

## Tribal/State IV-E Agreement – Frequently Asked Questions

### *Expenditures and Claim Calculation*

#### **1. What Tribal expenditures are required? Are there any federal funding sources that can be used toward the tribal share?**

Because Title IV-E is a reimbursement program, funds for which reimbursement can be claimed can come from the following sources:

- Tribal cash outlays;
- State GPR funds provided to the tribe;
- Private Foundation Funds that support title IV-E reimbursable activities; and
- Three types of federal funds – 638, ICWA, and CDBG – so long as these funds are used for title IV-E reimbursable activities, and are not used as match for another Federal program *unless* the other Federal program explicitly allows such funds to be used as a match for title IV-E.

Funds that are ineligible for reimbursement include Federal IV-B funds and other federal grants. These ineligible funds must be removed from your reimbursement base.

#### **2. Can you provide a good faith estimate of the potential match amount and admin reimbursement rate that a tribe can expect? (Some examples)**

Of the four factors that determine a claim amount, the Federal Financial Participation is fixed at 50% of eligible costs. The three variable factors are:

- Child Welfare expenditures that are funded through tribal and allowable Federal funds (see question #1);
- The tribe's administrative claiming rate based on the results of the quarterly time study; and
- The IV-E penetration rate, which is the *higher* of the state's penetration rate for all children *or* the tribal penetration rate. Currently, the state rate is between 50-55%, while the penetration rate for Indian children in out-of-home care is about 40-45%, with significant variance among tribes.

Depending on the results of these three variables, we believe a Tribe can reasonably expect reimbursement in the range of **10-15%** of its child welfare expenditures. During the implementation process, we will provide a more precise range based on information provided by the tribe.

#### **3. What are the options for a penetration rate? Can a tribe use a tribal-specific penetration rate if it would be higher than the state's or the statewide tribal rate?**

Yes. The federal regulations appear to support the use of an individual tribe's rate, a statewide tribal rate, or the rate for all state children provided that the selected method is used

consistently. In Wisconsin, the statewide rate is generally higher than the tribal penetration rate. Minnesota's experience is that several tribes used the state's rate until the tribe's rate was consistently higher, at which point they began using the tribe's rate.

**4. Please describe a sample claim processing timeline.**

The table below provides a sample timeline for Q1 (January – March activities):

<u>Month</u>	<u>Task</u>
January – March	Tribe performs time study
February – April	Tribe submits monthly cost reporting data
April	DCF generates penetration rate report* DCF processes tribal time study and cost reporting data
May	DCF submits claim to federal Administration for Children and Families (ACF)
July	ACF reimburses DCF DCF reimburses tribe

\* Due to a lag in eligibility data, the initial penetration rate will be approximately 2-5 points lower than the final penetration rate. In a subsequent quarter, DCF will report the final penetration rate, which will result in a positive adjustment for the tribe.

***Infrastructure***

**5. What is the state's definition of Infrastructure in relationship to Title IV E? What is needed to be sure the Tribe is capable of appropriately administering the new program?**

For the purposes of an administrative claim, we have identified three kinds of infrastructure that need to be in place to ensure efficient and proper administration of a claim.

*Financial infrastructure:*

- Accounting and financial management procedures adequate to support the administrative cost reporting to the Department for the Title IV-E administrative claim, specifically the ability to track direct costs for personnel and related costs
- A Cost Allocation Methodology and an indirect cost rate that has been approved by the Department of the Interior and meets the cost principles outlined in 2 CFR 225, and the ability to determine the portion of tribal indirect costs that can be included in the IV-E claim.

*Time reporting infrastructure:*

- All child welfare staff must participate in a two week time study on a quarterly basis. Participants will report 100% of their time during the time study period, which will be used to determine the percentage of federally claimable activities performed by Child Welfare staff;

- Designate a time study coordinator and fiscal representative, per section C-VII of the agreement (this can be the same person).

*Child welfare infrastructure.* Per federal regulations (section USC 475(5)), the public agency that enters into a Title IV-E agreement with the state must be authorized under State law to operate as a child placing agency and meet applicable Title IV-B requirements related to Child Welfare Practice. Many of these are Case Review System requirements that may already be in the tribal children's code, such as:

- Case planning to achieve placement in a safe and appropriate setting consistent with the best interest and special needs of the child;
- Status review every 6 months;
- Permanency planning updated every 12 months; and
- Health and education records that are updated at the time of each placement.
- Facilitating access to Medicaid services by referring the case to whichever Income Maintenance agency performs MA eligibility determination.

#### **6. Please explain claiming for Foster Care candidates.**

As discussed in Section C, item XIII of the standard agreement, if the Tribe elects to claim for Foster Care candidates, these children must be documented as being at imminent risk of being placed in a licensed foster care setting (not a correctional setting). Documentation can take the form of a written service plan or safety plan, or through evidence of a court proceeding.

Before claiming for candidates, Tribes must provide copies of all template case plan, safety plan, or court order formats that will be used to make candidacy determinations. Child-specific candidacy documentation must be maintained and made available for audit purposes.

#### **7. Does a tribe need to have eWiSACWIS or another child welfare database system in place?**

A child welfare database is not required for a IV-E administrative claim. If tribes elect to claim maintenance payments through a Tribal/State agreement, eWiSACWIS would be required.

### ***Financial Reporting and Claiming***

#### **8. What confidential information will need to be exchanged for reporting purposes between tribe and state?**

No confidential information needs to be regularly exchanged with DCF for the purposes of making a quarterly administrative claim. However, the tribe needs to maintain and make available (with advanced written notice) documentation that supports the claim. This includes:

- Case files of children determined to be Title IV-E Candidates for foster care, as defined in Section C, item XIII of the standard agreement;

- Appropriate fiscal and staff time records used in the calculation of administrative claiming; and
- Licensing files for Tribal foster care providers.

The records and case files shall at all times remain the property of the Tribe and will be returned immediately upon completion of the review process. Tribal staff may be present during the records review.

In instances where the county or state are paying for the out-of-home care placement costs of Tribal children, the state requires Tribes to continue to provide timely assistance with obtaining eligibility documentation to the state or authorized representative.

**9. Would a Tribe be required to use the State timekeeping system for time recording purposes? Or would the tribes own system be okay to use?**

Tribes can use their own timekeeping system if it supports timekeeping in 15 minute increments using the codes specified in Appendix D of the standard agreement, and this information can be readily extracted to a Windows-accessible format (Word, Excel, CSV file, etc.). DCF will work with you to determine the most efficient and effective way to record and report this information.

**10. What are options for claiming reimbursement for Tribal Attorney expenditures? How should tribes report time for attorneys where the indirect rate negotiated with the BIA splits their costs among indirect (overhead) and direct costs?**

For tribes where 100% of attorney costs are included in the indirect cost pool, do not report their time.

Where tribal attorneys are partially included in the indirect cost pool and they regularly perform claimable Title IV-E activities, the proportional amount of the attorney salary, fringe benefits, and associated costs that are allocable as direct costs should be reported in the direct cost pool.

*DCF / State Assistance*

**11. What can the State bring to the table to support the development of this program, as well as the program itself?**

Prior to implementation we will assist you as needed in developing cost pool calculation and reporting methods, administering the time study, and preparing training materials for Tribal staff.

During implementation, the state will provide a dedicated team to provide training for the time study.

Following implementation, DCF personnel will provide regular and on-demand support for the Tribe's administrative claim. The state will submit a quarterly claim and prior period adjustments on behalf of the tribe to the Administration for Children and Families.

DCF will provide fiscal support by processing the claim components, and will perform a 100% pass-through of funds claimed by tribes through a Tribal/State Title IV-E agreement.

**12. Are Title IV-E Development Planning Grant funds available to tribes planning state agreements OR just those tribes seeking federal agreements?**

Federal planning grants are available for development of direct Tribal/Federal Title IV-E agreements due to the complex nature of implementing infrastructure necessary to be a title IV-E agency. The state is not able to offer grant funding for Tribal/State agreements, which are significantly simpler and require significantly less additional Tribal infrastructure.

*Tribal Children's Code/ Mission vs. Regulations*

**13. Will the Tribe need to develop and implement policies and procedures consistent with federal practice requirements?**

The only changes that would need to be made are those needed to meet the infrastructure requirements from question 5 and 6. These changes may include:

- Modifying fiscal procedures or implementing new accounting codes to support adequate timekeeping and cost allocation procedures;
- Child welfare case practice issues to comply with Section 422 requirements; and
- Documentation practices to support claiming for foster care candidates.

**14. Is there flexibility with time limited reunification regulations?**

DCF assumes that this question relates to the Federal Adoption and Safe Families Act requirement of filing for TPR if child has been placed outside of the home for 15 of the past 22 months.

Title IV – E ongoing eligibility determinations require a court order containing language specifically stating that reasonable efforts to achieve the goals of the Permanency Plan were made. This finding must be made at least once every year.

Section D of the state's template Permanency Plan allows the tribe or county to indicate why filing of TPR is not in the best interests of the child. This allows you to specify reasons to not file on a case-by-case basis, which can include Tribal considerations.

**15. What is the definition of the supervisory role of the State and its counties that is referred to in the Title IV-E Financial Agreement?**

The supervisory role is limited to the scope of the Tribal/State agreement, and the state's administration of the agreement must comply with the mandates of the Federal Indian Child Welfare Act. As the Title IV-E Agency, the state is responsible for ensuring that IV-E funds are claimed in accordance with IV-E requirements. DCF does not supervise tribal child welfare programs.