

Addendum VII-A

Federal Tax Refund Offset

VII-A-1. Purpose/Scope of Service

This addendum is for the purpose of ND submitting arrearages owed in a IV-D case being enforced by the Tribe for Federal tax refund offset, administrative offset, and passport denial. Additional details are provided in the Tribal Offset Partnership (TOP) Participation Addendum, which is specifically incorporated by reference as a part of this addendum.

The services provided under this addendum are being provided by ND based on the understandings that the Tribe has been approved for membership in the TOP.

Further, the parties understand and agree that the services provided under this addendum are an interim solution pending Congressional authorization for the Tribe to have direct access to offset services.

VII-A-2. Confidentiality/Safeguarding


The Tribe and ND will comply with all safeguarding requirements with respect to Federal tax refund offset in accordance with applicable federal laws and regulations and IRS Publication 1075, including the prohibitions in 26 USC § 6103 against the release of IRS information outside of the IV-D program. The Tribe will honor the requirements of Attachment A of the Participation Addendum.

VII-A-3. Term of Agreement – Addendum

This addendum commences when both signatures have been obtained and remains in effect until termination of the Agreement, until replaced with a similar addendum signed by both parties, or upon thirty days' notice by either party, whichever occurs first. This addendum may be terminated immediately by either party if necessary to ensure compliance with applicable law and regulations.

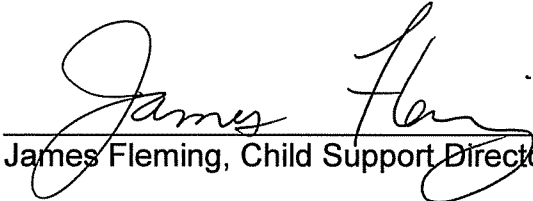
VII-A-5. Compensation

Within thirty days of being invoiced by ND, the Tribe will reimburse ND for the administrative costs that the federal government charges each state for the federal offset. Subject to any future changes, the current federal charge is \$14.65 per offset. The Tribe will also reimburse ND for any reversals as provided in the Participation Addendum.



Jerl Thompson, Child Support Director, Standing Rock Sioux Tribe

(Date) 12-16-14



James Fleming, Child Support Director, North Dakota Department of Human Service

(Date) 12-18-14

**TRIBAL OFFSET PARTNERSHIP
PARTICIPATION ADDENDUM
Standard Terms and Conditions**

A. Purpose

Upon request from a Tribe participating in the Tribal Offset Partnership (TOP), North Dakota (ND) agrees to submit arrearages owed in a Tribal IV-D case for Federal tax refund offset, as authorized in Office of Child Support Enforcement (OCSE) Tribal Policy Information Question PIQT-07-02. The request must include all necessary information for submission of an arrearage for offset, including taxpayer name and social security number.

Each participating Tribe and ND understand that implementation of this addendum will include any necessary amendments to the Tribe's IV-D plan and the Tribe's application for IV-D services.

This addendum supplements the INTERAGENCY COOPERATIVE AGREEMENT (Agreement) signed by each Tribe and ND.

B. Project Oversight

Each participating Tribe understands that the TOP is governed by the participating Tribes, and agrees to participate in TOP meetings. ND's role is to provide services to the TOP and act as a consultant, but ND reserves the right to decline to submit arrearages on behalf of a Tribe that is participating in the TOP.

C. Eligible Referrals

Before sending ND a referral for federal offset certification, the Tribe will ensure the case meets the federal requirements listed in 45 Code of Federal Regulations (CFR) § 303.72, which include:

- a) The debt must be based on an existing court or administrative order which is in the possession of the Tribe, and which is owed to a child receiving services under the Tribal IV-D plan.
- b) The obligor's name and social security number (SSN) are correct.
- c) The Tribe must possess a current address for the obligee.
- d) The debt owed by the obligor in the Tribal IV-D case is at least \$500.
- e) The Tribe must possess a payment record, or if none, an affidavit signed by the obligee attesting to the amount of support owed.

- f) Spousal support may be certified as long as child support and spousal support are payable under the same order and the minor child is living with the parent to whom the spousal support is owed.

D. Notice of Offset

Prior to submitting a Tribal IV-D case to ND for offset, the Tribe agrees to provide the offset notice required in 45 CFR § 303.72(e)(1) using the ND form that has already been approved by OCSE, or another form approved by OCSE, and to wait for the expiration of the thirty-day period provided in the notice. In the alternative, the Tribe and ND agree that the pre-offset notice may be provided through OCSE.

E. Referral Process

ND agrees to send a monthly electronic request to the Tribe for a list of the Tribal IV-D cases to be submitted for Federal tax refund offset on the Tribe's behalf. The Tribe agrees to respond to the request by providing an electronic file, in mutually agreeable format, containing for each case the name and SSN of the obligor, the balance of the debt as of the last day of the prior month, and the date and amount of the last payment. Unless the pre-offset notice is provided through OCSE, the spreadsheet also will contain confirmation that the Tribe has provided each obligor with the offset notice required in 45 CFR § 303.72(e)(1).

If the Tribe provides the pre-offset notice, the case will be included in the electronic file after completion of the thirty-day administrative review period for the case or the completion of any administrative review, whichever occurs later. If the pre-offset notice is provided through OCSE, the case will be included in the electronic file before the commencement of the thirty-day review period for each obligor.

F. Distribution of Offset Funds

ND will distribute federal income tax refunds to the Tribe within two business days of receipt if the obligor did not file a joint return or an injured spouse claim was filed with the original tax return. If the obligor filed a joint return and no injured spouse claim was filed with the return, ND will hold the funds for up to six months in the same manner as ND holds funds in ND IV-D cases. Most injured spouse claims are filed within the first six months after offset, but the spouse has up to six years to file a claim.

If ND distributes funds to the Tribe after six months and an injured spouse claim is later filed, or if there is an error in the information provided by the Tribe for submission to the IRS, or if the IRS reverses the offset for any other reasons, the Tribe understands that the IRS will automatically deduct any reversals of offset

payments directly from payments to ND. Therefore, the Tribe agrees to reimburse ND for any reversals that occur in Tribal IV-D cases.

The Tribe agrees to refund a payment to an obligor in a Tribal IV-D case in the event of an overpayment due to payments made by the obligor between the date the debt is submitted for offset and the date the payments are received by the Tribe.

G. Administrative Review

ND agrees to send a copy of any administrative review request to the Tribe. The Tribe agrees to perform the administrative review as required in 45 CFR § 303.72 and notify ND of the outcome of the review.

H. Confidentiality

All Tribal staff with access to federal income tax information will be briefed on security procedures for protecting federal tax information and participate in an annual confidentiality review, including the requirements of Attachment A of this addendum. Upon request, ND agrees to assist with the annual review.

I. Limited Services

To the greatest extent permitted by federal law or regulations and OCSE, the Tribe and ND agree that a case referred by the Tribe to ND under this addendum does not become an intergovernmental case. Rather, any referred case remains a Tribal IV-D case, and does not become a ND IV-D case for any purpose including providing additional enforcement services, unless the Tribe requests those additional services from ND through an intergovernmental referral such as the UIFSA Child Support Enforcement Transmittal #1 – Initial Request.

Attachment A

IRS SAFEGUARDING MOU ATTACHMENT

I. PERFORMANCE

In performance of this agreement, Tribe (hereafter "contractor") agrees to comply with, and assume responsibility for compliance by his or her employees with the following requirements:

- (1) All work will be performed under the supervision of the contractor or the contractor's responsible employees.
- (2) Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.
- (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
- (4) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
- (5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to ND (hereafter "agency"). When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency with a statement containing the date of destruction, description of material destroyed, and the method used.
- (6) All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.

- (7) No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.
- (8) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.
- (9) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

II. CRIMINAL/CIVIL SANCTIONS

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.

- (3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his or her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

III. INSPECTION

The IRS and the agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract safeguards.