L.104-193 to administer and operate their own TANF programs. Implementation of Tribal TANF programs was authorized beginning July 1, 1997. Eligible Indian tribes are required to submit a three year Tribal TANF plan to the Secretary of the Department of Health and Human Services (HHS) through the Administration for Children and Families (ACF) for review and approval.

Special Rule for Alaska: Section 419(4)B) limits the entities in the State of Alaska who may operate a TANF program. The Metlakatla Indian Community of the Annette Islands Reserve plus the twelve Alaska Native regional non-profits are the only eligible entities.

Under section 412(h) of the Act, unless waived by the State of Alaska, Alaska Native organizations operating a TANF program must use the grant in accordance with comparable requirements applicable to the State. Comparability will be established via program criteria established by the Secretary, the State of Alaska, and the appropriate Alaska Native organization.

PART B: TRIBAL TANF PLAN CONTENT AND PROCESS

PLAN CONTENT

ACF does not intend to issue a TANF plan preprint. A Tribe may use whatever structure it prefers as long as all necessary elements of the plan are included. The contents of a Tribal TANF plan must include all the elements delineated at Section 412(b) of title IV-A of the Act, as amended by Pub.L. 104-193, and at 45 CFR Part 286 and cover a **three** year period.

Although a specific format is not required, we ask that a Tribal TANF plan address each of the following elements under clearly marked headings. We also ask that all plan pages be numbered.

Under section 412(b) of the Act the Tribal TANF plan **should** do the following:

- > Outline the Indian tribe's approach to providing welfare-related services;
- > Specify whether the welfare-related services will be provided directly by the Tribe or through agreements, contracts or compacts with intertribal consortia, States, or other entities;
- > Identify the population and service area to be served;
- > Provide that families receiving assistance under the Tribal plan may not receive duplicative assistance from a State or other Tribe;
- > Identify the employment opportunities in or near the service area and the manner in which the Tribe will cooperate and enhance such opportunities for recipients consistent with any applicable State standards; and

- > Apply the fiscal accountability provisions of section 5(f) (1) of the Indian Self-Determination Act (25 U.S.C. 450c(f) (1)), relating to the submission of a single-State agency audit report.

Section 412(c) of the statute requires the Secretary, with the participation of Tribes, to establish for each Tribal grantee:

- minimum work participation requirements;
- appropriate time limits for the receipt of welfare-related services; and
- penalties against individuals.

We offer the following guidance to address all of the elements listed above.

OUTLINE THE APPROACH TO PROVISION OF WELFARE-RELATED SERVICES

The TANF program is about work, responsibility and self-sufficiency for families. The Tribal TANF plan should identify the Tribe's goals in relation to work and self-sufficiency for families and how these goals will be met by the Tribal program. Successful program outcomes and what results will be measured should be considered for inclusion in the plan.

We ask that the plan include a statement indicating how Tribal members and others were involved in designing the TANF program and whether the public was given an opportunity to review and comment on the Tribal TANF plan. ACF suggests the Indian tribe make the plan available to Tribal members and other interested parties for review and comment prior to the submission of the plan to ACF. Tribes may use traditional methods or established alternative tribal standards to provide public information and allow for community input relating to the development and content of the Plan.

The plan must address how "needy families" will be defined. This includes a description of which family members will be included in the TANF assistance unit, as well as the Tribe's definition of either "Indian family" or "Tribal member family." In addition, a description of the income (e.g. percentage of Federal poverty level allowed) and resource levels which will qualify a family for assistance must be included.

The plan must describe what assistance and services, including supportive services and child care, will be provided to needy families. Whether the assistance and services will be provided through cash, in-kind, vouchers, or through a combination must be indicated in the plan. Also, the plan needs to describe whether assistance and/or services will be provided (and for how long) to families who are working, and those who are no longer eligible for Tribal TANF assistance because of a mix of earned and unearned income (i.e., child support payments).

A Tribe planning any expenditures with Federal TANF or State Maintenance of Effort (MOE) funds (if provided) that constitute economic development or "job creation opportunities" activities, must provide a description of the proposed expenditure. The description should be specific, explain how such expenditure will directly benefit financially needy TANF families and describe how the expenditure will accomplish one or more of the statutory purposes of the TANF program. The purchase of a business or purchase of property as a prelude to establishing a business enterprise **does not** constitute an allowable economic development activity or "job creation opportunity".

The plan must outline how the privacy of families will be protected. In addition, the process available to applicants and recipients to challenge decisions must be described in the plan (e.g. appeal process).

Included with the plan should be a Tribal resolution and the certifications that can be found at attachment 3.

SPECIFY WHETHER THE WELFARE-RELATED SERVICES WILL BE PROVIDED DIRECTLY BY THE TRIBE OR THROUGH AGREEMENTS, CONTRACTS OR COMPACTS

The Tribal TANF plan must indicate how the various welfare-related services will be provided: through the Tribe itself; a consortium of Tribes; or some other entity. If services will be provided by other entities, the plan should describe if this will be accomplished through agreements, contracts, or compacts.

We ask that the name of the Tribal agency or department that will be responsible for the administration of the Tribe's TANF program be provided in the plan. In addition, we suggest a brief discussion of the administrative structure of this unit, as well

as the administrative systems that will be in place to provide and track welfare-related services, be included here.

IDENTIFY THE POPULATION AND SERVICE AREA TO BE SERVED

A Tribal TANF plan must clearly define the Tribe's proposed TANF service area and the population eligible to receive welfare-related services from the Tribe.

PROVIDE THAT FAMILIES RECEIVING ASSISTANCE UNDER THE TRIBAL PLAN MAY NOT RECEIVE DUPLICATIVE ASSISTANCE FROM A STATE OR OTHER TRIBE

The Tribal TANF plan must provide that a family receiving assistance under the plan may not receive duplicative assistance from other State or Tribal programs funded under title IV-A of the Social Security Act, as amended. Thus, an individual receiving assistance from a Tribal TANF program may not receive assistance from another TANF program.

We recommend the plan include a description of the mechanisms the Tribe will use to assure that duplicative assistance is not given by the Tribe or received by those being served by the Tribe.

IDENTIFY THE EMPLOYMENT OPPORTUNITIES IN OR NEAR THE SERVICE AREA AND THE MANNER IN WHICH THE TRIBE WILL COOPERATE AND ENHANCE SUCH OPPORTUNITIES FOR RECIPIENTS CONSISTENT WITH ANY APPLICABLE STATE STANDARDS

The Tribal TANF plan must describe the employment opportunities in and near the Tribe's service area. In addition, the plan must describe how the Tribe will cooperate to enhance such opportunities for TANF recipients.

APPLY THE FISCAL ACCOUNTABILITY PROVISIONS OF SECTION 5(F)(1) OF THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT, RELATING TO THE SUBMISSION OF A SINGLE-STATE AGENCY AUDIT REPORT

The Tribe must certify that it will apply the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

MINIMUM WORK PARTICIPATION REQUIREMENTS AND WORK PARTICIPATION RATES

The promotion of work is a primary focus of PRWORA. Section 407 of title IV-A of the Act, as amended, sets forth mandatory work requirements for State TANF programs. Although Tribal TANF programs will not be subject to the exact same work requirements as specified in section 407, section 412(c) of title IV-A of the Act, as amended, does require minimum work participation requirements to be established for each Tribal TANF grantee (see 45 CFR 286.80).

Each Tribe will establish its own minimum work participation requirements through negotiation with ACF (45 CFR 286.80 (a)). The plan should indicate what minimum participation rates the Tribe proposes (45 CFR 286.80 (b) (1)).

The rationale for each of these elements of the proposal needs to be included in the plan. For a Tribal TANF program, minimum work participation requirements must be consistent with the purposes of the TANF program; consistent with the economic conditions and resources available to the Tribe; and similar to comparable provisions of the Act which apply to States. Thus, the plan needs to explain how the Tribe's proposed minimum work participation requirements meet these conditions.

In addition, the number of hours per week individuals must participate in work activities will also be established for each Tribal TANF plan through negotiation with ACF. The plan must indicate the minimum hours proposed by the Tribe (45 CFR 286.80 (b) (2)).

A tribe may elect to credit reasonable time to and from the work or training site in determining the hours work participation (45 CFR 286.80 (b)(2)(i)). If this will be done, the tribe must make provision for it in the plan.

WORK ACTIVITIES

Tribes may establish their own allowable work activities, including, if desired, culturally relevant work activities (re: 45CFR286.100 and .105).

TIME LIMITS

Section 408(a)(7) provides that a State may not use Federal funds to provide assistance to any family that includes an adult who has received assistance for 60 months (whether or not consecutive) under any State program funded under title IV-A of the Act, as amended by Pub.L. 104-193. Up to 20% of the caseload may be exempted due to hardship. If the tribe intends to use this option, the plan must clearly define what will be considered causes for hardship exemption. Limited transitional services may be made available after time limits have been reached. Under section 408(a)(7)(D), time during which assistance is received while residing in certain qualifying areas of Indian Country or Alaska Native villages would not count towards the 60 month lifetime limit. This provision is applicable to both State and Tribal TANF programs.

Time limits and related standards will be established for each Tribal TANF plan through negotiation with ACF. The Tribal TANF plan should include the Tribe's proposal for time limits for the receipt of welfare-related services and the rationale for this proposal. The Tribal proposal should describe any exceptions from the time limits due to hardship. If exceptions are provided, then the proposal should indicate what percentage of the caseload the Tribe proposes to exempt and the proposed definition of hardship.

The plan must explain how the proposed time limits are consistent with the purposes of the TANF program and with the economic conditions and resources available to the Tribe.

PENALTIES AGAINST INDIVIDUALS

Section 407(e) provides that the State must reduce either by a pro rata amount, or more at the State's option, the amount of assistance payable to the family, or terminate assistance if the parent/caretaker refuses to engage in required work activities without good cause (as defined by the State). Section 412(c)(3) of the Act requires penalties against individuals, which are similar to comparable provisions in section 407(e), be established for each Tribal TANF grantee.

The Tribal TANF plan should include the Tribe's proposal for its policies in relation to sanctioning those individuals who refuse to engage in work activities. This includes how the Tribe defines "good cause" and how the Tribe will provide notice of

adverse actions and what will be the TANF recipient's appeal rights. These proposals need to be consistent with the purposes of TANF; consistent with the economic conditions and resources available to the Tribe; and similar to comparable provisions in section 407(e).

PLAN PROCESS

According to the statute, an Indian tribe is eligible to implement a TANF program no earlier than July 1, 1997, after the submission and approval of a Tribal TANF plan. There is no closing date for initiation of a Tribal TANF program. This flexibility allows every Tribe the opportunity for sufficient planning and to see how State TANF programs operate and function.

A Tribe will be able to implement a Tribal TANF program on the first day of any month. Plans need to be submitted according to the table below to allow adequate time for the review, negotiation and approval process.

Adequate time is also needed to request the data needed to determine the amount of the Tribal TANF grant; resolve any issues concerning the data; and to satisfy the requirement at section 405(b) of the Act which requires that a State be notified of the amount of any reduction in its TANF grant due to a Tribal TANF grant. The notification to the State must be made 3 months prior to the issuance of the State's quarterly grant award installment. To accomplish these tasks, we ask a Tribe to submit a letter of intent prior to the submission of a formal plan in accordance with the table below.

The letter of intent will allow us to request the necessary data from the State without a formal plan submittal. The letter of intent should indicate the proposed Tribal TANF implementation date and the proposed service area and population. It is important to clearly identify the proposed service area and population in the letter of intent for purposes of requesting the necessary data from the State. Any subsequent changes in the service area and/or population before the Tribal TANF plan is approved may necessitate recalculation of the Tribal TANF grant. Tribes who wish to implement a TANF program on other than the first day of a calendar quarter, i.e., January 1, April 1, July 1 or October 1, will need to submit both its letter of intent and

its plan as if the proposed implementation date was the first day of a calendar quarter. The following table illustrates, based on implementation dates, when letters of intent and formal plans need to be submitted in order for us to meet the statutory requirement for notification to the State.

Tribes should follow the timeframes in the following table to determine when Tribal TANF plans and letters are due.

If proposed implementation date is:	the letter of intent is due:	the formal plan is due:	and we will notify the State:
January 1, February 1 or March 1	July 1 of previous year	September 1 of previous year	prior to October 1 of previous year
April 1, May 1 or June 1	October 1 of previous year	December 1 of previous year	prior to January 1 of same year
July 1, August 1 or September 1	January 1 of same year	March 1 of same year	prior to April 1 of same year
October 1, November 1 or December 1	April 1 of same year	June 1 of same year	prior to July 1 of same year

It is important that the Tribal TANF plan submittal indicate the date the Tribe wishes to implement the program.

The original Tribal TANF plan must be submitted to the appropriate ACF Regional TANF Program Manager see Attachment 1 for addresses). In addition, one copy of the Tribal TANF plan must be submitted to:

Administration for Children & Families
 Office of Family Assistance
 Division of Tribal TANF Management
 370 L'Enfant Promenade, S.W. - 5th floor
 Washington, D.C. 20447

ACF staff will notify the Indian tribe to confirm receipt and begin the review process. A cover letter attached to the plan should identify a contact person (name, position and telephone number) whom ACF staff may call if additional information or clarification is needed. After the initial review of the plan, a conference call may be scheduled between the Tribe and ACF to discuss any outstanding issues. Every effort will be made to complete the review process and resolve any issues as quickly as possible.

INQUIRIES

Inquiries may be addressed to the appropriate ACF Regional TANF Program Manager (see Attachment 1 for addresses) and/or the Division of Tribal TANF Management.

PAPERWORK REDUCTION ACT of 1995

Under the Paperwork Reduction Act of 1995 (Pub.L. 104-13), the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements or information collection.

The information in the Tribal TANF plan is collected in accordance with section 412 of the Social Security Act, as amended. Information received in the Tribal plans sets forth how the Tribal TANF program will be administered and operated in the Tribal service area. ACF will use the information to review and approve Tribal TANF plans. The information collected is mandatory in accordance with the above-mentioned citation.

The response burden for this collection of information is estimated to be 60 hours per response, including the time for reviewing the statute, gathering and preparing the information, and reviewing the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

This information is not considered confidential; therefore, no additional safeguards are considered necessary beyond that customarily applied to routine government information.

Respondents may provide comments to ACF at the following address:

Administration for Children and Families
Office of Family Assistance
Division of Tribal TANF Management
370 L'Enfant Promenade, S.W. - 5th Floor
Washington, D.C. 20447

PART C: PROGRAM INFORMATION AND CONSIDERATIONS

We encourage Tribes to use the TANF planning process to consider and address important questions in consultation with members of the Indian tribe, other interested parties including the business and social services community in and near the Tribal service area, and representatives from appropriate Federal and State agencies. These discussions and consultations should cover both the areas the statute specifies to be included in the Tribal TANF plan as well as various significant issues and concerns that are closely related to creating and operating a temporary assistance program whose primary goals include helping families achieve economic independence. In this Part we offer suggestions that are not intended to be inclusive, but which may serve as a useful guide in the Tribe's planning and decision-making activities.

TRIBAL TANF FUNDING

Section 412(a)(1)(B) describes the data that will be used to determine the amount of a Tribal TANF grant. The statute provides that for each fiscal year an Indian tribe that has an approved TANF plan will receive an amount equal to the **Federal** share (including administration expenditures, which may include systems costs) of all expenditures (other than child care expenditures) by the State or States under the AFDC (title IV-A) and JOBS (title IV-F) programs for fiscal year (FY) 1994 for Indian families residing in the service area(s) identified in the Tribal TANF plan. For Tribes which operated a Tribal JOBS program in FY 1994, the State title IV-F expenditures used in the calculation would be for expenditures made on behalf of non-member Indians living in the designated TANF service area(s), if non-Indians are part of the service population. Any expenditure by the State for Tribal members who were served by the State JOBS program will also be included in the determination. The data used to make the determination of a Tribal TANF grant amount will be submitted by the State.

As noted above, the formula used to determine Tribal TANF grants includes only **Federal** payments; State matching payments are not used.

It may be useful for an Indian tribe considering the implementation of a TANF program to request data from the State in advance in order to:

- > determine the estimated amount of the grant the Indian tribe would receive to operate its own TANF program;
- > help the Tribe determine the potential costs of operating its own TANF program; and
- > help the Tribe evaluate its interest in and capacity to operate its own tribal program from the administrative and operational perspectives.

Once a letter of intent that contains the proposed service area and population to be served or Tribal TANF plan is received, ACF will officially request from the State the data needed to determine the amount of the Tribal TANF grant. The letter to the State requesting the data will ask that the State send a copy of the response to the Tribe as well as to ACF. If the Tribe agrees with the data provided by the State, it must submit a letter of concurrence to ACF.

If the Tribe disagrees, it may enter into negotiations with the State to establish data which it believes is correct.

Under 412(a)(1)(B)(ii)(II) of the Act, if after negotiation the Tribe still does not agree with the data, it may submit additional information that may be relevant to the determination of the grant amount along with a letter asking the Secretary to make a determination. This letter should be sent to your ACF Regional TANF Program Manager and to ACF's Division of Tribal TANF Management (see Attachment 1 and page 10 for the addresses).

DATA COLLECTION AND REPORTING REQUIREMENTS

Pursuant to section 412(g) of the Act, Indian tribes that operate a TANF program will have to meet the data collection and reporting requirements as specified in section 411 of title IV-A, as amended. Section 411(a)(1)(A) contains a list of the items that must be reported to the Secretary on a quarterly basis. One of the uses of the data submitted on the reports is the

determination as to whether a Tribe has met its required work participation requirement.

Complete requirements in the area of data collection and reporting for Tribal TANF are found in the Tribal TANF final regulations at 45 CFR Part 286. The regulations address data elements; data sampling methodology and plans; and methods for submitting data. Although data can be reported manually, the preferred method will be electronic transmission.

Some of the questions that a Tribe needs to address as part of its planning process are as follows:

- > Will it submit data manually or electronically? If electronically, does the Tribe currently have a mechanism in place for electronic reporting? Is it feasible for the Tribal TANF program to tie into the State's reporting mechanisms for TANF?
- > Will sampling of the caseload be a viable approach for the Tribe, if the Tribal TANF caseload qualifies for sampling?

CASH ASSISTANCE PROGRAM

Adoption of a Tribal TANF Program means that the Indian tribe assumes the role of providing temporary assistance to needy families in lieu of the State. The State will no longer have responsibility for the provision of assistance to needy families covered by a Tribal TANF program.

Issues related to the operation and maintenance of a cash assistance program are varied. For example, staff must be available to assist Tribal TANF recipients with issues arising from receipt of assistance. Another area of administration that is important for the operation of a TANF program is the development and maintenance of procedural manuals and documents outlining the structure, procedures and policies to be used to determine initial eligibility for TANF, as well as continued eligibility once the household has been determined eligible for TANF.

Exclusions of certain income when determining eligibility will be established by each TANF plan on a negotiated basis. The plan

should list the tribe's proposed exclusions and, where necessary, provide justification. The development of administrative systems - either by the Tribe itself or through any agreements, contracts, or compacts the Tribe may enter into - that provide for effective implementation of welfare-related services and tracking of program requirements, such as issuance of benefits, time on assistance, and work requirements is also an important part of the operation of a Tribal TANF program.

In addition, there are other issues involved in operating a cash assistance program. These considerations include:

- Size of the population to be served by the Tribal TANF program, and the amount of funds available to serve that population.
- Will TANF services be provided to both single and two parent households?
- Will the program provide assistance to "Child Only" cases?
- Amount of any TANF cash assistance to be provided to needy families. Will payment amounts be a flat TANF amount or be based on the size of the household?
- How will income and earnings be regarded? Will allowable per capita distributions be considered as income counted against the TANF grant? Will child support payments received by the TANF household be counted against the TANF grant? How will education loans for students in the household attending school be treated?
- How will resources/assets (other than income) be regarded? Will a resource limit be considered as part of the eligibility determination process. What resources will be counted and which will be excluded? Resources include such items as receipt of a lump sum, disposable income in savings or checking accounts, and equity in vehicles.
- Some items must be disregarded in the calculation of cash assistance grants. These are generally the result of treaties entered into between the United States and individual Indian tribes, or the result of other statutes enacted into law. How will the Tribe deal with "legal

disregards of income and resources" in the calculation of the benefit level?

- Associated with the above issues is the verification of income and resources. Will a self declaration of income and resources be adequate, or will you need to establish a system to verify income and resources that involves contacting other organizations, including: the State Unemployment/Employment Program, the Social Security Administration, employers, local banks and credit unions, State lottery boards, the Internal Revenue Service, the State Department of Taxation and/or other sources of income and financial information?
- How will interaction with the State or Tribal agency responsible for child support enforcement be accomplished?
- How will the Tribal TANF program fulfill its responsibilities to provide client information to other sources (for example State agencies and other Tribes with TANF programs) on matters related to time limits and work history?
- How will overpayments and underpayments be managed? When an overpayment occurs will an account receivable be established and tracked and a recovery pursued?
- How will TANF complement the Tribe's BIA General Assistance (GA) system?
- How will the reporting and cash management requirements of TANF be met?

COORDINATION WITH THE STATE AND OTHER INDIAN TRIBES

We strongly encourage coordination with the State and with other Indian tribes. Coordination can take many forms; some (not all) of these are listed below:

- The Tribe's decision as to whether: (a) to operate its own TANF program; (b) not to operate its own TANF Program and be served by the State's TANF program; (c) not to operate its own TANF Program, but be served by another Tribe's TANF

program; or (d) to operate its own Tribal JOBS Program (for those operating the program in FY 1994), and be served by either the State or other Tribal TANF program.

- o If (a), the request to the State needs to be made for client data and expenditures in FY 1994 for the Tribal service population and the Tribal service area (see below).
 - o If (d), assuring coordination between the work requirements of the State TANF program and the goals and objectives of the Tribal JOBS program.
- Assuring continued Medicaid and Food Stamp services to Tribal members from the State Agency administering these programs.
 - Arranging for information exchange on Tribal TANF members moving into the State's TANF service area or into another Tribal TANF service area and vice versa.
 - Assuring a means of exchanging information on the individual's duration of TANF assistance in either the State or Tribal TANF area.
 - Assuring a means of exchanging information on issues related to child support enforcement.
 - Assuring there is no duplication of benefits and/or services provided to an assistance unit among the State and Tribal programs.
 - Developing the scope of memoranda of agreement as to various issues of mutual interest to the State and the Tribe in the operation of TANF programs.

PENALTIES

Tribes with approved Tribal TANF plans are subject to certain penalties:

- 1) A Tribe who uses the TANF grant in violation of the purposes of the TANF program is subject to a penalty in an amount equal to

the amount misused. There is also an enhanced penalty if the Tribe can not show that the violation was unintentional.

2) A Tribe that fails to meet its established work participation rates is subject to a penalty in an amount equal to a percentage of its Tribal Family Assistance grant.

NONDISCRIMINATION PROVISIONS

Section 408(c) of the Act states that the following provisions of law apply to any program or activity funded with Federal TANF funds:

- o The Age Discrimination Act of 1975
- o Section 504 of the Rehabilitation Act of 1973
- o The Americans with Disabilities Act of 1990
- o Title VI of the Civil Rights Act of 1964 and/or the American Indian Civil Rights Act of 1968

PART D: DATA COLLECTION AND REPORTING REQUIREMENTS

Under 411(a)(1)(A) and 412(g) of the Act each Indian tribe operating a TANF program must collect on a monthly basis, and report on a quarterly basis (OMB No. 0970-0215), the following disaggregated case record information on the families receiving assistance under the Tribal program:

- o the county of residence of the family;
- o whether a child receiving such assistance or an adult in the family is receiving:
 - Federal disability insurance benefits;
 - benefits based on Federal disability status;
 - aid under a State plan approved under title XIV (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972));
 - aid or assistance under a State plan approved under title XVI (as in effect without regard to such amendment) by reason of being permanently and totally disabled; or
 - supplemental security income benefits under title XVI (as in effect pursuant to such amendment) by reason of disability.

- o the ages of the members of such families;
- o the number of individuals in the family, and the relation of each family member to the head of the family;
- o the employment status and earnings of the employed adult in the family;
- o the marital level of the adults in the family, including whether such adults have never married, are widowed, or are divorced;
- o the race and educational level of each adult in the family;
- o the race and educational status of each child in the family;
- o whether the family received subsidized housing, medical assistance under the State plan approved under title XIX, food stamps, or subsidized child care, and if the latter 2, the amount received;
- o the number of months that the family has received each type of assistance under the program;
- o if the adults participated in, and the number of hours per week of participation in, the following activities;
 - education;
 - subsidized private sector employment;
 - unsubsidized employment;
 - public sector employment, work experience, or community service;
 - job search;
 - job skills training or on-the-job training;
 - vocational education;
- o information necessary to calculate participation rates;

- o the type and amount of assistance received under the program, including the amount of and reason for any reduction of assistance (including sanctions);
- o any amount of unearned income received by any member of the family;
- o the citizenship of the members of the family;
- o from a sample of closed cases, whether the family left the program, and if so, whether the family left due to:
 - employment;
 - marriage;
 - the prohibition set forth in section 408(a)(7);
 - sanction; or
 - Tribal policy, or if applicable, State policy.
- o for each individual in the family who has not attained age 20, whether the individual is a parent of a child in the family.

Pub. L. 105-33, the Balanced Budget Act of 1997, amended section 411(a) by adding additional data collection and reporting requirements for Tribes that receive Welfare-to-Work grants authorized under section 403(a) of the Act. The additional requirements for disaggregated case data are as follows:

- o for each family participating in a Welfare-to-Work program:
 - any activity described in section 403(a)(5)(C)(i) engaged in by a family member;
 - the total amount expended during the month on the family member for each such activity;
 - if the family member is engaged in subsidized employment or on-the-job training under the program, the wage paid to the family member and the amount of

any wage subsidy provided to the family member from Federal or State funds; and

- if the participation of a family member in the program was ended during a month due to the family member obtaining employment, the wage of the family member in the employment and whether the participation was ended due to the family member obtaining unsubsidized employment, obtaining subsidized employment, receiving an increased wage, engaging in a work training activity funded under a program funded other than under section 403(a)(5), or for other reasons.

In addition, section 411 of the Act states that each quarterly report shall include a statement of the:

- percentage of the funds paid to the Indian tribe that are used to cover administrative costs or overhead;
- total amount expended by the Indian tribe on programs for needy families;
- number of noncustodial parents in the Tribal service area who participated in work activities (as defined in section 407(d)) during the quarter;
- total amount expended by the Indian tribe during the quarter to provide transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services;
- the number of families and individuals receiving assistance under the Tribal program (including the number of 2-parent and 1-parent families; and
- the total dollar value of TANF assistance received by all families.

As mentioned above, Pub, L. 105-33 amended section 411 to require States and Tribes to collect and report additional data related to Welfare-to-Work grants. The additional requirements for aggregated data are as follows:

- a separate statement of the percentage of such funds that are used to cover administrative costs or overhead incurred for programs operated with funds provided under section 403(a)(5);
- a separate statement of the total amount expended by the Tribe during the quarter on programs operated with funds provided under section 403(a)(5);
- a separate statement of the number of such parents who participated in programs operated with funds provided under section 403(a)(5);
- with respect to families and individuals participating in a program operated with funds provided under section 403(a)(5):
 - o the total number of such families and individuals;
 - o the number of such families and individuals whose participation in such a program was terminated during a month.

Part E: CONSOLIDATION OF A TANF PROGRAM INTO A P. L. 102-477 PROJECT

Tribal TANF programs may be consolidated into a Tribe's Public Law 102-477 project, subject to certain conditions:

- o A Tribe may consolidate its TANF program into a 477 project/plan only after receiving ACF concurrence.

As provided at 45 CFR 286.160 (f), "Tribes operating a consolidated Public Law 102-477 program must submit a TFAP plan to the Secretary for review and approval prior to consolidation of the TANF program into the Public Law 102-477 plan."

- o If ACF concurs with the consolidation of a TANF program in a 477 project, the ACF-approved TANF plan, in its entirety, must be incorporated into the 477 plan and the 477 plan must stipulate that the use of TANF funds is governed by the TANF regulations and the provisions of the TANF plan.
- o Without regard to the fact that a TANF plan may have been consolidated into a Public Law 477 project/plan, renewal of the TANF plan for subsequent 3-year grant periods requires submission of the proposed continuation plan, as stand-alone plan, to the Secretary for review and approval.

(NOTE: the reference in these provisions to "the Secretary" means the Secretary of the Department of Health and Human Services (HHS) and through delegations of authority within HHS, the Administration for Children and Families (ACF) and the Office of Family Assistance (OFA).)

- o The authority to approve a TANF plan and any changes or amendments to the plan; the interpretation of the TANF statute, regulations, and policies; and decisions regarding the permissible use of funds rest solely with ACF.
- o A Tribe consolidating its TANF program into a Public Law 102-477 project/plan must describe any planned expenditures with Federal TANF or State Maintenance of Effort (MOE) funds (if provided) that constitute economic development or "job creation opportunities" as mentioned in section 9 of P.L. 102-477. The description of the expenditure should be specific, explain how such expenditure will directly benefit financially needy TANF families and describe how the expenditure will accomplish one or more of the statutory purposes of the TANF program. The purchase of a business or purchase of property as a prelude to establishing a business enterprise **does not** constitute an allowable economic development activity or "job creation opportunity".

ACF REGIONAL TANF PROGRAM MANAGERS

Region I: (Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, and Connecticut)

ACF Regional TANF Program Manager
JFK Federal Building, Room 2000
Boston, MA. 02203

Region II: (New York, New Jersey, Puerto Rico, and the Virgin Islands)

ACF Regional TANF Program Manager
26 Federal Plaza, Room 4048
New York, NY. 10278

Region III: (Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and D.C.)

ACF Regional TANF Program Manager
150 S. Independence
Mall West-Suite 864
Public Ledger Building
Philadelphia, PA. 19106

Region IV: (Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Mississippi, Alabama, and Florida)

ACF Regional TANF Program Manager
Atlanta Federal Center
61 Forsyth Street SW - Suite 4M60
Atlanta, GA. 30303

Region V: (Illinois, Minnesota, Wisconsin, Michigan, Indiana, and Ohio)

ACF Regional TANF Program Manager

233 N. Michigan Avenue - Suite 400
Chicago, IL. 60601

Region VI: (Texas, Arkansas, Louisiana, Oklahoma, and New Mexico)

ACF Regional TANF Program Manager
1301 Young Street - Suite 914
Dallas, TX 75202

Region VII: (Kansas, Missouri, Iowa, and Nebraska)

ACF Regional TANF Program Manager
601 E. 12th Street, Room 276
Kansas City, MO. 64106

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Wyoming, and Utah)

ACF Regional TANF Program Manager
1961 Stout St., 9th Floor
Denver, CO. 80294-3538

Region IX: (California, Arizona, Nevada, and Hawaii)

ACF Regional TANF Program Manager
90 7th Street, Ninth Floor
San Francisco, CA. 94103

Region X: (Washington, Oregon, Idaho, and Alaska)

ACF Regional TANF Program Manager
MS 74, Suite 300
2201 Sixth Avenue
Seattle, WA 98121

TITLE IV-A STATUTORY TEXT - SECTIONS 412 AND 419(a)

SEC. 412. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES

"(a) GRANTS FOR INDIAN TRIBES.-

"(1) TRIBAL FAMILY ASSISTANCE GRANT.-

"(A) IN GENERAL.-For each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under subparagraph (B) which shall be reduced for a fiscal year, on a pro rata basis for each quarter, in the case of a tribal family assistance plan approved during a fiscal year for which the plan is to be in effect, and shall reduce the grant payable under section 403(a)(1) to any State in which lies the service area or areas of the Indian tribe by that portion of the amount so determined that is attributable to expenditures by the State.

"(B) AMOUNT DETERMINED.-

"(i) IN GENERAL.-The amount determined under this subparagraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 (as in effect during such fiscal year) for fiscal year 1994 attributable to expenditures (other than child care expenditures) by the State or States under parts A and F (as so in effect) for fiscal year 1994 for Indian families residing in the service area or areas identified by the Indian tribe pursuant to subsection (b)(1)(C) of this section.

"(ii) USE OF STATE SUBMITTED DATA.-

"(I) IN GENERAL.-The Secretary shall use State submitted data to make each determination under clause (i).

"(II) DISAGREEMENT WITH DETERMINATION.-If an Indian tribe or tribal organization disagrees with State submitted data described under sub-clause (I), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the determination under clause (i) and the Secretary may consider such information before making such determination.

"(2) GRANTS FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.-

"(A) IN GENERAL.-For each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002, the Secretary shall pay to each eligible Indian tribe that proposes to operate a program described in subparagraph (C) a grant in an amount equal to the amount received by the Indian tribe in fiscal year 1994 under section 482(i) (as in effect during fiscal year 1994).

"(B) ELIGIBLE INDIAN TRIBE.-For purposes of subparagraph (A), the term 'eligible Indian tribe' means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during fiscal year 1995).

"(C) USE OF GRANT.-Each Indian tribe to which a grant is made under this paragraph shall use the grant for the purpose of operating a program to make work activities available to such population and such service area or areas as the tribe specifies.

"(D) APPROPRIATION.-Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$7,633,287 for each fiscal year specified in subparagraph (A) for grants under subparagraph (A).

"(b) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.-

"(1) IN GENERAL.-Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that-

"(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with this section;

"(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;

"(C) identifies the population and service area or areas to be served by such plan;

"(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

"(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and

"(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) APPROVAL.-The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

"(3) CONSORTIUM OF TRIBES.-Nothing in this section shall preclude the development and submission of a single tribal family assistance plan by the participating Indian tribes of an intertribal consortium.

"(c) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.-The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under the grant, and penalties against individuals-

"(1) consistent with the purposes of this section;

"(2) consistent with the economic conditions and resources available to each tribe; and

"(3) similar to comparable provisions in section 407(e).

"(d) EMERGENCY ASSISTANCE.-Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.

"(e) ACCOUNTABILITY.-Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with-

"(1) generally accepted accounting principles; and

"(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(f)" ELIGIBILITY FOR FEDERAL LOANS.-Section 406 shall apply to an Indian tribe with an approved tribal family assistance plan in the same manner as such section applies to a State, except that section 406(c) shall be applied by substituting 'section 412(a)' for 'section 403(a)'.

"(g) PENALTIES.-

"(1) Subsections (a)(1), (a)(6), (b), and (c) of section 409, shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such subsections apply to a State.

"(2) Section 409(a)(3) shall apply to an Indian tribe with an approved tribal assistance plan by substituting 'meet minimum work participation requirements established under section 412(c)' for 'comply with section 407(a)'.

"(h) DATA COLLECTION AND REPORTING.-Section 411 shall apply to an Indian tribe with an approved tribal family assistance plan.

"(i) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.-

"(1) IN GENERAL.-Notwithstanding any other provision of this section, and except as provided in paragraph (2), an Indian tribe in the State of Alaska that receives a tribal family assistance grant under this section shall use the grant to operate a program in accordance with requirements comparable to the requirements applicable to the program of the State of Alaska funded under this part. Comparability of programs shall be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and such Indian tribes.

"(2) WAIVER.-An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

SEC. 419. DEFINITIONS

"As used in this part:

"(1) ADULT.-The term `adult' means an individual who is not a minor child.

"(2) MINOR CHILD.-The term `minor child' means an individual who-

"(A) has not attained 18 years of age; or

"(B) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

"(3) FISCAL YEAR.-The term `fiscal year' means any 12-month period ending on September 30 of a calendar year.

"(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.-

"(A) IN GENERAL.-Except as provided in subparagraph (B), the terms `Indian', `Indian tribe', and `tribal organization' have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(B) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.-The term `Indian tribe' means, with respect to the State of Alaska, only the Metlakatla Indian Community of the Annette Islands Reserve and the following Alaska Native regional nonprofit corporations:

"(i) Arctic Slope Native Association.

"(ii) Kawerak, Inc.

"(iii) Maniilaq Association.

"(iv) Association of Village Council Presidents.

"(v) Tanana Chiefs Conference.

"(vi) Cook Inlet Tribal Council.

"(vii) Bristol Bay Native Association.

"(viii) Aleutian and Pribilof Island Association.

"(ix) Chugachmiut.

"(x) Tlingit Haida Central Council.

"(xi) Kodiak Area Native Association.

"(xii) Copper River Native Association.

"(5) STATE.-Except as otherwise specifically provided, the term `State' means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa."

The following certifications need to be included with each Tribal TANF plan:

- 1) Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions.
- 2) U.S. Department of Health and Human Services, Certification Regarding Drug Free Workplace Requirements, Grantees other Than Individuals.
- 3) Certification Regarding Tobacco Smoke.
- 4) Assurances - Non-Construction Programs.
- 5) Certification Regarding Lobbying
- 6) Certification by the Chief Executive Officer of the tribe that the tribe has or will establish and enforce standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the program, kickbacks, and the use of political patronage.