SAMPLE WAIVER TERMS AND CONDITIONS

State or Tribe:

[Name of Project]
1115 Waiver Child Support Demonstration Project

SECTION 1: BACKGROUND

Section 1115 of the Social Security Act (Act) authorizes the Secretary of the U.S. Department of Health and Human Services (Department) to approve state or tribal experimental, pilot, or demonstration projects that will likely help promote the objectives of Title IV-D of the Act. These projects must be designed to improve the financial well-being of children or otherwise improve the operation of the child support program. The purposes of the child support program include:

- Enforcing support obligations of noncustodial parents
- Locating noncustodial parents
- Establishing paternity
- Obtaining child support
- Assuring that assistance in obtaining support will be available for all children who need it

Waivers may not be approved for modifications in the child support program which would disadvantage children needing support. In addition, they must not result in increased cost to the federal government under part A of Title IV.

A child support waiver is a legal authority set forth in section 1115(a) of the Act to conduct child support or related activities in a different way than set forth or funded in the Act, in accordance with a waiver application approved by the Department. This process allows grantees to conduct demonstration projects while being exempt from certain specified statutory or regulatory requirements. Waivers of authority may be granted to allow a state to receive federal matching funds and tribes to use federal funds for activities not now eligible for federal funding under Title IV-D. These waivers have a time limit. They apply only for the purposes set forth in the application as approved, subject to terms and conditions.

The waiver authority may be granted only to a state or comprehensive tribal child support agency. This means either the Title IV-D agency or the umbrella agency. Projects may be conducted at the local level or only in one county, but the waiver must be given to the state or tribe.

SECTION 2: GENERAL ISSUES

2.1 The Department will grant waivers to [state or tribe] under section 1115 of the Act, as amended, to operate the [Project Name] (demonstration) as stated in the Waiver Terms and Conditions.

The waivers will allow the state or tribe to:

- [Bullet list of waived IV-D requirements]

The terms and conditions for this waiver include all regulatory requirements of the Title IV-D child support program found in 45 CFR 300-308 (for states) or 45 CFR 309-310 (for tribes). No other federal requirements under Title IV-D are waived, and they must be followed when using IV-D funds in this demonstration.

The Department reserves the right, at its sole discretion, to withdraw any waivers granted by the Department at such time(s) that the Department determines that the state or tribe has materially failed to meet the requirements in these Waiver Terms and Conditions. The state or tribe also retains the right to terminate the demonstration.

2.2 Failure to operate the demonstration as approved and according to federal and state statutes and regulations will result in withdrawal of waivers. The federal statutes and regulations with which the state or tribe must comply in the operation of the demonstration include:

- Cost Principles, 45 CFR Part 75
- Civil rights statutes and regulations that prohibit discrimination based on race, color, national origin, disability, sex and age, including Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act
- Nondiscrimination provisions of the Omnibus Budget Reconciliation Act of 1980

After waivers are granted, the Department reserves the right to withdraw them if agreement cannot be reached on any item(s) cited in this document as needing approval by the Department. The state or tribe also has the same right.

2.3 If federal or state statutes or regulations are enacted that would have a major effect on the design and impacts of this demonstration, the Department and the state or tribe will reassess the overall demonstration and develop a mutually agreed-upon strategy for dealing with the demonstration considering such changes. If such a mutually agreed-upon strategy cannot be developed, the Department reserves the right, in its sole discretion, to withdraw any waivers at such time(s) as the Department decides.

2.4 The Waiver Terms and Condition provisions will be implemented in the designated demonstration site (as described in Section 3 below) no earlier than the date these Waiver Terms and Conditions are accepted by the state or tribe. Acceptance of these Waiver Terms and Conditions must be in writing.

The implementation date for this [X-year] waiver demonstration will be the first day on which any expenditure of waiver funds is made, but no earlier than the date these Waiver Terms and Conditions are accepted. To calculate the period of this [X-year] waiver demonstration, the demonstration will be considered to begin on the first day of the calendar quarter (quarter) that includes the implementation date.

The demonstration will end no later than [number] years following the quarter that includes the implementation date.

The demonstration provisions will be as specified in Section 3. Waivers for the demonstration are approved after written acceptance by the state or tribe of these Waiver Terms and Conditions. They will become effective as of the implementation date and will remain in effect for up to [number] years following the quarter that includes the implementation date unless the demonstration is terminated earlier.

2.5 Federal financial participation (FFP) in this demonstration is limited to [dollar amount] over the entire period of the demonstration, as described in Section 5.

2.6 Federal approval of waivers, subject to these Waiver Terms and Conditions, will not create any precedent that the Department will follow in granting any subsequent request for waivers.

2.7 No organization may participate in this demonstration in any capacity or receive federal funds designated for this demonstration if identified as in debt to the Department until it has made satisfactory arrangements to resolve all debts owed to the Department.

2.8 Funds may not be used to support inherently religious activities, such as worship, religious instruction, or preaching. Curricula or materials produced with federal funds or used in federally funded sessions must be neutral regarding religious beliefs and practices. They should not promote, endorse, or favor religious over non-religious beliefs, nor should they disparage or discourage religious beliefs. If inherently

religious activities or materials are offered, they must be separate (in time or location) from the programs or services funded with direct federal financial assistance. Participation must be voluntary for beneficiaries of the demonstration approved by these waiver terms and conditions.

2.9 Participating organizations and entities must be selected based on neutral criteria regardless of whether the participating group is religious.

In any grant-related activity in which family, marital, or household considerations are (by statute or regulation) relevant to determine beneficiary eligibility or participation, grantees must treat same-sex spouses, marriages, and households on the same terms as opposite-sex spouses, marriages, and households. By same-sex “spouses", the Department means individuals of the same sex who have entered into marriages valid in the jurisdiction where performed, including the 50 states, the District of Columbia, or a U.S. territory or in a foreign country.

SECTION 3: IMPLEMENTATION

3.1 Under these Waiver Terms and Conditions, the state or tribe will run the [project name] consistent with the state’s or tribe’s application submitted to the Office of Child Support Services (OCSS) on [date submitted], subject to these Waiver Terms and Conditions. This demonstration will be conducted in [geographic location identified in application) The purpose of the demonstration is to [brief description of project and goals].

3.2 Specific tasks to be accomplished during the demonstration are outlined in the waiver application submitted by the state or tribe on [date submitted], including:

- [bulleted list of activities]

In implementing this demonstration, the state or tribe will meet these requirements:

- The state or tribe will ensure that no part of the [demonstration project activities] are supported by state, tribal or local child support funds diverted from regular activities authorized under Title IV-D of the Social Security Act.
- The state or tribe will comply with 45 CFR Part 303.21 (for state programs) and 309.80 (for tribal programs) to ensure safeguarding and disclosing participants’ confidential information.
- When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with federal funds, the state or tribe and any subgrantee or contractor will indicate that the project or program is being partially or fully federally funded through the Section 1115 waiver.

SECTION 4: EVALUATION

4.1 The state or tribe will [contract with and internal or third-party evaluator or manage the evaluation internally] to [describe evaluation tasks].

4.2 Program implementation outcomes of interest include:

- [bulleted list of process outcomes]

The findings of this process evaluation will inform the feasibility and potential efficacy of scaling up this pilot project.

4.3 Examples of program outcome measures to be tracked as part of the evaluation include:

- [bulleted list of program outcomes/impacts]

4.4 The state or tribe will provide the following deliverables to OCSS:

- Bi-annual progress reports on the evaluation throughout the demonstration period that describe major activities and accomplishments as well as any challenges or deviations
- A draft of the implementation and outcomes evaluation and a draft of any benefit-cost analysis 60 days before its publication

All deliverables should be e-mailed to OCSS Division of Program Innovation at ocss.dpi@acf.hhs.gov.

SECTION 5: LIMITATION ON FEDERAL COSTS

5.1 For activities described in Section 3, carried out by the state or tribe and any other organization cooperating in the demonstration, amounts expended are eligible to be claimed under Title IV-D of the Act to draw down FFP at 66% for states and 100% for tribes, subject to the limitations described in the section below. This section is not intended to supersede other requirements for federal approval for administrative costs of the programs involved in the demonstration.

5.2 Beginning with the implementation date, the state or tribe may claim FFP for expenditures as described in Section 5.1, except that the state or tribe may only claim FFP for expenditures of funds provided to the state or tribe for this demonstration. The following dollar limits apply to claims of FFP under Title IV-D for this demonstration:

- FYXXXX - $XX,XXXX
- FYXXXX - $XX,XXXX
- FYXXXX - $XX,XXXX

- FYXXXX - $XX,XXXX
- FYXXXX - $XX,XXXX

The state or tribe may continue to use expenditures for costs related to this demonstration and claimed under Title IV-D up to [number] years following the quarter which includes the implementation date unless the demonstration is terminated earlier. States and tribes must obligate funds by the end of the project period. All obligated funds must be liquidated in the quarter following the end of the project period. The state or tribe should adjust financial claims as they would under law and regulations governing conventional (non-waiver-related) claims, except that the total of all claims for FFP for this demonstration may not exceed the project cap of [dollar amount.

The state or tribe will not claim more than the project cap without submitting a request and justification for the additional funds to the Department and receiving approval.

5.3 The state will claim FFP costs associated with this waiver along with regular administrative costs on form OCSE-396. This form should be submitted quarterly via the On-Line-Data Collection System (OLDC) to the Administration for Children and Families, Office of Administration, Division of Mandatory Grants. The OCSE-396 is submitted 30 days following the end of every federal fiscal quarter.

The state will also complete a form SF-425 each quarter (specific to the expenditures of the demonstration) and e-mail it to OCSS Division of Program Innovation at ocss.dpi@acf.hhs.gov. The SF-425 should be submitted 30 days following the end of every federal fiscal quarter throughout the five-year waiver demonstration period.

The tribe will be awarded federal funding for 1115 waivers as part of the standard budget or budget revision process. Tribes will claim costs through the existing SF-425 process. Line 12 on the SF-425 will be used to detail costs for waiver activities.

Federal financial reporting requirements are separate and unique from program reporting requirements outlined in Section 6.

SECTION 6: MONITORING

6.1 The state or tribe will submit regular progress reports to OCSS [form will be identified based on state or tribal agency application].

- States will email the Performance Progress Report (SF-PPR) to the OCSS Project Officer bi-annually.
- Tribes will submit programmatic reports in the narrative section of the OCSE-75 annually.

The content of the progress report will detail the major activities and accomplishments of the period covered by the report. The report shall provide data on [key process and program outcomes to be identified based on the waiver application]. In addition, the progress report will identify any serious problems that occurred or persisted during the period and problems anticipated to arise in the next reporting period.

States will submit a final performance report covering the entire demonstration no later than 90 days after the end of the waiver period unless a different due date is approved by the Department in response to a written justification and request from the state. Tribes will submit a final performance report covering the entire demonstration in the first OCSE-75 report filed after the demonstration period ends.

The final report will describe the overall demonstration and include data on [process and program outcomes identified in the waiver application] and any significant experience by the state or tribe.

States submit their SF-PPR reports to OCSS Division of Program Innovation at ocss.dpi@acf.hhs.gov. Tribes submit their narrative with the OCSE-75 report via OLDC.

6.2 The state or tribe will participate in monthly conference calls with an assigned OCSS project officer during the first year of implementation and bi-monthly conference calls for the remainder of the demonstration period.

6.3 The state or tribe will draft a program implementation and service delivery plan for the demonstration and share that plan with OCSS for review before its implementation. The plan will [information specific to the waiver application].

SECTION 7: TERMINATION PROCEDURES

7.1 Federal financial participation in demonstration activities requiring waivers will not be provided beyond the period approved by the Department.

7.2 All activities requiring waivers must stop on the date decided by the Department if the demonstration is terminated before the end of the [X-year] project period.

Signature Page: Waiver Terms and Conditions

By signing below, the [state or tribe] accepts the above Waiver Terms and Conditions from the Office of Child Support Services for the [name of project] project.

Once signed, demonstration expenditures will be eligible to be claimed under Title IV-D of the Social Security Act to draw down Federal Financial Participation, subject to the limitations described in the Waiver Terms and Conditions.

Office of Child Support Services

_____ _____

Tanguler Gray Date
Commissioner
Office of Child Support Services

Name of state or tribe applying

_____ _____

Name Date
Director or Tribal Leader
IV-D Agency Name