

§ 98.82

(ii) Indian reservation or tribal service area.

(3) The Tribal Lead Agency shall also assure that:

(i) The applicant shall coordinate, to the maximum extent feasible, with the Lead Agency in the State in which the applicant shall carry out CCDF programs or activities, pursuant to § 98.82; and

(ii) In the case of an applicant located in a State other than Alaska, California, or Oklahoma, CCDF programs and activities shall be carried out on an Indian reservation for the benefit of Indian children, pursuant to § 98.83(b).

(4) The Plan shall include any information, as prescribed by the Secretary, necessary for determining the number of children in accordance with §§ 98.61(c), 98.62(c), and 98.80(b)(1).

(5) Plans for those Tribes specified at § 98.83(f) (i.e., Tribes with small grants) are not subject to the requirements in § 98.16(g)(2) or § 98.16(k) unless the Tribe chooses to include such services, and, therefore, the associated requirements, in its program.

(6) The Plan is not subject to requirements in § 98.16(f)(8) or § 98.16(g)(4).

(7) In its initial Plan, an Indian Tribe shall describe its current service delivery capability pursuant to § 98.80(b)(2).

(8) A consortium shall also provide the following:

(i) A list of participating or constituent members, including demonstrations from these members pursuant to § 98.80(c)(1);

(ii) A description of how the consortium is coordinating services on behalf of its members, pursuant to § 98.83(c)(1); and

(iii) As part of its initial Plan, the additional information required at § 98.80(c)(4).

(c) When initially applying under paragraph (a) of this section, a Tribal Lead Agency shall include a Plan that meets the provisions of this part and shall be for a two-year period, pursuant to § 98.17(a).

§ 98.82 Coordination.

Tribal applicants shall coordinate as required by §§ 98.12 and 98.14 and:

(a) To the maximum extent feasible, with the Lead Agency in the State or

45 CFR Subtitle A (10–1–07 Edition)

States in which the applicant will carry out the CCDF program; and

(b) With other Federal, State, local, and tribal child care and childhood development programs.

§ 98.83 Requirements for tribal programs.

(a) The grantee shall designate an agency, department, or unit to act as the Tribal Lead Agency to administer the CCDF program.

(b) With the exception of Alaska, California, and Oklahoma, programs and activities shall be carried out on an Indian reservation for the benefit of Indian children.

(c) In the case of a tribal grantee that is a consortium:

(1) A brief description of the direct child care services funded by CCDF for each of their participating Tribes shall be provided by the consortium in their two-year CCDF Plan; and

(2) Variations in CCDF programs or requirements and in child care licensing, regulatory and health and safety requirements shall be specified in written agreements between the consortium and the Tribe.

(3) If a Tribe elects to participate in a consortium arrangement to receive one part of the CCDF (e.g., Discretionary Funds), it may not join another consortium or apply as a direct grantee to receive the other part of the CCDF (e.g. Tribal Mandatory Funds).

(4) If a Tribe relinquishes its membership in a consortium at any time during the fiscal year, CCDF funds awarded on behalf of the member Tribe will remain with the tribal consortium to provide direct child care services to other consortium members for that fiscal year.

(d) Tribal Lead Agencies shall not be subject to the requirements at §§ 98.41(a)(1)(i), 98.44(a), 98.50(e), 98.52(a), 98.53 and 98.63.

(e) The base amount of any tribal grant is not subject to the administrative cost limitation at paragraph (g) of this section or the quality expenditure requirement at § 98.51(a). The base amount may be expended for any costs consistent with the purposes and requirements of the CCDF.

(f) Tribal Lead Agencies whose total CCDF allotment pursuant to §§ 98.61(c)

and 98.62(b) is less than an amount established by the Secretary shall not be subject to the following requirements:

- (1) The assurance at § 98.15(a)(2);
- (2) The requirement for certificates at § 98.30(a) and (d); and
- (3) The requirements for quality expenditures at § 98.51(a).

(g) Not more than 15 percent of the aggregate CCDF funds expended by the Tribal Lead Agency from each fiscal year's (including amounts used for construction and renovation in accordance with § 98.84, but not including the base amount provided under § 98.83(e)) shall be expended for administrative activities. Amounts used for construction and major renovation in accordance with § 98.84 are not considered administrative costs.

(h)(1) CCDF funds are available for costs incurred by the Tribal Lead Agency only after the funds are made available by Congress for Federal obligation unless costs are incurred for planning activities related to the submission of an initial CCDF Plan.

(2) Federal obligation of funds for planning costs, pursuant to paragraph (h)(1) of this section is subject to the actual availability of the appropriation.

§ 98.84 Construction and renovation of child care facilities.

(a) Upon requesting and receiving approval from the Secretary, Tribal Lead Agencies may use amounts provided under §§ 98.61(c) and 98.62(b) to make payments for construction or major renovation of child care facilities (including paying the cost of amortizing the principal and paying interest on loans).

(b) To be approved by the Secretary, a request shall be made in accordance with uniform procedures established by program instruction and, in addition, shall demonstrate that:

- (1) Adequate facilities are not otherwise available to enable the Tribal Lead Agency to carry out child care programs;
- (2) The lack of such facilities will inhibit the operation of child care programs in the future; and
- (3) The use of funds for construction or major renovation will not result in a decrease in the level of child care serv-

ices provided by the Tribal Lead Agency as compared to the level of services provided by the Tribal Lead Agency in the preceding fiscal year.

(c)(1) Tribal Lead Agency may use CCDF funds for reasonable and necessary planning costs associated with assessing the need for construction or renovation or for preparing a request, in accordance with the uniform procedures established by program instruction, to spend CCDF funds on construction or major renovation.

(2) A Tribal Lead Agency may only use CCDF funds to pay for the costs of an architect, engineer, or other consultant for a project that is subsequently approved by the Secretary. If the project later fails to gain the Secretary's approval, the Tribal Lead Agency must pay for the architectural, engineering or consultant costs using non-CCDF funds.

(d) Tribal Lead Agencies that receive approval from the Secretary to use CCDF funds for construction or major renovation shall comply with the following:

- (1) Federal share requirements and use of property requirements at 45 CFR 92.31;
- (2) Transfer and disposition of property requirements at 45 CFR 92.31(c);
- (3) Title requirements at 45 CFR 92.31(a);
- (4) Cost principles and allowable cost requirements at 45 CFR 92.22;
- (5) Program income requirements at 45 CFR 92.25;
- (6) Procurement procedures at 45 CFR 92.36; and;
- (7) Any additional requirements established by program instruction, including requirements concerning:
 - (i) The recording of a Notice of Federal Interest in the property;
 - (ii) Rights and responsibilities in the event of a grantee's default on a mortgage;
 - (iii) Insurance and maintenance;
 - (iv) Submission of plans, specifications, inspection reports, and other legal documents; and
 - (v) Modular units.
- (e) In lieu of obligation and liquidation requirements at § 98.60(e), Tribal Lead Agencies shall liquidate CCDF funds used for construction or major