DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.558 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

I. PROGRAM OBJECTIVES

The objectives of the State and Tribal TANF programs are to provide time-limited assistance to needy families with children so that the children can be cared for in their own homes or in the homes of relatives; end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; prevent and reduce out-of-wedlock pregnancies, including establishing prevention and reduction goals; and encourage the formation and maintenance of two-parent families. This program replaced the Aid to Families with Dependent Children (AFDC), Job Opportunities and Basic Skills Training (JOBS), and Emergency Assistance (EA) programs.

II. PROGRAM PROCEDURES

Administration and Services

The Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS), administers the TANF program on behalf of the Federal Government. To be eligible for the TANF block grant, a State (including the District of Columbia, the Commonwealth of Puerto Rico, the United States (U.S.) Virgin Islands, Guam, and American Samoa) must periodically submit a State plan containing specified information and assurances.

Following ACF review of the State Plan and determination that it is complete, ACF awards the basic "State Family Assistance Grant" (SFAG) to the State using a formula allocation derived from funding levels under the superseded programs. The SFAG is a fixed amount to the State subject to reductions based on any penalties assessed. In addition, amounts may be adjusted on the basis of separate Federal funding of counterpart Indian Tribal programs within the State. States meeting the qualifying criteria may also receive supplemental grants and payments from the contingency fund. As long as the minimum requirements are met, States have significant flexibility in designing programs and determining eligibility requirements. For example, States may use grant funds to provide cash or non-cash assistance, including direct services, but may not use more than 15 percent of Federal TANF funds for administrative activities. While States have flexibility and discretion, there are provisions to ensure accountability for results, including requirements for data about expenditures and individuals receiving benefits under the program, and monetary penalties for failure to meet programmatic requirements such as work participation.

The Federal TANF block grant program also has an annual cost-sharing requirement, known as maintenance-of-effort (MOE). If a State fails to meet the required minimum all-family or two-parent work participation rate for a Federal fiscal year (FY), then the State must spend at least 80 percent of its fiscal year historic State expenditures to provide benefits and services to eligible clientele. If the State meets both minimum work participation rate requirements, then the required spending level decreases to 75 percent of its FY 1994 historic State expenditures. "Historic State expenditures" means the State's FY 1994 share of expenditures in the former Aid

to Families with Dependent Children (AFDC), AFDC-EA (Emergency Assistance), AFDC-Related Child Care, Transitional Child Care, At-Risk Child Care and Job Opportunities and Basic Skills (JOBS) programs. States may not use more than 15 percent of the total amount of countable expenditures for the fiscal year for administrative activities.

Tribes

Tribal Family Assistance Plans (TFAP) are developed for a three-year period and submitted to ACF for review and approval. The Tribal Family Assistance Grant (TFAG) is derived from an amount equal to the Federal share of expenditures, other than child care costs, by the State or States under the former AFDC, EA, and JOBS programs for FY 1994 for all American Indian families residing in the service area identified in the Tribal TANF plan. The TFAG is a fixed amount, subject to reductions based on any penalties assessed. As long as the minimum requirements are met, Indian tribes (Tribes) have significant flexibility in designing programs and determining eligibility requirements and may use grant funds to provide cash or non-cash assistance, including direct services, and for administrative activities.

Tribal TANF grantees may operate the program under a consolidated Pub. L. No. 102-477 demonstration project. Pub. L. No. 102-477 refers to the Indian Employment, Training and Related Services Demonstration Act of 1992, the purpose of which is to provide for the integration of employment, training and related services to improve the effectiveness of those services. Tribes operating a consolidated Pub. L. No. 102-477 project must still submit a TFAP to the Secretary of HHS for review and approval prior to consolidation of the Tribal TANF program into a Pub. L. No. 102-477 plan. Tribal TANF data collection and performance reporting requirements identified or referenced elsewhere in this program supplement apply and all applicable statutory and regulatory requirements remain in effect for the duration of the grant. Therefore, Tribes that integrate their Tribal TANF program into the Pub. L. No. 102-477 project are subject to all TANF statutory, administrative, and programmatic requirements with the exception of the Tribal TANF financial reporting requirements. These Tribes may submit TANF financial reports annually as an attachment to their Pub. L. No. 102-477 financial report, the Tribal TANF Financial Addendum Report (12g).

Other Considerations

Funding Methods - States

States have different funding options to expend Federal grant funds and State maintenance-of-effort (MOE) funds. This includes the following:

1. *Federal Only* - Under this option, Federal grant funds are segregated from MOE funds that are expended in the TANF program operated by the State.

2. *Commingled Federal/State* - Under this option, States commingle their MOE funds with Federal grant funds expended in the TANF program operated by the State. A commingled funding structure means that all expenditures are subject to all Federal funding restrictions, TANF requirements, and MOE limitations.

3. *Segregated State* - Under this option, MOE funds are segregated from the Federal grant funds and expended in the TANF program operated by the State.

4. *Separate State Program* - Under this option, States spend their MOE funds in separate State programs, operated outside of the TANF program operated by the State.

Federal grant funds and MOE funds must both be used for "expenditures." A definition of the term "expenditure" is found in 45 CFR section 260.30. In addition, section 260.33 explains the circumstances under which certain State tax relief provisions would count as expenditures.

Funding Methods - Tribes

Tribes have different funding options under which to expend Federal grant funds and, where applicable, State MOE funds as follows.

1. *Federal Only* - Under this option, Federal grant funds are segregated from any State-donated MOE funds or tribal funds that are expended in the TANF program operated by the Tribe.

2. *Commingled Federal/State-donated MOE* - Under this option, Tribes commingle their State-donated MOE funds with Federal grant funds expended in the TANF program operated by the Tribe. A commingled funding structure means that all expenditures are subject to all Federal funding restrictions and MOE limitations.

3. *Segregated Tribal* - Under this option, MOE funds are segregated from the Federal grant funds and expended separately in the TANF program operated by the Tribe. See IV, "Other Information," for guidance on State MOE expended by Tribes.

Source of Governing Requirements

This program is authorized under Title IV-A of the Social Security Act, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. No. 104-193), and subsequent amendments thereto, and codified at 42 USC 601-619. PRWORA was signed into law on August 22, 1996, and required State implementation no later than July 1, 1997.

On April 12, 1999, ACF published final regulations for the TANF program. These final rules took effect October 1, 1999 (April 12, 1999, *Federal Register* (64 FR 17720 *et seq.*)). ACF also published technical and correcting amendments to the final rule on July 26, 1999, which were also effective on October 1, 1999 (July 26, 1999, *Federal Register* (64 FR 40290 *et seq.*)). Thus, the obligations and expenditures of Federal TANF funds on or after October 1, 1999, and any State actions occurring on or after October 1, 1999, are subject to the provisions in the final rules, as amended. See 45 CFR Parts 260 – 265 for the TANF regulations applicable to States. The Deficit Reduction Act (DRA) of 2005 (Pub. L. No. 109-171), enacted February 8, 2006, included provisions to reauthorize the TANF program. On June 29, 2006, ACF published interim final regulations implementing the changes to the TANF program required by the DRA (June 29, 2006, *Federal Register* (71 FR 37454 *et seq.*), which is available at http://www.acf.hhs.gov/programs/ofa/tanfregs/tfinrule.pdf). On February 5, 2008, ACF

published the final regulations implementing the changes to the TANF program required by the DRA of 2005 (February 5, 2008, *Federal Register* (73 FR 6772 *et seq.*), which is available at http://www.acf.hhs.gov/programs/ofa/. The final rule is effective October 1, 2008.

PRWORA also authorized any federally recognized Tribe in the lower 48 states, 13 specified Alaskan Native entities, and consortia of eligible Tribes to apply for funding under section 412 of the Act to administer a Tribal TANF program beginning July 1, 1997. The Foster Care Independence Act of 1999 (Pub. L. No. 106-169, December 14, 1999) also included technical amendments to the Act, which affected program regulations. Implementing regulations for Tribal TANF are in 45 CFR part 286 and were published in the *Federal Register* on February 18, 2000 (65 FR 8477 *et seq.*).

State and *all* Tribal TANF programs (i.e., including Tribal TANF programs in Pub. L. No. 102-477 projects) are subject to the provisions in 45 CFR part 92, the HHS implementation of the A-102 common rule, and OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments [2 CFR part 225]).

Availability of Other Program Information

TANF-ACF-PI-2007-08, dated November 28, 2007 on *Using Federal TANF and State Maintenance-of-Effort (MOE) Funds for Families in Areas Covered by a Federal or State Disaster Declaration* presents items to consider with respect to the current TANF program when addressing the needs of families affected by a Federal or State-declared disaster. TANF-ACF-PI-2007-08 is available at http://www.acf.hhs.gov/programs/ofa/policy/tanf-pi.htm.

Other general program information regarding the State and Tribal TANF programs is available from the Office of Family Assistance (OFA) web site at http://www.acf.hhs.gov/programs/ofa/ . Questions related to the TANF program may be directed to Robert Shelbourne at 202-401-5150 (direct) or by e-mail at robert.shelbourne@acf.dhhs.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

This program makes references to States, however, in some cases, subrecipients of States (e.g., local governments) may be responsible for compliance requirements that are referred to in this Supplement as "State." The auditor should adjust accordingly for the entity being audited.

A. Activities Allowed or Unallowed

1. *Federal Only*

   a. Funds may be used for expenditures for activities that are not permissible under 42 USC 601, but for which the State was authorized to use IV-A or IV-F funds under prior law. The previously authorized activities must have been included in a State's approved State AFDC plan, JOBS plan, or Supportive Services Plan, as in effect on September 30, 1995, or at the State's option, on August 21, 1996. Examples of such activities are authorized juvenile justice and foster care activities (42 USC 604(a)(2); 45 CFR section 263.11(a)(2)).

   b. A State may transfer up to 30 percent of the combined total of current fiscal year funds (not prior fiscal year funds carried into the current fiscal year) received under the State family assistance grant, and supplemental grant for population increases for a given fiscal year to carry out programs under the Social Services Block Grant (Title XX) (CFDA 93.667) and/or the Child Care and Development Block Grant (CFDA 93.575). However, no more than 10 percent may be transferred to Title XX, and such amounts may be used only for programs or services to children or their families whose income is less than 200 percent of the poverty level. Neither contingency funds under 42 USC 603(b) nor emergency funds under 42 USC 603(c) (Pub. L. No. 111-5) can be transferred under this authority (Pub. L. No. 109-171, Sec. 7101(a); Pub. L. No. 110-161 (Consolidated Appropriations Act, 2008 (Social Services Block Grant); 42 USC 604(d); 45 CFR section 263.11(b); and 45 CFR section 264.72(e)). The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a web site that provides the poverty guidelines (http://aspe.hhs.gov/poverty/index.shtml).

2. *Federal Only and Commingled Federal/State* - Funds may not be used to provide medical services other than pre-pregnancy family planning services (42 USC 608(a)(6)).

3. *Federal Only, Commingled Federal/State, Segregated State, Separate State Program*

   a. Funds may be used in any manner reasonably calculated to accomplish the purposes of the program, including providing low-income households with assistance in meeting home heating and cooling costs (42 USC 604(a)(1) and 45 CFR section 263.11(a)(1)). As specified in 42 USC 601 and 45 CFR section 260.20, the TANF program has the following purposes:

      (1) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

(2) End dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

(3) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

(4) Encourage the formation and maintenance of two-parent families.

b. A State may use funds for programs to prevent and reduce the number of out-of-wedlock pregnancies, including programs targeted to law enforcement officials, the educational system and counseling services, that provide education and training of women and men on the problem of statutory rape (42 USC 602(a)(1)(A)(v) and (vi)).

c. Funds may be used to make payments or provide job placement vouchers to State-approved public and private job placement agencies providing employment placement services to individuals receiving assistance under TANF (42 USC 604(f)).

d. Funds may be used to implement an electronic benefits transfer system (42 USC 604(g)).

e. Funds may be used to carry out a program to fund individual development accounts (42 USC 604(h)(2); 45 CFR sections 263.20 through 263.23) established by individuals eligible to receive assistance under TANF (42 USC 604(h); 45 CFR part 263, subpart C).

f. A State may contract with charitable, religious and private organizations to provide administrative and programmatic services and may provide beneficiaries of assistance with certificates, vouchers, or other forms of disbursement which are redeemable with such organization (42 USC 604a(b),42 USC 604a(k), and 45 CFR section 260.34). However, funds provided directly to participating organizations may not be used for inherently religious activities, such as worship, religious instruction, or proselytization (42 USC 604a(j); 45 CFR section 260.34(c)).

4. *Tribes: Federal Only*

a. Funds may be used for expenditures for activities that are not permissible under 42 USC 601, but for which the State or Tribe was authorized to use IV-A or IV-F funds under prior law. The previously authorized activities must have been included in a State's approved State AFDC plan, JOBS plan, or Supportive Services Plan, as in effect on September 30, 1995, or at the State's option, on August 21, 1996. Examples of such activities are authorized juvenile justice and foster care activities (42 USC 604(a)(2); 45 CFR section 263.11(a)(2)). Use of such funds in the Tribal TANF program is allowed if the geographic area of the Tribal TANF program is

within the State(s) having had an approved AFDC State plan(s) under Title IV-A that included these activities. If the Tribe plans to exercise this option, these activities must be included in the approved Tribal TFAP.

b. Tribes may not transfer any Federal TANF funds to the Social Services Block Grant (Title XX) (CFDA 93.667) or the Child Care and Development Block Grant (CFDA 93.575). Funds may not be used to contribute to or subsidize non-TANF programs (42 USC 604(d); 45 CFR section 286.45 (b)). .

5. *Tribes: Federal Only, Commingled Federal/State-donated MOE, Segregated Tribal*

a. Funds may be used in any manner reasonably calculated to achieve the purposes of the Tribal TANF program, including providing low-income households with assistance in meeting home heating and cooling costs (42 USC 604(a)(1) and 45 CFR section 286.35(a)(1)). As specified in 42 USC 601 and 45 CFR section 286.35, the Tribal TANF program has the following purposes:

(1) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

(2) End dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

(3) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

(4) Encourage the formation and maintenance of two-parent families.

b. A Tribe may use funds for programs to prevent and reduce the number of out-of-wedlock pregnancies, including programs targeted to law enforcement officials, the educational system and counseling services, that provide education and training of women and men on the problem of statutory rape (42 USC 602(a)(1)(A)(v) and (vi)).

c. Funds may be used to make payments or provide job placement vouchers to Tribe-approved public and private job placement agencies providing employment placement services to individuals receiving assistance under TANF (42 USC 604(f)).

d. Funds may be used to implement an electronic benefits transfer system (42 USC 604(g)).

e. Funds may be used to carry out a program to fund individual development accounts (42 USC 604(h)(2)) established by individuals eligible to receive assistance under Tribal TANF (42 USC 604(h); 45 CFR section 286.40).

f. A Tribe may contract with charitable, religious and private organizations to provide administrative and programmatic services and may provide beneficiaries of assistance with certificates, vouchers, or other forms of disbursement which are redeemable with such organization (42 USC 604a(b) and 42 USC 604a(k)). However, Tribes that operate their own TANF program under section 412 of the Social Security Act are not required to follow the Charitable Choice rules because the statutory provisions on Charitable Choice apply only to State and local governments (42 USC 604a(j); September 30, 2003, *Federal Register*, (68 FR 56450 and 56463)).

g. Tribal TANF grantees that expend Federal funds on economic development activities must adhere to the instructions contained in the TANF Program Instruction, TANF-ACF-PI-2005-02, dated April 19, 2005, pertaining to economic development expenditures. This program instruction is available at http://www.acf.hhs.gov/programs/ofa/policy/tanf-pi.htm (45 CFR section 286.35(a)(1)). Tribal TANF grantees operating under a consolidated Pub. L. No. 102-477 demonstration project must receive prior approval from ACF before Tribal TANF funds are encumbered or expended on economic development activities (45 CFR section 286.160(f)).

h. Unlike States, Tribes are not prohibited from expending funds for medical expenses, if the expenditure is in the context of removing barriers to employment, training, or job-related education. However, funds cannot be used for general medical expenses for families. The expenditure of TANF funds is not intended to subsidize, contribute to, or supplant other available medical services or funding – i.e. Indian Health Service, Public Health Service, tribal health services, state, county, and local health services, or other services covered by Medicaid, Medicare, or private health insurance (42 USC 608(a)(6), 45 CFR section 286.45(b)).

C. Cash Management

Tribal TANF grantees are not eligible for any cash management provisions applicable to Pub. L. No. 93-638 Indian Self-Determination contracts or Self-Governance compacts, including the interest exemption.

E. Eligibility

1. Eligibility for Individuals

The State or Tribal Plan provides the specifics on how eligibility is determined in each State or tribal service area. Whenever used in this section, "assistance," has the meaning in 45 CFR section 260.31(a) of the TANF regulations for States and 45 CFR section 286.10 of the Tribal TANF regulations for federally recognized Tribes operating an approved Tribal TANF program. Plan and eligibility requirements must comply with the following Federal requirements:

a. *Federal Only, Commingled Federal/State, Segregated State, and Separate State Program*

(1) Only a financially needy family that consists of, at a minimum, a minor child living with a parent or other caretaker relative, or a pregnant woman may receive TANF "assistance" or most maintenance-of-effort (MOE)-funded benefits, services, or "assistance" regardless of the TANF purpose that the expenditure is reasonably calculated to accomplish (see III.A.3.a, "Activities Allowed or Unallowed – Federal Only, Commingled Federal/State, Segregated State, Separate State Program"). The child must be less than 18 years old, or, if a full-time student in a secondary school (or the equivalent level of vocational or technical training), less than 19 years old. (With respect to segregated or separate State MOE funds, the State could use the definition for minor child given in section 419(2) of the Act or some other definition applicable in State law provided the State can articulate a rationale basis for the age it chooses.) Financially "needy" means financially eligible according to the State's quantified income and resource (if applicable) criteria to receive the benefit (42 USC 602, 602(a)(1)(B)(iii), 42 USC 609(a)(7)(B)(IV), 608(a)(1), 619(2) and 45 CFR section 263.2(b)(2)). See III.G.2.1, "Matching, Level of Effort, Earmarking – Level of Effort" – Maintenance-of-Effort," for the limited MOE pro-family exception to this requirement.

Note: A State may continue to provide federally funded (*Federal Only*) TANF "assistance" pursuant to 42 USC 604(a)(2) using the financial eligibility criteria contained in the State's approved AFDC, EA, JOBS, or Supportive Services plan as of September 30, 1995 (or at State option, as of August 21, 1996). A State may also continue this assistance notwithstanding the family composition requirement described above. (See III A.1.a, "Activities Allowed or Unallowed.")

Only the financially "needy" are eligible for services, benefits, or "assistance" pursuant to TANF purpose 1 or 2 (see III.A.3.a, "Activities Allowed or Unallowed – Federal Only, Commingled Federal/State, Segregated State, Separate State Program") (42 USC 601(a)(1) and (2); 45 CFR sections 260.20(a) and (b)). Financially "needy" for TANF and MOE purposes means financial deprivation, i.e., lacking adequate income and resources. For example, a needy family or a needy parent is one who is financially eligible according to the State's quantified financial eligibility criteria (income and resource (if applicable) standards, April 12, 1999, *Federal Register* (64 FR 17825), 45 CFR section 263.2(b)(3)).

States may choose to use Federal only TANF funds to provide benefits that do not constitute "assistance" to the non-needy pursuant to TANF purpose 3 or 4 only (see III.A.3.a, "Activities Allowed or Unallowed – Federal Only, Commingled Federal/State, Segregated State, Separate State Program") (42 USC 601(a)(3) and (4); 45 CFR sections 260.20(c) and (d)). States may also choose to use MOE funds to provide certain pro-family non-assistance benefits to the non-needy under TANF purpose 3 or 4 (See III.G.2.1, "Matching, Level of Effort, Earmarking – Level of Effort" - Maintenance of Effort," for the limited MOE pro-family exception to this requirement).

(2) Qualified aliens, as defined in 8 USC 1641(b), are the only non-citizens who may receive a TANF public benefit, as defined in 8 USC 1611(c)), using Federal TANF or commingled funds. Qualified aliens are lawful permanent residents, asylees, refugees, aliens paroled into the U.S. for at least one year, aliens whose deportations are being withheld, aliens granted conditional entry, Cuban/Haitian entrants, and certain battered aliens. Victims of severe forms of trafficking and certain family members are also eligible for federally funded or administered public benefits and services to the same extent as refugees.

Qualified aliens, nonimmigrants under the Immigration and Nationality Act, and individuals paroled into the U.S. for less than a year are the only noncitizen groups that are eligible for a non-commingled State or local MOE-funded public benefit, as defined in 8 USC 1621(c). Aliens that are not lawfully present in the U.S. may also be eligible for a State or local MOE-funded public benefit if the State has enacted a law after August 22, 1996 affirmatively providing for such eligibility. (8 USC 1621(d)) All expenditures must meet all MOE requirements at 45 CFR part 263, Subpart A. See III.G.2.1, "Matching, Level of Effort, Earmarking – Level of Effort" - Maintenance of Effort."

States have the authority to decide whether or not to provide a Federal TANF public benefit or a MOE-funded public benefit to otherwise qualified aliens (including nonimmigrants and individuals paroled in the U.S. for less than a year in the case of a noncommingled State or local MOE-funded public benefit) (8 USC 1612(b)(1) and 8 USC 1622(a)). If a State has decided not to help eligible aliens, then the State may not deny eligibility to refugees, asylees, aliens whose deportation has been withheld, Amerasians, and Cuban/Haitian entrants for a period of 5 years after the date of entry into the U.S. or the date asylum or withholding of deportation was granted. Also, such States may never deny eligibility to legal permanent residents who have worked 40 qualifying quarters after December 31, 1996 and have not received any Federal means-tested public benefit during such period (once the 5-year bar has expired for a qualified alien entering the U.S. on or after August 22, 1996 as described in the next paragraph), or to aliens who are veterans, members of the military on active duty, and their spouses and unmarried dependents (8 USC 1612(b)(2)(A)(ii) 8 USC 1621(2)(B) and (C), 8 USC 1622(b)(1)-(3)) In other words, Congress did not give States the authority to deny eligibility to all eligible aliens. If the State elects to help all otherwise eligible aliens (as described in the preceding two paragraphs), then this paragraph does not apply.

Unless exempt under 8 USC 1613(b), qualified aliens, as defined in 8 USC 1641(b), entering the U.S. on or after August 22, 1996, are not eligible for a Federal means-test public benefit (e.g., federally funded TANF assistance), as defined in 8 USC 1611(c), for a period of 5 years. (8 USC 1613(a)). The 5-year bar begins either on the date of the alien's entry into the U.S. as a qualified alien or on the date the alien residing in the U.S. becomes a qualified alien, whichever is later. If the alien entered the U.S. on or after August 22, 1996, but does not have an immigration status that qualifies (as defined in 8 USC 1641(b)), the individual is not eligible for a Federal public benefit (as defined in 8 USC 1611(c)). The following qualified aliens are exempt from the 5-year bar: refugees, asylees, aliens whose deportation is being withheld, Amerasians, Cuban/Haitian entrants, as well as veterans, members of the military on active duty, and their spouses and unmarried dependent children (8 USC 1613(b)).

If a noncash Federal or State and local public benefit meets the specifications in the Attorney General's Final Order (Order No. 2353-2001 published January 16, 2001 at 66 FR 3613), then the State may provide the benefit regardless of immigration status (8 USC 1611 (b)(1)(D) and 8 USC 1621(b)(4)))

b. *Federal Only and Commingled Federal/State*

(1) Any family that includes an adult or minor child head of household or a spouse of the head of household who has received assistance under any State program funded by Federal TANF funds for 60 months (whether or not consecutive) is ineligible for additional federally funded TANF assistance. However, the State may extend assistance to a family on the basis of hardship, as defined by the State, or if a family member has been battered or subjected to extreme cruelty. In determining the number of months for which the head of household or the spouse of the head of household has received assistance, the State must not count any month during which the adult received the assistance while living in Indian country or in an Alaskan Native Village and the most reliable data available with respect to that month (or a period including that month) indicate at least 50 percent of the adults living in Indian country or in the village were not employed (42 USC 608(a)(7); 45 CFR sections 264.1(a), (b), and (c)).

(See III.G.3, "Matching, Earmarking, Level of Effort - Earmarking," for testing the limits related to the number of exemptions.)

(2) A State may not provide assistance to an individual who is under age 18, is unmarried, has a minor child at least 12 weeks old, and has not successfully completed high school or its equivalent unless the individual either participates in education activities directed toward attainment of a high school diploma or its equivalent, or participates in an alternative education or training program approved by the State (42 USC 608(a)(4); 45 CFR section 263.11(b)).

(3) A State may not provide assistance to an unmarried individual under 18 caring for a child, if the minor parent and child are not residing with a parent, legal guardian, or other adult relative, unless one of the statutory exceptions applies (42 USC 608(a)(5)).

(4) A State may not provide assistance for a minor child who has been or is expected to be absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 180 consecutive days unless the State grants a good cause exception, as provided in its State Plan (42 USC 608(a)(10)).

(5) A State may not provide assistance for an individual who is a parent (or other caretaker relative) of a minor child who fails to notify the State agency of the absence of the minor child from the home, as in paragraph e. immediately above, within five days of the date that it becomes clear to that individual that the child will be absent for the specified period of time (42 USC 608(a)(10)(C)).

(6) A State may not use funds to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to place of residence in order to simultaneously receive assistance from two or more States under TANF, Title XIX, or the Food Stamp Act of 1977, or benefits in two or more States under the Supplemental Security Income program under Title XVI of the Social Security Act. If the President of the United States grants a pardon with respect to the conduct that was the subject of the conviction, this prohibition will not apply for any month beginning after the date of the pardon (42 USC 608(a)(8)).

(7) A State may not provide assistance to any individual who is fleeing to avoid prosecution, or custody or confinement after conviction, for a felony or attempt to commit a felony (or in the State of New Jersey, a high misdemeanor), or who is violating a condition of probation or parole imposed under Federal or State law (42 USC 608(a)(9)(A)).

c. *Federal Only, Commingled Federal/State, Segregated State*

(1) A State shall require, as a condition of providing assistance, that a member of the family assign to the State the rights the family member may have for support from any other person. This assignment does not exceed the amount of assistance provided (42 USC 608(a)(3)).

(2) An individual convicted under Federal or State law of any offense which is classified as a felony and which involves the possession, use, or distribution of a controlled substance (as defined the Controlled Substances Act (21 USC 802(6)) is ineligible for assistance if the conviction was based on conduct occurring after August 22, 1996. A State shall require each individual applying for TANF assistance to state in writing whether the individual or any member of their household has been convicted of such a felony involving a controlled substance. However, a State may by law enacted after August 22, 1996, exempt any or all individuals from this prohibition or limit the time period that this prohibition applies to any or all individuals (21 USC 862a).

(3) If an individual in a family receiving assistance refuses to engage in required work, a State must reduce assistance to the family, at least pro rata, with respect to any period during the month in which the individual so refuses, or may terminate assistance. Any reduction or termination is subject to good cause or other exceptions as the State may establish (42 USC 607(e)(1); 45 CFR sections 261.13 and 261.14(a) and (b)). However, a State may not reduce or terminate assistance based on a refusal to work if the individual is a single custodial parent caring for a child who is less than 6 years of age if the individual can demonstrate the inability (as determined by the State) to obtain child care for one or more of the following reasons: (a) the unavailability of appropriate care within a reasonable distance of the individual's work or home; (b) unavailability or unsuitability of informal child care; or (c) unavailability of appropriate and affordable formal child care (42 USC 607(e)(2); 45 CFR sections 261.15(a), 261.56, and 261.57).

d. *Tribes: Federal Only, Commingled Federal/State-Donated MOE*

Eligibility for Tribal TANF is defined in the approved TFAP. See IV, "Other Information," for guidance on State MOE expended by Tribes.

The approved TFAP includes the Tribe's proposal for time limits for the receipt of TANF assistance (45 CFR section 286.115), as well as the percentage of the caseload to be exempted from the time limit. These proposed time limits must be approved by ACF (45 CFR section 286.115).

2. **Eligibility for Group of Individuals or Area of Service Delivery** - Not Applicable

3. **Eligibility for Subrecipients** - Not Applicable

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable

2.1 **Level of Effort** - *Maintenance of Effort*

See IV, "Other Information," for guidance on State MOE expended by Tribes.

The following MOE provisions apply to any State funds that are counted towards the maintenance of effort requirements for TANF, whether such State funds are expended under the *Commingled Federal/State, Segregated State, or Separate State Program* funding options.

a. *State Basic MOE* - Every fiscal year, a State must maintain an amount of "qualified State expenditures" (as defined in 42 USC 609(a)(7)(B) and 45 CFR section 263.2) for eligible families (as defined in 42 USC 609(a)(7)(B)(i)(IV) and 45 CFR section 263.2(b)) at least at the applicable percentage of the State's historic State expenditures. Therefore, all amounts claimed for or on behalf of eligible families, including amounts that result from State tax provisions, must be the result of expenditure (42 USC 609(a)(7)(A) and (B)(i)(I); 45 CFR sections 260.30 ("expenditure") and 260.33; 45 CFR section 92.3, and 45 CFR section 92.24). States may claim qualified expenditures for eligible family members who are citizens or aliens. However, the particular aliens for whom a State may claim qualified expenditures will depend on the State funds used to provide the benefit or service (See III.E.1.a.(2), "Eligibility for Individuals, *Federal only, Commingled Federal/State, Segregated State, or Separate State Program*") and whether the benefit or service is a Federal, State, or local public benefit (8 USC 1611, 1612(b), 1613, 1621-1622, and 1641(b)).

Effective October 1, 2005, for their FY 2006 awards and ending with their FY 2008 awards, States may also claim expenditures on pro-family activities if the expenditure is reasonably calculated to prevent and reduce the incidence of out-of-wedlock births (TANF purpose 3—see III.A.3.a, "Activities Allowed or Unallowed – Federal Only, Commingled Federal/State, Segregated State, Separate State Program"), or encourage the formation and maintenance of two parent families (TANF purpose 4—see III.A.3.a , "Activities Allowed or Unallowed – Federal Only, Commingled Federal/State, Segregated State, Separate State Program"). This new provision allows States to claim for MOE purposes all qualified pro-family expenditures for *non-assistance* benefits and services provided to or on behalf an individual or family, regardless of financial need or family composition, as long as the activity is reasonably calculated to accomplish TANF purpose 3 or TANF purpose 4. Non-assistance benefits and services refers to activities that do not constitute "assistance," as defined in 45 CFR section 260.31(a) (45 CFR section 263.2(a)(4)(ii) and 45 CFR section 263.2(b)).

Effective October 1, 2008 (i.e., FY 2009 awards), States may only claim *certain* pro-family non-assistance expenditures that are reasonably calculated to accomplish TANF purpose 3 or TANF purpose 4. These pro-family expenditures consist of the allowable healthy marriage promotion and responsible fatherhood non-assistance activities enumerated in Title IV-A of the Social Security Act, sections 403(a)(2)(A)(iii) and 403(a)(2)(C)(ii), unless a limitation, restriction or prohibition under45 CFR part 263, Subpart A applies (45 CFR section 263.2(a)(4)(ii); TANF-ACF-PI-2008-10, dated October 23, 2008, available at http://www.acf.hhs.gov/programs/ofa/policy/tanf-pi.htm). States may claim for MOE purposes the qualified pro-family healthy

marriage and responsible fatherhood expenditures for *non-assistance* benefits and services provided to or on behalf an individual or family, regardless of financial need or family composition. States must limit the provision of all other qualified MOE-funded assistance and non-assistance benefits to eligible families as defined at 45 CFR section 263.2(b), regardless of the TANF purpose that the expenditure is reasonably calculated to accomplish.

The applicable percentage for each fiscal year is 80 percent of the amount of non-Federal funds the State spent in FY 1994 on AFDC or 75 percent if the State meets the Act's work participation rate requirements (42 USC 607(a)) for the fiscal year. This is termed "basic MOE" and the requirement is based on the Federal fiscal year. Qualified expenditures with respect to eligible families may come from all programs, i.e., the State's TANF program as well as programs separate from the State's TANF program. This requirement may be met through allowable State or local cash expenditures for goods and services, expenditures for allowable costs incurred by other non-Federal third parties (e.g., a non-profit organization, corporation, or other private party), cash donations by non-Federal third parties or the value of third party in-kind contributions (42 USC 609(a)(7)(A) and 609(a)(7)(B)(i)(I); 45 CFR sections 263.1 and 263.2(e)).

Section 409(a)(7)(B)(iv)(IV) of the Social Security Act allows States to count expenditures made as a condition of receiving Federal funds under Title IV, part A of the Social Security Act toward their MOE requirement. The DRA of 2005 (Pub. L. No. 109-171), enacted February 8, 2006, added the Healthy Marriage Promotion and Responsible Fatherhood Grants and placed these provisions under Title IV, part A of the Social Security Act. If grantees are required to contribute a matching share of the total approved costs of Health Marriage Promotion and Responsible Fatherhood projects (discretionary grants awarded for 5-year project period beginning in FFY 2007 under CFDA 93.086) under subsections 403(a)(2)(A)(iii) and 403(a)(2)(C)(ii) of the Social Security Act, then State expenditures made to meet any required non-Federal share may count toward the State's MOE requirement, provided the expenditure also meets all applicable MOE requirements, restrictions, and limitations (45 CFR section 263.2(g)).

If a State does not meet the basic MOE requirement, a penalty results. The penalty consists of a reduction of the State's Federal TANF grant for the following fiscal year in the amount of the difference between the State's qualified expenditures and the State's basic MOE (42 USC 609(a)(7)(A) and 45 CFR section 263.8). If application of a penalty results in a reduction of Federal TANF funding, a State is required in the immediately succeeding fiscal year to spend from State funds an amount equal to the total amount of the reduction, in addition to the otherwise

required basic MOE. The additional funds must be spent in the TANF program, not under "separate State programs." Such expenditures may not be claimed toward the basic MOE (42 USC 609(a)(12); 45 CFR sections 263.6(f) and 264.50).

b. *Limitations on "Qualified State Expenditures"* - Expenditures under pre-existing programs, other than those that would have been previously authorized and allowable under the former AFDC, JOBS, Emergency Assistance, Child Care for AFDC recipients, At-Risk Child Care, or Transitional Child Programs may not count toward the State's MOE requirement for the current year except to the extent that the current year's expenditures with respect to eligible families exceed the expenditures made under the State or local program in FY 1995.

Exception: If the expenditures are for non-assistance pro-family activities as addressed in paragraph a. immediately above for FYs prior to October 1, 2008 and FYs beginning on or after October 1, 2008, then current year expenditures are not limited to those made with respect to eligible families. If total current fiscal year expenditures for allowable pro-family activities within TANF purpose three or TANF purpose 4 exceed total State expenditures in the program during FY 1995, then the State may claim the excess toward the State's MOE requirement. Thus, to be considered as "exceeding" the FY 1995 level, the expenditures must be new or additional expenditures. (42 USC 609(a)(7)(B)(i)(II)(aa) and 45 CFR section 263.5).

In addition, expenditures by the State from amounts that originated from Federal funds may not count toward meeting a MOE requirement even if the expenditures "qualify" (42 USC 609(a)(7)(B)(iv)(I)).

Except for child-care expenditures, double counting of expenditures to meet the basic MOE requirement is prohibited (42 USC 609(a)(7)(B)(iv)(II-IV); 45 CFR section 263.6). States may count State funds expended to meet the requirements of the Child Care Development Fund Matching Fund (CFDA 93.596) as basic MOE expenditures as long as such expenditures meet the requirements of 42 USC 609(a)(7). The maximum amount of child-care expenditures that a State may double-count under this provision is the State's Matching Fund MOE amount under CFDA 93.596 (42 USC 609(a)(7)(B)(iv); 45 CFR sections 263.3 and 263.6).

Expenditures for educational services/activities for eligible families to increase self-sufficiency, job training, and work count if the activities or services are not generally available to other State residents without cost and without regard to their income (42 USC 609(a)(7)(B)(i)(I)(cc); 45 CFR section 263.4, TANF-ACF-PI-2005-01, dated April 14, 2005 at http://www.acf.hhs.gov/programs/ofa/policy/tanf-pi.htm).

Administrative costs in connection with the activities that correspond to the qualified expenditures may not exceed 15 percent of the total amount of countable expenditures for the fiscal year (42 USC 609(a)(7)(B)(i)(I)(dd); 45 CFR section 263.2(a)(5)).

The basic MOE requirement expressly does not count expenditures for services or activities that only fall under 42 USC 604 (a)(2) (see III.A.1.a, "Activities Allowed or Unallowed"). Such expenditures are not considered "qualified expenditures" (42 USC 609(a)(7)(B)(i)(I); 45 CFR section 263.2(a)(4)).

c. *Contingency Fund MOE* - A State must spend more than 100 percent of its historic State expenditures for FY 1994 to keep any of the Federal contingency funds it received (42 USC 603(b), and 45 CFR sections 264.72(a)(2) and 264.70 through 77). This is termed "Contingency Fund MOE." The Contingency Fund MOE requirement may be met only through qualified expenditures under the State's TANF program. Qualified expenditures consist of those defined and provided under 42 USC 609(a)(7)(B)(i) and 45 CFR sections 263.2 (a)(1),(a)(3) through (a)(5), and 263.2(b), but excludes those expenditures described in 42 USC 609(a)(7)(B)(i)(I)(bb) and 45 CFR section 263.2(a)(2) (42 USC 603(b)(6)(B)(ii)(I) and 609(a)(10)).

d. *1108(b) Territorial Matching Fund MOE Requirement* - See IV, "Other Information," for guidance on the spending requirements applicable to the receipt of Matching Grant funds under section 1108(b) of the Social Security Act (section 1108(b)) (42 USC 1308(b)).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

a. *Federal Only and Commingled Federal/State*

A State may not spend more than 15 percent for administrative purposes, excluding expenditures for information technology and computerization needed for required tracking and monitoring, of the total combined amounts available under the State family assistance grant, supplemental grant for population increases, contingency funds, and emergency funds (42 USC 604(b)(1) and (2); 45 CFR sections 263.0 and 263.13).

b. *Federal Only and Commingled Federal/State*

The average monthly number of families that include an adult or minor child head of household, or the spouse of the head of household, who has received assistance under any State program funded by Federal TANF funds for more than 60 countable months (whether or not consecutive) may not exceed 20 percent of the average monthly number of all families

to which the State provided assistance during the fiscal year or the immediately preceding fiscal year (but not both), as the State may elect. To make this determination for a fiscal year, the average monthly number of families with a head of household or spouse of a head of household who received assistance for more than 60 months would be divided by the average monthly number of families that received assistance in that fiscal year, or, if the State chooses, in the previous fiscal year (42 USC 608(a)(7)(C)(ii); 45 CFR sections 264.1(c) and (e)).

(See III.E.1, "Eligibility - Eligibility for Individuals" for related eligibility testing.)

c. *Tribes: Federal Only and Commingled Federal/State-donated MOE*

The approved TFAP includes a negotiated administrative cost rate for that Tribe for that particular year. As approved in the TFAP, no Tribal TANF grantee may expend more than 35 percent of the total combined Federal TANF funds—i.e., TFAG plus any emergency funds received by the Tribe for FY 2009 and FY 2010—for administrative costs during the first year, 30 percent during the second year, and 25 percent for the third and all subsequent grant periods. The approved tribal administrative cost rate may be found in a letter of approval issued by the ACF/Division of Tribal Services and/or in the approved TANF plan. The Tribal administrative cost cap is determined by multiplying the TFAG by the negotiated administrative rate for the fiscal year being tested (45 CFR section 286.50).

In calculating Tribal TANF administrative costs under the Pub. L. No. 102-477 demonstration project, the definitions at 45 CFR section 286.5 will be used in determining what constitutes an administrative cost, and the regulatory limitations on administrative costs, i.e. the administrative cap limits, prescribed under 45 CFR section 286.50 will be adhered to.

Indirect costs may be applied to the Federal TANF funds based on the indirect cost rate negotiated by the Bureau of Indian Affairs, the Department of Health and Human Services' Division of Cost Allocation, or another Federal agency. However, indirect costs applied to TANF funding are subject to and included within the administrative cap limits (45 CFR section 285.55(d)).

H. Period of Availability of Federal Funds

1. *States*

Funds, other than contingency funds, are available to the State until expended for the purpose of providing assistance under the TANF Program; contingency funds may be used for qualified expenditures only in the fiscal year for which the

funding is provided (42 USC 603(b) and 604(e); 45 CFR sections 263.11(b) and 265.3(c)). Current year TANF funds may be expended on assistance or non-assistance activities during the current fiscal year. However until FY 2009, the following restrictions to unobligated balances and current year obligations on non-assistance apply to the TANF program.

a. *Unobligated Balances Reported on a State Fourth Quarter Financial Report For the Immediately Preceding Fiscal Year* - Pursuant to 42 USC section 604(e) , a State may reserve amounts awarded to the State under section 403 (excluding Contingency Funds), without fiscal year limitation, to provide assistance under the State TANF program.

Prior to October 1, 2008, , any Federal unobligated balances carried forward into a fiscal year from a prior fiscal year may only be expended on benefits that meet the definition of assistance at 45 CFR section 260.31(a) and related administrative costs associated with providing such assistance. Effective October 1, 2008, States may use any Federal TANF funds carried forward into a fiscal year from a prior fiscal year to provide, without fiscal year limitation, any benefit or service provided under the State's TANF program (Pub. L. No. 111-5, enacted February 17, 2009, amending 42 USC 604(e)).

States have several options for claiming administrative costs when providing assistance with prior year unobligated balances. The State may charge administrative costs related to providing the assistance to the prior year grant if the State has not expended 15 percent of the prior year's Adjusted SFAG on administrative costs previously. If the State has an unobligated balance and has expended the maximum 15 percent on administrative cost previously, the State may charge the administrative costs associated with providing the assistance to current year administrative costs. If the State chooses this option the administrative costs associated with providing assistance with prior year unobligated balances will be included within the 15 percent administrative cost cap for the current fiscal year.

The Federal TANF 15 percent administrative cost cap is based on:

(1) For States, the Adjusted SFAG (reported in Line 4, Column (A) on the ACF-196, *TANF Financial Report) plus* the Federal Contingency Award (reported in Line 1, Column (D)) for States that receive Federal Contingency funds for the fiscal year, and Line 1, Column (E) if a State received Federal Emergency funds for fiscal year 2009 and 2010 *divided* by the total amount entered in Line 6j, Columns (A), (D) and (E); and

(2) For Territories, the Adjusted SFAG (reported in Line 4, Columns (A) and (G) (if a Territory receives federal emergency TANF funds

for fiscal year 2009 and 2010 on the ACF-196-TR, *Territorial Financial Report) divided* by the total amount entered in Line 6j, Columns (A) and (G). .

The administrative cost cap is tracked by the fiscal year for which the funds were awarded and not by the total the State expends on administrative costs in a given fiscal year. States may only charge administrative costs to a prior year grant when it is administering assistance with a prior year unobligated balance.

b. *Current Fiscal Year Federal Expenditures on Non-Assistance* –Prior to October 1, 2008, the State must obligate by September 30 of the current fiscal year any funds for expenditures on non-assistance. Non-assistance expenditures are reported on Line 6 categories on the *ACF-196 TANF Financial Report* and the ACF-196-TR, *Territorial Financial Report.* The State must liquidate these obligations by September 30 of the immediately succeeding Federal fiscal year for which the funds were awarded. If the final liquidation amounts are lower than the original amount obligated, this difference must be included in the Unobligated Balance Line Item for the year in which they were awarded. Unobligated balances from previous fiscal years may only be expended on benefits that meet the definition of assistance at 45 CFR section 260.31(a) and related administrative costs associated with providing such assistance.

Effective October 1, 2008, States may use Federal TANF funds carried forward into a fiscal year from a prior fiscal year to provide, without fiscal year limitation, any benefit or service provided under the State's TANF program (Pub. L. No. 111-5, enacted February 17, 2009, amending 42 USC 604(e))

2. *Tribes*

Prior to October 1, 2008,, a Tribe may reserve amounts awarded to it, without fiscal year limitation, to provide assistance under the Tribal TANF program. However, a Tribe may only expend funds beyond the fiscal year in which awarded on benefits that meet the definition of assistance at 45 CFR section 286.10 or on the administrative costs directly associated with providing that assistance (45 CFR section 286.60). Effective October 1, 2008, Tribes may use Federal TANF funds carried forward into a fiscal year from a prior fiscal year to provide, without fiscal year limitation, any benefit or service provided under the Tribe's TANF program. (Pub. L. No. 111-5, enacted February 17, 2009, amending 42 USC 604(e)).

a. *Unobligated Balances Reported on a Tribal Annual SF-269 Financial Report For the Immediately Preceding Fiscal Year* - Pursuant to section 404(e) of the Act (as amended by Pub. L. No. 106-169, the Foster Care Independence Act of 1999), a Tribe may reserve amounts awarded to the

Tribe under section 412, without fiscal year limitation, to provide assistance under the Tribal TANF program. Tribes have several options for claiming administrative costs when providing assistance with prior year unobligated balances. The Tribe may charge administrative costs related to providing the assistance to the prior year grant if the Tribe has not exceeded its negotiated administrative cap for that fiscal year, on administrative costs previously. If the Tribe has an unobligated balance and has exceeded the negotiated administrative cap for the previous fiscal year, the Tribe may charge the administrative costs associated with providing the assistance to current year administrative costs. If the Tribe chooses this option, the administrative costs associated with providing assistance with prior year unobligated balances will be included within the negotiated administrative cost cap for the current fiscal year.

b. *Current Fiscal Year Federal Expenditures on Non-Assistance* – Prior to October 1, 2008, a Tribe must obligate by September 30 of the current fiscal year any funds for expenditures on non-assistance. The Tribe must liquidate these obligations by September 30 of the immediately succeeding Federal fiscal year for which the funds were awarded. If the final liquidation amounts are lower than the original amount obligated, this difference must be included in the Unobligated Balance Line Item for the year in which they were awarded, on the SF-269 report.

Effective October 1, 2008, Tribes may use Federal TANF funds carried forward into a fiscal year from a prior fiscal year to provide, without fiscal year limitation, any benefit or service provided under the Tribe's TANF program. (Pub. L. No. 111-5, enacted February 17, 2009, amending 42 USC 604(e)).

L. Reporting

1. Financial Reporting

a. SF-269, *Financial Status Report* - Applicable to Tribes. Not Applicable to States (see L.1.f) or Territories (see L.1.g). This form is valid for reports due through the last quarter of FY 2008.

b. ACF-196T, *Tribal TANF Financial Report Form (OMB No. 0970-0345)*– Applicable to Tribes. Not applicable to States. This form is applicable to Tribes not administering TANF programs in Pub. L. No. 102-477 project. Beginning with the FY 2009 Award, Tribes must use this form to report TANF expenditures quarterly.

c. Form 12g, *Tribal TANF Financial Addendum Report* (*OMB Control No. 1076-0135*) - Applicable to Tribal TANF grantees operating within a Pub. L. No. 102-477 demonstration project. Not applicable to States. This report must be filed with the Tribe's annual Pub. L. No. 102-477

financial report (*OMB Control No. 1076-0135*). This report is required to be submitted annually and the information must be reported on a FY basis, which runs from October 1 through September 30. The report must cover the entire immediately preceding FY and include all expenditures, obligations, and unliquidated obligations of Federal funds for the period. In addition, the report must be based on and account for the entire Federal Tribal TANF award that was issued for the fiscal year. A separate 12g report is to be submitted for each fiscal year where Federal funds have not been completely expended. For example, Tribes must submit a report regarding the expenditure of FY 2005 funds in FY 2006 separately from the report on the use of FY 2006 funds in FY 2006. Until the Tribe reports that all of the Federal funds awarded for a given fiscal year have been expended, Tribes must continue to submit reports on the use of funds from that fiscal year. Further, a narrative report is to be prepared that describes the activities and services covered under the category "Total Non-Assistance Expenditures" (see line 4 of the report).

d. SF-270, *Request for Advance or Reimbursement* - Not Applicable

e. SF-271, *Outlay Report and Request from Reimbursement for Construction Programs* - Not Applicable

f. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PSC-272 series of reports.

g. ACF-196, *TANF Financial Report (OMB No. 0970-0247)* - States are required to submit this report quarterly in lieu of the SF-269, Financial Status Report. Each State files quarterly expenditure data on the State's use of Federal TANF funds, State TANF MOE expenditures, and State expenditures of MOE funds in separate State programs. If a State is expending Federal TANF funds received in prior fiscal years, it must file a separate quarterly TANF Financial Report for each fiscal year that provides information on the expenditures of that year's TANF funds.

h. ACF-196-TR, *Territorial Financial Report* - Territories report their expenditures and other fiscal data in this report (45 CFR section 265.3(c)). The Territories must report quarterly on their use of Federal TANF funds, Territorial TANF MOE expenditures, expenditures of MOE funds in separate "State" programs, expenditures made as a result of receiving matching grant funds under 42 USC 1308(b), and expenditures made under the Federal Adult Assistance Programs (Titles I, X, XIV, and XVI of the Social Security Act) (42 USC subchapters I, X, XIV, and XVI and 42 USC 1308(a))

See III.G.2.1, "Matching, Level of Effort, Earmarking - Level of Effort – Maintenance of Effort," and IV, "Other Information," for additional guidance on Territories' spending levels.

2. Performance Reporting

a. ACF-199, *TANF Data Report* (*OMB No. 0970-0309*) and ACF-343, *Tribal TANF Data Report* (*OMB No. 0970-0215*).

One of the critical areas of this reporting is the work participation data, which serve as the basis for ACF to determine whether States and Tribes have met the required work participation rates. A penalty may apply for failure to meet the required rates.

States Work Participation Rates

State agencies must meet or exceed their minimum annual work participation rates. The minimum work participation rates are 50 percent for the overall rate and 90 percent for the two-parent rate. A State's minimum work participation rate may be reduced by its caseload reduction credit. HHS may penalize the State by an amount of up to 21 percent of the SFAG for violation of this provision (42 USC 609(a)(4); 45 CFR section 262.1(a)(4)).

ACF-199 (TANF Data Report) Key Line Items - The following line items contain critical information for making the preceding determinations and for other program purposes. Compare the data entered on the file for the key line items below to the documentation in the case file for completeness, accuracy, and consistency:

Section One - Family-Level Data
Item 12 *Type of Family for Work Participation*
Item 17 *Receives Subsidized Child Care*

Item 28 *Is the TANF family exempt from the Federal time limit provisions*

Section One - Person-Level Data
Item 30 *Family Affiliation Code*
Item 32 *Date of Birth*
Item 38 *Relationship to Head-of-Household*
Item 39 *Parents with a Minor Child*
Item 44 *Number of months countable toward the Federal time limit*
Item 48 *Work-Eligible Individual Indicator*

Item 49 *Work Participation Status*

Section One - Adult Work Participation Activities

Items 50 - 62 *Work Participation Activities*

Item 63 *Number of Deemed Core Hours for Overall Rate*

Item 64 *Number of Deemed Core Hours for the Two-Parent Rate*

Section Three - Active Cases
Item 8 *Total Number of Families*

Tribal Work Participation Rates

Tribal TANF agencies must meet or exceed their minimum annual work participation rates. The minimum work participation rates are contained in the respective Tribal TANF plans. Tribal TANF agencies have the option to negotiate and choose from among a number of work participation rates (e.g., separate rates for one- and two-parent families or an "all-families with parents" rate where one- and two-parent families are combined). HHS may penalize the Tribe by a maximum of five percent of the TFAG for the first violation of this provision. The penalty increases by an additional two percent for each subsequent violation up to a maximum of 21 percent (42 USC 612(c) and 612(g)(2); 45 CFR sections 286.195(a)(3) and 286.205).

ACF-343, *Tribal TANF Data Report* (*OMB No. 0970-0215*) (65 FR 8545, Appendix A, February 18, 2000)

Key Line Items - The following line items contain critical information used in making a determination of a Tribe's Work Participation Rates.

Review the Tribe's TANF plan for a fiscal year to identify the type of family required to participate in work activities and the minimum number of hours per week that the adults and minor heads of household in the family must participate in work activities (45 CFR section 286.80). Compare the data entered on the file for the key line items below to the documentation in the case file for completeness, accuracy, and consistency:

Item 30 *Family Affiliation*

Item 48 *Work Participation Status*

Items 49–62 *Adult Work Participation Activities*

b. ACF 209, *SSP-MOE Data Report (OMB No. 0970-0309)* - This report is submitted quarterly beginning with the first quarter of FFY 2000.

Key Line Items - The following line items contain critical information:

Section One - Family-Level Data
Item 9 *Type of Family for Work Participation*
Item 15 *Receives Subsidized Child Care*

Section One - Person-Level Data
Item 28 *Date of Birth*
Item 34 *Relationship to Head-of-Household*
Item 41 Work-Eligible Individual Indicator

Item 42 *Work Participation Status*

Section One - Adult Work Participation Activities
Items 43 - 55 *Work Participation Activities*

Item 56 *Number of Deemed Core Hours for Overall Rate*

Item 57 *Number of Deemed Core Hours for the Two-Parent Rate*

Section Three - Active Cases
Item 3 *Total Number of SSP-MOE Families*

3. Special Reporting

a. ACF-204, *Annual Report including the Annual Report on State Maintenance-of-Effort Programs (OMB No. 0970-0248)* - Each State must file an annual report containing information on the TANF program and the State's MOE program(s) for that year, including strategies to implement the Family Violence Option, State diversion programs, and other program characteristics. Each State must complete the ACF-204 for each program for which the State has claimed basic MOE expenditures for the fiscal year. States may submit this report as a freestanding report or as an addendum to the fourth quarter TANF Data Report.

Key Line Items - The following ACF-204 line items contain critical information:

(1) *Program Name*
(2) *Description of Major Program Activities*
(3) *Program Purpose(s)*
(4) *Program Type*
(5) *Total State MOE Expenditures*
(6) *Number of Families Served with MOE Funds*
(7) *Eligibility Criteria*

(8) *Prior Program Authorization*
(9) *Total Program Expenditures in FY 1995*

The total MOE expenditures reported in item 5 of the ACF-204 should equal the total MOE expenditures reported in line 7, columns (B) plus (C) of the 4th quarter ACF-196 *TANF Financial Report*; or line 17, column (B) of the ACF-196-TR, *Territorial Financial Report.*

N. Special Tests and Provisions

All of the following Special Tests and Provisions apply to a State's TANF program, not to a Tribal TANF program.

1. Child Support Non-Cooperation

Compliance Requirement - If the State agency responsible for administering the State plan approved under Title IV-D of the Social Security Act determines that an individual is not cooperating with the State in establishing paternity, or in establishing, modifying or enforcing a support order with respect to a child of the individual, and reports that information to the State agency responsible for TANF, the State TANF agency must (1) deduct an amount equal to not less than 25 percent from the TANF assistance that would otherwise be provided to the family of the individual, and (2) may deny the family any TANF assistance. HHS may penalize a State for up to five percent of the SFAG for failure to substantially comply with this required State child support program (42 USC 608(a)(2) and 609(a)(8); 45 CFR sections 264.30 and 264.31).

Audit Objective - Determine whether, after notification by the State IV-D agency, the TANF agency has taken necessary action to reduce or deny TANF assistance.

Suggested Audit Procedures

a. Review the State's TANF policies and operating procedures concerning this requirement.

b. Test a sample of cases referred by the IV-D agency to the TANF agency to ascertain if benefits were reduced or denied as required.

2. Income Eligibility and Verification System

Compliance Requirements - Each State shall participate in the Income Eligibility and Verification System (IEVS) required by section 1137 of the Social Security Act as amended. Under the State Plan the State is required to coordinate data exchanges with other federally assisted benefit programs, request and use income and benefit information when making eligibility determinations, and adhere to standardized formats and procedures in exchanging information with other programs and agencies. Specifically, the State is required to request and obtain information as follows (42 USC 1320b-7; 45 CFR section 205.55):

a. Wage information from the State Wage Information Collection Agency (SWICA) should be obtained for all applicants at the first opportunity following receipt of the application, and for all recipients on a quarterly basis.

b. Unemployment Compensation (UC) information should be obtained for all applicants at the first opportunity, and in each of the first three months in which the individual is receiving aid. This information should also be obtained in each of the first three months following any recipient-reported loss of employment. If an individual is found to be receiving UC, the information should be requested until benefits are exhausted.

c. All available information from the Social Security Administration for all applicants at the first opportunity (See *Federal Tax Return Information* below).

d. Information from the Immigration and Naturalization Service and any other information from other agencies in the State or in other States that might provide income or other useful information.

e. Unearned income from the Internal Revenue Service (IRS) (See *Federal Tax Return Information* below).

Federal Tax Return Information - Information from the IRS and some information from the Social Security Administration (SSA) is Federal tax return information and subject to use and disclosure restrictions by 26 USC 6103. Individual data received from the SSA's Beneficiary Earnings Exchange Record (BEER), consisting of wage, self-employment, and certain other income information is considered Federal tax return information. However, benefits payments such as Supplemental Security Income (SSI) are SSA data and not Federal tax return information. Under 26 USC 6103, disclosure of Federal tax return information from IEVS is restricted to officers and employees of the receiving agency. Outside (non-agency) personnel (including auditors) are not authorized to access this information either directly or by disclosure from receiving agency personnel.

The State is required to review and compare the information obtained from each data exchange against information contained in the case record to determine whether it affects the individual's eligibility or level of assistance, benefits or services under the TANF program, with the following exceptions:

a. The State is permitted to exclude categories of information items from follow-up if it has received approval from ACF after having demonstrated that follow-up is not cost effective.

b. The State is permitted, with ACF approval, to exclude information items from certain data sources without written justification if it followed up previously through another source of information. However, information from these data sources that is not duplicative and provides new leads may not be excluded without written justification.

The State shall verify that the information is accurate and applicable to the case circumstances either through the applicant or recipient, or through a third party, if such determination is appropriate based on agency experience or is required before taking adverse action based on information from a Federal computer matching program subject to the Computer Matching and Privacy Protection Act (45 CFR section 205.56).

For applicants, if the information is received during the application process, the State must use the information, to the extent possible, to determine eligibility. For recipients or individuals for whom a decision could not be made prior to authorization of benefits, the State must initiate a notice of case action or an entry in the case record that no case action is necessary within 45 days of its receipt of the information. Under certain circumstances, action may be delayed beyond 45 days for no more than 20 percent of the information items targeted for follow-up (45 CFR section 205.56).

HHS may penalize a State for up to two percent of the SFAG for failure to participate in IEVS (42 USC 609(a)(4) and 1320b-7; 45 CFR sections 264.10 and 264.11).

Audit Objective - Determine whether the State has established and implemented the required IEVS system for data matching, and verification and use of such data. (This audit objective does not include Federal tax return information as discussed in the compliance requirements.)

Suggested Audit Procedures

a. Review State operating manuals and other instructions to gain an understanding of the State's implementation of the IEVS system.

b. Test a sample of TANF cases subject to IEVS to ascertain if the State:

(1) Used the IEVS to determine eligibility in accordance with the State Plan.

(2) Requested and obtained the data from the State Wage Information Collection Agency, the State unemployment agency, the Social Security Administration (excluding Federal tax return information as discussed in the compliance requirements), the Immigration and Naturalization Service, and other agencies, as appropriate, and performed the required data matching.

(3) Properly considered the information obtained from the data matching in determining eligibility and the amount of TANF benefits.

3. Penalty for Refusal to Work

Compliance Requirement - State agency must reduce or terminate the assistance payable to the family if an individual in a family receiving assistance refuses to work, subject to any good cause or other exemptions established by the State. HHS may penalize the State by an amount not less than one percent and not more than five percent

of the SFAG for violation of this provision (42 USC 609(a)(14); 45 CFR sections 261.14, 261.16, and 261.54).

Audit Objective - Determine whether the State agency is reducing or terminating the assistance grant of those individuals who refuse to engage in work and are not subject to good cause or other exceptions established by the State.

Suggested Audit Procedures

a. Review the State's TANF policies and operating procedures concerning this requirement.

b. Test a sample of TANF cases where the individual is not working, and ascertain if benefits were reduced or denied to individuals who are not exempt under State rules or do not meet State good cause criteria.

4. Adult Custodial Parent of Child under Six When Child Care Not Available

Compliance Requirement - If an individual is a single custodial parent caring for a child under the age of six, the State may not reduce or terminate assistance for the individual's refusal to engage in required work if the individual demonstrates to the State an inability to obtain needed child care for one or more of the following reasons: (a) unavailability of appropriate child care within a reasonable distance from the individual's home or work site; (b) unavailability or unsuitability of informal child care by a relative or under other arrangements; or (c) unavailability of appropriate and affordable formal child care arrangements. The determination of inability to find child care is made by the State. HHS may penalize a State for up to five percent of the SFAG for violation of this provision (42 USC 607(e)(2) and 609(a)(11); 45 CFR sections 261.15, 261.56, and 261.57).

Audit Objective - Determine whether the State has improperly reduced or terminated assistance to single custodial parents who refused to work because of inability to obtain child care for a child under the age of six.

Suggested Audit Procedures

a. Gain an understanding of the criteria established by the State to determine benefits for a single custodial parent who refused to work because of inability to obtain child care for a child who is under the age of six.

b. Select a sample of single custodial parents caring for a child who is under six years of age whose benefits have been reduced or terminated.

c. Ascertain if the benefits were improperly reduced or terminated because of inability to obtain child care.

5. Penalty for Failure to Comply with Work Verification Plan

Compliance Requirement – The State agency must maintain adequate documentation, verification, and internal control procedures to ensure the accuracy of the data used in calculating work participation rates. In so doing, it must have in place procedures to: determine whether its work activities may count for participation rate purposes; determine how to count and verify reported hours of work; identify who is a work-eligible individual; and control internal data transmission and accuracy. Each State agency must comply with its HHS-approved Work Verification Plan in effect for the period that is audited. HHS may penalize the State by an amount not less than one percent and not more than five percent of the SFAG for violation of this provision (42 USC 601, 602, 607, and 609); 45 CFR sections 261.60, 261.61, 261.62, 261.63, 261.64, and 261.65).

Audit Objective - Determine whether the State agency is complying with its Work Verification Plan, including adequate documentation, verification, and internal control procedures.

Suggested Audit Procedures

a. Review the State's Work Verification Plan and operating procedures concerning this requirement.

b. Test a sample of TANF cases that have been reported to HHS under 45 CFR sections 265.3(b)(1) and 265.3(d)(1) and ascertain if the work participation rate data have been documented, verified, and reported in accordance with the State's Work Verification Plan.

IV. OTHER INFORMATION

Transfers out of TANF

As described in III.A.1.b, "Activities Allowed or Unallowed," States (not Tribes) may transfer a limited amount of Federal TANF funds into the Social Services Block Grant (Title XX) (CFDA 93.667) and the Child Care and Development Block Grant (CFDA 93.575). These transfers are reflected in lines 2 and 3 of both the quarterly *TANF Financial Report* ACF-196, and the quarterly *Territorial Financial Report* ACF-196-TR. The amounts transferred out of TANF are subject to the requirements of the program into which they are transferred and should not be included in the audit universe and total expenditures of TANF when determining Type A programs. The amount transferred out should not be shown as TANF expenditures on the Schedule of Expenditures of Federal Awards, but should be shown as expenditures for the program into which they are transferred.

State MOE Expended by Tribes

A State may provide a Tribe State-donated MOE funds that are expended by the Tribe. For the Tribe, State-donated MOE funds are not Federal awards expended, shall not be considered in determining Type A programs, and shall not be shown as expenditures on the Schedule of

Expenditures of Federal Awards. However, State-donated MOE funds expended by a Tribe shall be included by the auditor of the State when testing III.G.2.1, "Matching, Level of Effort, Earmarking - Level of Effort - Maintenance of Effort".

Under the Commingled Federal/State-donated MOE option, Tribes may commingle their State-donated MOE funds with Federal grant funds. Because of the commingling, the audit of the Tribe will include testing of the State-donated MOE and the auditor of the State should consider relying on this testing in accordance with auditing standards and OMB Circular A-133. However, the State-donated MOE is not considered Federal awards expended by the Tribe.

Tribal Expenditures under a Consolidated Demonstration Project

Tribes that integrate their Tribal TANF program into a demonstration project under the authority of Pub. L. No. 102-477 must report their Tribal TANF expenditures on the Schedule of Expenditures of Federal Awards (SEFA) as expenditures under CFDA 93.558. Tribal TANF funds do not lose their identity by virtue of inclusion in a consolidated project.

Spending Levels of the Territories

A funding ceiling applies to Guam, the Virgin Islands, American Samoa and Puerto Rico. The programs subject to the funding ceiling are the Adult Assistance programs under Titles I, X, XIV, and XVI of the Social Security Act; TANF; Foster Care (CFDA 93.658); Adoption Assistance (CFDA 93.659) and Independent Living (CFDA 93.674) programs under Title IV-E of the Social Security Act; and the matching grant under section 1108(b). Total payments to each territory may not exceed the following: Guam - $4,686,000; Virgin Islands - $3,554,000; Puerto Rico - $107,255,000; and American Samoa - $1,000,000. However, the TANF Family Assistance Grant cannot exceed the territory's fixed annual amount (42 USC 1308(a) and (c)).

Territorial Matching Grant Funding Stream

The Matching Grant under section 1108(b) of the Social Security Act (42 USC 1308(b)) is an optional funding stream for the Territories. Each fiscal year, Puerto Rico, the Virgin Islands, and Guam may receive a Matching Grant in an amount that equals 75 percent of the amount, if any, by which the territory's total expenditures during the fiscal year under the TANF program (including transfers to the CCDF (CFDA 93.575 and 93.596) and SSBG (CFDA 93.667) programs) and the Foster Care program exceed the total of: (1) the amount that equals the territory's Federal TANF grant payable (without regard to any applicable penalties; and (2) the amount that equals the sum expended by the territory during fiscal tear 1995 in the AFDC and JOBS programs (other than for child care).

Thus, each territory receiving a Matching Grant has two expenditure requirements: (1) expend an amount that equals the territory's Federal TANF block grant amount; and (2) expend an amount that equals the territory's share of expenditures in the AFDC and JOBS programs (other than for child care) during FY 1995. This latter requirement is the territory's Matching Grant MOE expenditure requirement. Territorial expenditures used to receive section 1108(b) Federal Matching Grant funds are expenditures that exceed the sum of these two expenditure requirements. Territorial expenditures in the TANF program in excess of the total spending requirement that are used to receive section 1108(b) Federal Matching Grant funds may be

reported in either column (C) or column (D) of the ACF-196-TR, but not in both (45 CFR section 264.80(a)(1)).

The amounts of the two expenditure requirements are as follows:

Territory	Federal TANF Block Grant Spending Amount (FGA)[2]	Matching Grant MOE Spending Amount[3]	Total Spending Requirement
Puerto Rico	$71,562,501	$28,182,864	$99,745,365
Guam	$3,465,478	$974,517	$4,439,995
Virgin Islands	$2,846,564	$820,380	$3,666,944
American Samoa	$0	$0	$0

See 45 CFR section 264.82 for the types of expenditures using Federal and Territorial funds that may count toward meeting the required block grant spending amount. 45 CFR section 264.81 specifies the types of expenditures that may count toward meeting the Matching Grant MOE requirement. Territorial expenditures may count only once, i.e., to meet either expenditure requirement *or* as an excess expenditure to receive Federal Matching Grant funds under 1108(b). (45 CFR sections 264.80 through 264.85 include the requirements pertinent to receipt of matching funds under section 1108(b).

[2] Amount reported in Column (C) of the ACF-196-TR.
[3] Amount reported in Column (D) of the ACF-196-TR.