



Tribal TANF

**Opportunity, Responsibility,
and
Self-Determination**

The Purposes of TANF

(Sec. 401 of the Social Security Act)

- Provide assistance to needy families so children may live at home with relatives.**
- End dependence of needy parents on government benefits by promoting job preparation, work, and marriage.**
- Prevent and reduce out-of wedlock pregnancies.**
- Encourage the formation and maintenance of two-parent families.**



(25 U.S.C. 601)

Tribal TANF

Tribes are eligible to administer TANF in any manner that is reasonably calculated to accomplish the purposes of the program.



(42 U.S.C. 604 and 612 (§§ 404 & 412 of the Social Security Act) -and- Tribal TANF regulations at 45 CFR 286.35)

What is different about Tribal TANF?

Tribes have flexibility in designing their programs, including:

- **defining service area and population**
- **defining “Indian” and “Indian family” for the purposes of this program**
- **establishing eligibility criteria**
- **establishing time limits**
- **defining acceptable work activities**
- **establishing work participation rates and required work hours**
- **establishing penalties against individuals**





Unique Provisions of Tribal TANF



- Tribes are not required to limit vocational education for any individual to a period of 12 months.
- Tribes have two of the same basic limitations concerning how job search and job readiness may be counted toward meeting work requirements:
 1. Job search and job readiness assistance only count for 6 weeks in any fiscal year, or...

Unique Provisions of Tribal TANF (continued)

2. If the tribe's unemployment rate is at least 50% greater than the United States' total unemployment rate for that fiscal year, they can count for up to 12 weeks.

However, if job search or job readiness are an ancillary part of another activity, there is no limit.

(45 CFR 286.105)



Unique Provisions of Tribal TANF (continued)

Tribes have the ability to:

- **define acceptable work activities**
- **establish the number of work hours required**
- **determine circumstances under which participants may be exempted from participation in work activities**
- **determine what support activities are to be provided and for how long**
- **include culturally relevant work activities**
- **include culturally relevant support services**
- **give credit for reasonable transportation time as part of a work activity**

Examples of Different Work Activities in TTANF Plans

In addition to the work activities defined for states in the statutes, tribes may include additional/different work activities, e.g.:

- **Work experience or job sampling - without regard to availability of sufficient private-sector employment**
- **Vocational education – without limitation**
- **Participation in barrier removal activities, including: a) counseling and/or **chemical dependency treatment**, and b) family, parenting, and violence prevention counseling**



TTANF Work Activities (continued)

- Participation in basic life skills training (e.g. financial management, and health, and hygiene practices) that will contribute to family wellness and individual's readiness for the job market**
- Traditional subsistence activities (e.g. hunting, fishing, gathering, trapping, etc.)**
- Traditional work activities (e.g. pottery making, weaving, wood carving, jewelry making, farming, herding, etc.)**
- Teaching cultural activities**
- Work involved in or supporting traditional cultural activities**



Definitions

**Standard definitions that apply
to Tribal TANF programs are
provided in 45 CFR 286.5**

What is not defined in Regulation?

(What can the tribes define in their plans?)

- **Indian and Indian family**
- **Basic eligibility criteria**
(e.g. income and resources limits)
- **Work activities**
- **Service area**
- **Service population**
- **Support services**



Definition of Assistance

The definition of “Assistance” at 45 CFR 286.10 is important to know, because it determines which program requirements are applicable.

Many requirements--such as time limits, work requirements, and data collection and reporting--apply only to families receiving assistance.

Definition of Assistance What is Included?

- Cash, payments, vouchers, and other forms of benefits designed to meet ongoing basic needs (i.e. food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).**
- It includes such benefits even when provided in the form of payments by the TANF agency, or other agency on its behalf, to individual recipients, and**

Definition of Assistance

What is Included? (continued)

... when such benefits are conditioned on participation in community service or other work activities.

— Supportive services such as child care and transportation provided to families that are not employed.

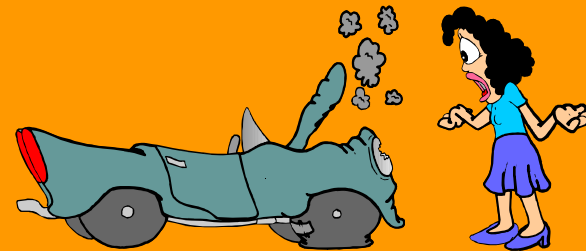
(45 CFR 286.10(a))

Definition of Assistance

- What is Not Included?

- **Non-recurring, short-term benefits**
 - **intended to deal with a specific crisis situation or episode of need**
 - **not intended to meet recurrent or ongoing needs**
 - **affecting needs that will not extend beyond 4 months**

(45 CFR 286.10)



Definition of Assistance

- What is Not Included? (continued)

- **Work subsidies (i.e., payments to employers or third parties to help cover costs of employee wages, benefits, supervision and training)**
- **Supportive services, such as child care and transportation provided to families who are employed**
- **Refundable earned income tax credits**

Definition of Assistance

- What is Not Included (continued)

- **Contributions to, and distributions from Individual Development Accounts (IDAs).**
- **Services such as counseling, peer support, case management, information on and referrals to Child Care, Medicaid, CHIP, Food Stamps, and transitional services, NEW, job retention and advancement, and other employment related services that do not provide basic income support.**

It is important to remember...

The definition of the term Assistance specified in the regulations does not preclude provision of other types of benefits or services consistent with the purposes of TANF.

(45 CFR 286.10(c))

Accountability, Penalties, and Reporting Requirements

Accountability standards and penalty provisions -

45 CFR 286.195 thru 286.240

Reporting requirements -

45 CFR 286.245 thru 286.285

What Penalties are applicable to Tribal TANF Programs?

There are four penalties applicable to TANF programs:

1. Misuse of TANF Funds –

a) Misuse as determined by an audit based on violation of the Act, and/or provisions of 45 CFR part 92, 2 CFR 225 (OMB circular A-87) and OMB Circular A-133 and any Federal statutes and regulations applicable to TANF.

Penalties (continued)

b) A tribe misusing its TFAG funds to provide assistance beyond the time limit set in the plan, will have its TFAG for the following year reduced by the amount used.

2. Intentional Misuse –

If the tribe intentionally misuses its TFAG for an unallowable purpose, the TFAG will be reduced by an additional 5%.

Penalties (continued)

3. Failure to meet its minimum work participation rates –

a) The TFAG may be reduced by up to 5% (amount may be adjusted based on consideration of certain contributing factors).

b) Penalties in subsequent years related to failure to achieve work participation rates will be an additional 2% up to a maximum of 21%.

Penalties (continued)

**4. Failure to expend tribal funds to replace reductions resulting from penalties –
The tribe must expend tribal funds, not state or other federal funds, in the subsequent fiscal year, to replace federal funds reduced as a result of penalties.**

Failure to do so will result in an additional penalty of no more than 2%.

*****NOTE: Maximum total penalties for any year may not exceed 25% of the grant*****

How is the amount of a Tribal Family Assistance Grant (TFAG) determined?

The amount of a TFAG is based on an amount equal to the total amount of Federal payments to the state(s) for fiscal year 1994 attributable to expenditures by the state(s) for AFDC, EA, and JOBS for all Indian families residing in the service area or areas identified by the tribe.

(42 U.S.C. 612 and 45 CFR 286.20)

What is included in calculation of this amount?

The amount of the expenditures reported for the caseload identified is based on:

- Administrative costs**
- FAMIS (data collection, maintenance, and reporting system)**
- Maintenance Assistance Payments**
- Emergency Assistance**
- JOBS (if the program was administered by the state)**

(25 U.S.C. 612(a) (1) (B) and 45 CFR 286.20)

Tribe's options regarding the State-provided data

The tribe may accept the state-provided data and the amount of the TFAG will be established.

If the tribe disagrees with the caseload or expenditure data provided by the state, it must give ACF and state notice of the disagreement.

The tribe has the option, and is encouraged, to engage in negotiations (discussions) with the state.

Tribal options regarding State-provided data

If the state and tribe agree to a “new” level of caseload and expenditure data, they can submit it to ACF and it will be accepted to establish the base amount for the TFAG – the federal portion of the program grant.

(NOTE: The amount of MOE, if any, provided by the state is subject to separate agreement between the state and tribe.)

Resolving a disagreement with State-provided data

If the negotiations are unsuccessful the tribe may appeal to ACF/OFA and submit its own data - relevant information to ACF/OFA that could be used to determine the amount of the TFAG.

This information may include, but is not limited to Bureau of Census data, BIA data, data from other Federal programs, and tribal records.

(45 CFR 286.25)

Resolving a disagreement with State-provided data (continued)

ACF/OFA will consider all the state and tribal submitted data in making the determination.

Once ACF/OFA has made a determination, the state and tribe have one opportunity to request reconsideration and submit/present additional data and/or clarifying information.

ACF/OFA will make a final determination.

What are the proper uses of TFAG Funds?



The tribe may use TFAG funds for expenditures that are reasonably calculated to accomplish the purposes of TANF including, but not limited to:

- The provision of low-income households with assistance in meeting home heating and cooling costs.**

What are the proper uses of TFAG Funds? (continued)

- Assistance in economic development and job creation activities.



- Provision of supportive services to assist needy families to prepare for, obtain, and retain employment.

What are the proper uses of TFAG Funds? (continued)

- Provision of supportive services to prevent out-of-wedlock pregnancies.**
- Assistance in keeping families together.**



(45CFR 286.35)

May a Tribe use T FAG Funds to fund IDAs?

If the tribe elects to operate an IDA program, it may use Federal TANF funds to fund Individual Development Accounts (IDAs) for individuals who are eligible for TANF assistance and may exercise flexibility within the limits of Federal regulations and the statute.

(45 CFR 286.40)



What uses of TFAG Funds are improper?



I. A tribe may **not** use TFAG funds to provide assistance:

- to families or individuals that do not otherwise meet the eligibility criteria contained in the Tribal Family Assistance Plan (TFAP); or
- for more than the number of months specified in the tribe's TFAP (unless covered by a hardship exemption or if the "50% not employed" rule is in effect); or

What uses of TFAG Funds are improper? (continued)

- to individuals who are not citizens of the United States or qualified aliens.

II. TFAG funds may not be used to contribute to or subsidize non-TANF programs.

III. TFAG funds may not be transferred to non-TANF programs.



What uses of TFAG funds are improper? (continued)



IV. A tribe may not use TFAG funds for services or activities prohibited by 2 CFR 225 (OMB Circular A-87).

V. Federal TANF funds may not be used for the construction or purchase of facilities, buildings, or purchase of land.

Other Applicable Use of Funds Provisions

- I. All provisions in OMB Circular A-133, 2 CFR 225 (formerly OMB Cir. A-87), and 45 CFR Part 92 **are** applicable to the Tribal TANF program and the expenditure of TANF funds.

- II. Program income generated by the TFAG **must** be used for the purposes of the program and allowable services, activities, and assistance.

(45 CFR 286.45)

Is there a Cap on Administrative Costs for the TANF Grant?

Yes

ACF will negotiate a limitation on administrative costs with each Tribal TANF applicant, based on the applicant's justification for its proposed administrative cost.



The negotiated limit may not exceed 35% in year 1, 30% in year 2, and 25% in year 3 and thereafter.

(45 CFR 286.50)

What will be considered in the negotiation?

ACF will negotiate limitations on administrative costs based on, but not limited to:

- **the tribe's TANF funding level**
- **economic conditions**
- **the resources available to the tribe and relationship of the tribe's administrative cost allocation proposal to the overall purposes of TANF**
- **demonstration of the tribe's administrative capability**

(45 CFR 286.50)

What types of costs are subject to the Administrative Costs Limit?

Activities, personal and related costs that fall within the definition of “administrative cost” in 45 CFR 286.5 are subject to the limit.



Costs Subject to the Administrative Cost Limit (continued)

Indirect Cost based on the rate negotiated by the tribe with the BIA or, where applicable, the Department of Health and Human Service's Division of Cost Allocation and applied to the administrative portion of the grant and is considered part of the total administrative costs.

(45 CFR 286.55)

Costs Not Subject to the Administrative Cost Limit

Direct costs of providing services, i.e., costs of providing diversion benefits and services, providing program information to clients, screening and assessment, development of employability plans, work activities, post-employment services, work supports, etc., and case management are not administrative costs.

Costs Not Subject to the Administrative Cost Limit

Salaries and benefit costs for staff providing program services and direct administrative costs associated with providing services, i.e., supplies, equipment, travel, postage, utilities, rental of office space, and space and maintenance are not administrative costs.

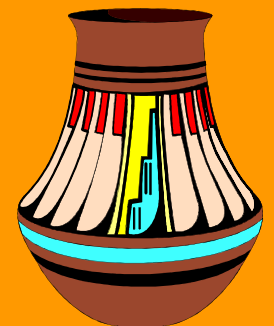
Costs Not Subject to the Administrative Cost Limit



Information technology and computerization for tracking, data entry and monitoring, including personnel and other costs associated with the automation activities needed for TANF monitoring, data entry, and tracking purposes are excluded from the administrative cost cap, even if they otherwise fall within the definition of “administrative costs”.

Must all T FAG funds be obligated by the end of the year in which awarded?

No.... a tribe may reserve amounts awarded to it, without fiscal year limitation, to provide assistance, benefits, and services in accordance with the requirements at 45 CFR 286.35 or 286.40.



Can Tribes make exceptions to established time limits?

Yes....,

Tribes have the option to exempt families for:

- **Hardship, as defined by the tribe, or**
- **If the family includes someone who has been battered or subject to extreme cruelty.**

(45 CFR 286.120)



Stopping the Clock

In determining the number of months an adult has received assistance in a state or tribal program, the state or tribe **shall** disregard any months of assistance received by the adult while living in Indian Country or an Alaska Native Village in which, based on the most reliable data available, at least **50%** of the adults are **not employed**.

(45 USC 608 (a)(7)(D) (Sec. 408(a)(7)(D) of the Act))

Who determines whether the “50% not employed” rule applies?

The state or tribe, whichever entity is providing the TANF services in the designated area, determines whether the “50% not employed” threshold has been met and the disregard is applicable.



Does prior receipt of TANF benefits under a State or Tribal TANF program count?

Yes.... The tribe must count prior months of TANF assistance funded with TANF block grant funds, **except** for any month that was exempt or disregarded by statute or regulation, or under any experimental, pilot, or demonstration project approved under Sec.1115 of the Act.

Retrocession

What happens if a tribe is unable or unwilling to continue administering a TANF program?

It may retrocede the program with the service area and population defined in its TANF plan, as well as the funding for that program to the state.



What is the process for Retrocession?

- If the tribe wishes to terminate its TFAP and retrocede prior to the end of its three-year plan it must notify the Secretary and the state 120 days prior to the effective date.**
- The effective date of termination must coincide with the last day of a calendar month.**

(45 CFR 286.30)

What is the process for Retrocession? (continued)

The provisions of 45 CFR Part 92 will apply with regard to closeout of the grant and all un-obligated funds must be returned to the Federal government.

On retrocession, the State Family Assistance Grant will be increased by the amount of the un-obligated balance reported by the tribe for that fiscal year.

(45 CFR 286.30)

TANF Programs Administered in a P.L.102-477 Project

P.L. 102-477 allows tribes, with ACF concurrence, to consolidate administration of their TANF program in the tribe's 477 project.

- Prior to inclusion of a TANF program in a 477 project the tribe's proposed 477 plan must be submitted to ACF by tribe through the BIA 477 Project Office for review and concurrence.

- Concurrence with a 477 plan does not affect ACF's authority regarding the use of TANF funds, or the interpretation of the regulations or statues related to TANF or the provisions of an approved TANF plan.

TANF Programs Administered in a P.L.102-477 Project (continued)

- With the exception of the monthly financial reporting requirement, ACF has not waived any of the TANF regulations.**
- None of the provisions of P.L. 102-477 or other regulations or guidance promulgated by any other agency, program, or organization supersede the provisions of the Social Security Act related to TANF or the Tribal TANF regulations.**
- The provision of P.L. 93-638 do not apply to the TANF program of expenditure of TANF funds.**

Basic Requirements for Administering a TANF Program



As with other Federally funded program, to receive TANF funds, a tribe must have:

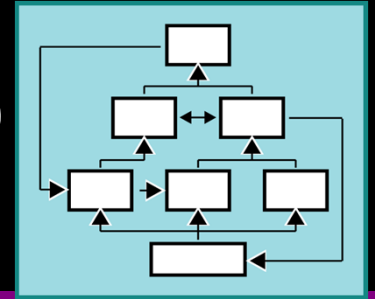
- 1) an internal oversight (administrative) system**
- 2) a financial management and accounting system**
- 3) a personnel system**
- 4) a procurement system**

Basic Requirements (continued)

And to specifically administer a TANF program, it must also have or develop:

- 1) a system for issuing cash assistance benefits**
- 2) a service delivery system**
- 3) a reporting system compatible with the ACF established FTANF data reporting system**

Basic Requirements (continued)



In addition, the tribe must have a TANF plan that:

- **Outlines the approach to providing welfare-related services**
- **Provides general eligibility, and other basic criteria and definitions**
- **Describes the assistance and services to be provided and the means by which they will be offered ---- if the same assistance, services, etc., will not be provided in all parts of the service area or to all the population, variations must be explained**

Basic Requirements (continued)

- **Establishes goals and measures for the program**
- **Provides assurance of public participation**
- **Provides assurance that the tribe has a dispute resolution process for challenges when assistance and/or benefits are denied, suspended, reduced, or terminated**
- **Clearly identifies the service area and population to be served**

Basic Sources of Authority

- **Social Security Act, Title IVA**
- **Tribal TANF Regulations at 45 CFR 286**
- **OFA Tribal TANF Guidance Document**
- **The Approved Tribal TANF Plan**
- **Code of Federal Regulations – 2 CFR 225* and 45 CFR 92**
- **OMB Circulars (A-102 and A-133)**
- **ACF issued PIs, PAs, and IMs**
- **ACF OFA Administrative Opinions/Interpretations/Decisions**



***2 CFR 225 is the codification of the old
OMB Cir. A-87**

Where can I find the Tribal TANF Regulations or get additional information?



The Tribal TANF regulations are found at:

www.acf.hhs.gov/programs/dts

**For additional information, contact the OFA
Regional TANF Program Manager in your
ACF Regional Office or the Division of Tribal
TANF Management/OFA at:**

202-401-5020 -or- 202-401-5150

Ha-wu! --- Thank You!

