

§ 286.225 How may a Tribe establish reasonable cause for failing to meet a requirement that is subject to application of a penalty?

(a) We will not impose a penalty against a Tribe if it is determined that the Tribe had reasonable cause for failure to meet the requirements listed at § 286.195(a)(1), § 286.195(a)(2), or § 286.195(a)(3). The general factors a Tribe may use to claim reasonable cause include, but are not limited to, the following:

(1) Natural disasters, extreme weather conditions, and other calamities (e.g., hurricanes, earthquakes, fire, and economic disasters) whose disruptive impact was so significant that the Tribe failed to meet a requirement.

(2) Formally issued Federal guidance which provided incorrect information resulting in the Tribe's failure or prior to the effective date of these regulations, guidance that was issued after a Tribe implemented the requirements of the Act based on a different, but reasonable, interpretation of the Act.

(3) Isolated, non-recurring problems of minimal impact that are not indicative of a systemic problem.

(4) Significant increases in the unemployment rate in the TFAG service area and changes in the TFAG caseload size during the fiscal year being reported.

(b) We will grant reasonable cause to a Tribe that:

(1) Clearly demonstrates that its failure to submit complete, accurate, and timely data, as required at § 286.245, for one or both of the first two quarters of FY 2000, is attributable, in significant part, to its need to divert critical system resources to Year 2000 compliance activities; and

(2) Submits complete and accurate data for the first two quarters of FY 2000 by November 15, 2000.

(c) In addition to the reasonable cause criteria specified above, a Tribe may also submit a request for a reasonable cause exemption from the requirement to meet its work participation requirements in the following situation:

(1) We will consider that a Tribe has reasonable cause if it demonstrates that its failure to meet its work participation rate(s) is attributable to its provisions with regard to domestic violence as follows:

(i) To demonstrate reasonable cause, a Tribe must provide evidence that it achieved the applicable work rates, except with respect to any individuals receiving good cause waivers of work requirements (*i.e.*, when cases with good cause waivers are removed from the calculation in § 286.85); and

(ii) A Tribe must grant good cause waivers in domestic violence cases appropriately, in accordance with the policies in the Tribe's approved Tribal Family Assistance Plan.

(2) [Reserved]

(d) In determining reasonable cause, we will consider the efforts the Tribe made to meet the requirements, as well as the duration and severity of the circumstances that led to the Tribe's failure to achieve the requirement.

(e) The burden of proof rests with the Tribe to fully explain the circumstances and events that constitute reasonable cause for its failure to meet a requirement.

(1) The Tribe must provide us with sufficient relevant information and documentation to substantiate its claim of reasonable cause.

(2) [Reserved]