

ACF

Administration
For Children
And Families

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration on Children, Youth and Families**

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**CHILD CARE AND DEVELOPMENT FUND
PROGRAM INSTRUCTION**

To: Tribal Lead Agencies consolidating child care programs under P.L. 102-477. This Program Instruction only applies to Tribes currently operating or planning to operate an employment, training and related services program under P.L. 102-477.

Purpose: To provide information on the procedures to consolidate the Child Care and Development Fund (CCDF) program with other employment and training funding sources under a P.L. 102-477 plan.

References: Section 418 of the Social Security Act; the Child Care and Development Block Grant Act of 1990 (CCDBG) as amended. 45 CFR Parts 98 and 99, and the Indian Employment, Training and Related Services Demonstration Act of 1992, as amended (P.L. 102-477).

Background: The Indian Employment, Training and Related Services Demonstration Act of 1992, as amended (P.L. 102-477) was enacted to:

- Demonstrate how Indian tribal governments can integrate the employment, training and related services they provide in order to improve the effectiveness of those services;
- Reduce joblessness in Indian communities;
- Foster economic development on Indian lands; and
- Serve tribally determined goals consistent with the policies of self-determination and self-governance.

In accordance with P.L. 102-477, eligible tribal applicants may choose to streamline tribal services by submitting a consolidated plan for employment, training and related services to the Office of Self Governance and Self Determination, Department of the Interior. Eligible applicants may include the Child Care and Development Fund (CCDF) in their 102-477 plan. The CCDF is comprised of two funding sources:

- Discretionary Funds – funding that is provided under the Child Care and Development Block Grant Act, as amended; and
- Tribal Mandatory Funds – funding that is provided to eligible Tribes and tribal organizations under Section 418 of the Social Security Act.

Tribes that elect to consolidate their CCDF funds under a 102-477 plan are still required to operate comprehensive CCDF programs. By applying for CCDF funds, a Tribe agrees to follow the provisions of the CCDBG Act of 1990, as amended, and applicable regulations at 45 CFR 98 and 99. However, in contrast to the required CCDF application and plan process, Tribes that consolidate CCDF funds under a 102-477 plan are permitted to submit abbreviated applications and plans for CCDF funding.

Eligibility:

Pursuant to 45 CFR 98.62, a Tribe is eligible to receive CCDF funds if the Tribe is federally recognized and the tribal population includes at least 50 children under age 13.

A Tribe with fewer than 50 children under age 13 may participate in a consortium of eligible tribes. In order to be eligible to receive CCDF funds on behalf of its member Tribes, a consortium must:

- Consist of Tribes that meet the eligibility requirements for the CCDF program or that would meet the eligibility requirements if the Tribe or tribal organization had at least 50 children under age 13; and
- Adequately demonstrate it has authorization from each participating Tribe to receive CCDF funds on behalf of the Tribe.

Special Rule for Indian Tribes in Alaska - Only the Metlakatla Indian Community of the Annette Islands Reserve and the 12 Alaska Native Regional Nonprofit Corporations are eligible to receive Tribal Mandatory Funds. New tribal applicants in Alaska should contact ACF Region X (Attachment C) with questions about this Special Rule.

The 102-477 Process:

To receive CCDF funding under a consolidated 102-477 plan, all tribal grantees and tribal applicants must: 1) Be eligible to receive CCDF funding (see Eligibility Section of this Program Instruction); and 2) Have submitted a consolidated 102-477 plan to the Office of Self Governance and Self Determination, Department of the Interior, that includes the CCDF program. Although 102-477 plans cover multi-year periods, current 102-477 grantees and new tribal applicants must apply annually for CCDF funds.

Annual 102-477 Application Requirement:

An annual Child Count Declaration (Attachment A) must be submitted to receive FY 2006 CCDF funds. By submitting a signed Child Count Declaration, the Tribe is making application for FY 2006 CCDF funds, according to the estimated allocation for the Tribe on the FY 2006 Tribal Estimates Chart (Attachment B).

By applying for FY 2006 CCDF funds a Tribe agrees to follow the provisions of the Child Care and Development Block Grant Act of 1990, as amended, and applicable regulations at 45 CFR Parts 98 and 99.

Current grantees that apply for FY 2006 funds continue to be required to meet the assurances and certifications provided in the 102-477 plan for the remainder of the plan period. A **new** tribal applicant must include the required assurances and certifications as part of its plan submittal (see Attachment D).

Tribal Child Counts

For funds that become available in FY 2006, ACF will calculate grant awards based on the number of children under age 13. A Tribe must submit a self-certified Child Count Declaration for children **under age 13** (not age 13 and under), in order to receive FY 2006 CCDF funds.

The Child Count Declaration must certify the number of Indian children (as defined in the CCDF section of the 102-477 Plan), under age 13, who reside on or near the reservation or service area. The Child Count Declaration is provided at Attachment A. The Child Count Declaration must be signed by the governing body of the Tribe or a person authorized to act for the applicant Tribe or tribal organization.

An application submitted without a Child Count Declaration will be treated as an incomplete application. Therefore, to facilitate the approval process, a signed, completed Child Count Declaration (Attachment A) must be submitted to the Office of Self Governance and Self Determination, Department of the Interior, by July 1, 2005 (Attachment C).

PLEASE BE ADVISED: The Tribal Lead Agency may not count any children who are included in the child count of another CCDF Tribal Lead Agency. To ensure unduplicated child counts, a Tribal Lead Agency is **required** to confer with **all** other CCDF Tribal Lead Agencies that have overlapping or neighboring service areas.

Tribal Lead Agencies are reminded that CCDF funds are allocated based on child counts of children from Federally recognized Indian Tribes, consistent with the Child Care and Development Block Grant Act's definition of Indian Tribe.

Tribal Lead Agencies are also advised that ACF will not accept declarations based on child counts that were conducted prior to July 1 of the previous year. For FY 2006 funding, the child count of children under age 13 must be completed **no later than** June 30, 2005 and **no earlier than** July 1, 2004.

102-477 Plan Requirements:

The CCDF program may be incorporated into a P.L. 102-477 plan that covers multi-year periods. If an applicant elects to include CCDF in a consolidated 102-477 plan, the following CCDF requirements must be included in the 102-477 plan:

1. A statement of intent to administer the CCDF program under a P.L. 102-477 consolidated plan.

2. A description of the way CCDF services will be integrated and delivered with the employment and training programs included in the 102-477 plan, and the results expected.
3. The agency or agencies of the tribal government (or tribal consortium) to be involved in the delivery of CCDF services under the plan. Note: if the CCDF Lead Agency changes during the approved plan period, the grantee must submit a written notification of this change to the BIA.
4. A description of the results of the Tribal Lead Agency's coordination activities with agencies responsible for health (including the agency responsible for immunizations), education, employment services or workforce development, and the State TANF agency and/or tribal TANF agency – if the Tribe is operating its own TANF program.
5. A description of the public hearing process held to provide the Tribe (or member Tribes in the case of a tribal consortium) an opportunity to comment on the proposed CCDF activities under the consolidated 102-477 plan.
6. A copy of a sliding fee scale that provides for cost sharing by families and is based on income and family size. A grantee may waive contributions from families whose incomes are at or below the poverty level for a family of the same size, or may apply different sliding fee scales.
7. Definitions for 1) Indian Child; and 2) Indian Reservation or Tribal Service Area. Tribes have broad latitude in defining these terms that are used to determine eligibility. An applicant's child count declaration -- required in the annual CCDF application -- is based on the definition of these terms.
8. Any statutory provisions, regulations, policies, or procedures that the Tribe requests to be waived.
9. A consortium must submit a demonstration (e.g., a tribal resolution) from each member Tribe that authorizes the consortium to receive CCDF funds on its behalf for the duration of the plan period.

Plan Waivers:

Section 7 of P.L. 102-477, as amended, authorizes the Secretary of the Department of Health and Human Services to waive any statutory provision, regulation, policy, or procedures requested by a Tribe, as long as the waiver is not inconsistent with the purpose of P.L. 102-477 or with provisions of the Child Care and Development Block Grant Act, as amended.

To obtain a waiver, the 102-477 plan **must**:

- Identify the specific statutory provision, regulation, policy or procedure;
- Justify the need for the waiver; and
- Explain what the Tribe will use to replace the existing statutory provision, regulation, policy or procedure, if applicable.

Waivers will be granted or denied on a case-by-case basis for each plan. Blanket waiver requests are not acceptable. See Attachment E for a list of statutory and regulatory requirements that will not be waived.

**Special
Instructions
For Tribal
Consortia:**

Individual Child Counts Required - A tribal consortium must submit an individual Child Count Declaration, signed by an individual authorized to act for the Tribe, for each Tribal member in a tribal consortium. A tribal consortium must also provide a summary section listing each tribal member's name and child count, and the total child count for all members.

Because of the statutory "Special Rule for Indian Tribes in Alaska" under Tribal Mandatory Funding, some Alaska Native Regional Nonprofit Corporations will have to provide a separate child count certification for Discretionary Funding purposes. This count will consist of its self-certified Tribal Mandatory Funding count, minus the child count number for any Alaska Tribal grantee in its Region which applies directly for Discretionary Funding. In instances where a Regional Corporation has separate child counts for Discretionary and Tribal Mandatory Funds, both counts may be reported on the Child Count Declaration (Attachment A).

Membership Changes – It is the responsibility of a tribal consortium to notify ACF of any changes in its membership for CCDF funding purposes during the approved plan period. For example - - if a new Tribe joins a tribal consortium to receive FY 2006 CCDF funds, or if a current tribal consortium member elects not to receive FY 2006 CCDF funds through that tribal consortium - - these changes must be conveyed to ACF in writing by the tribal consortium. Alternately, if a member Tribe elects not to receive FY 2006 CCDF funds through a tribal consortium, it is the tribal consortium's responsibility to notify ACF of this change.

**Exempt vs.
Non-Exempt
Grantee Status:**

ACF recognizes that a number of small CCDF grantees do not have the necessary infrastructure to support certain CCDF requirements, such as a certificate program. Similarly, in many small rural communities child care options are often limited. Consequently, additional flexibility has been provided for smaller Tribes and tribal organizations by "exempting" them from certain CCDF requirements (see 45 CFR 98.83(f)). Tribal Lead Agencies with CCDF allocations equal to or greater than \$500,000 for a fiscal year are considered non-exempt grantees; therefore: 1) no less than 4 percent of the aggregate CCDF funds expended for a fiscal year must be used for quality activities; and 2) the Tribal Lead Agency must operate a certificate program that offers parental choice from a full range of providers (i.e., center-based, group home, family and in-home care).

Transition Period Moving into Non-Exempt Status

A Tribal Lead Agency that moves from the exempt to non-exempt category has a phase-in period of **up to one year** to meet the CCDF non-exempt requirements. Therefore, if a Tribal Lead Agency's FY 2005 allocation moved it into the non-exempt category, the Tribal Lead Agency must meet the non-exempt requirements by October 1, 2005. Please contact your ACF Regional Office (Attachment C) if you have questions about exempt or non-exempt grantee status.

**Funding
Estimates and
Allocation
Formulas:**

ACF estimates that \$95,998,200 in FY 2006 CCDF funds will be available for tribal grantees on October 1, 2005 (\$41,658,200 in Discretionary Funds and \$54,340,000 in Tribal Mandatory Funds).

Grants from Discretionary Funds will include a base amount of \$20,000 plus a per-child amount (approximately \$56 per-child) for each Tribe or tribal consortium with a minimum of 50 children. Grants from Tribal Mandatory Funds are calculated solely on a per-child basis (approximately \$96 per-child) and do not include a base amount.

Since the per-child amount for both Discretionary and Tribal Mandatory Funds depends upon the total number of children in all participating Tribes, ACF cannot calculate in advance the exact per-child amount. However, Tribes and tribal organizations may use the FY 2005 Tribal Estimates Chart (See Attachment B) as a guide. A new applicant should use the base amount plus approximately \$56 per-child to estimate its allotment for Discretionary funding, and should use approximately \$96 per-child to estimate its allotment for Tribal Mandatory funding.

A tribal consortium should estimate its allotment for Discretionary funding for each of its members by calculating a portion of the base amount that is equivalent to the ratio of the number of children in each member Tribe to 50, plus the additional per-child amount. For example, a Tribe with 49 children is allotted 49/50ths of \$20,000, or \$19,600. The per-child amount is then multiplied by 49 and added to the \$19,600 base amount.

Important Note: These amounts are provided for the purpose of estimating the allotments that will become available on October 1, 2005 and may increase or decrease when updated data become available before the final grant awards are issued. The estimates reflect the Administration's FY 2006 budget request.

**Discretionary
Earmark:**

The Administration's FY 2006 budget request includes an earmark for school-age care and resource and referral activities. The FY 2006 Tribal Estimates Chart (Attachment B) shows the estimated earmark requirement for FY 2006. The column labeled Discretionary Earmark shows the estimated amount that must be spent on resource and referral activities and school-age care. The column labeled Discretionary After Earmark is the amount of Discretionary Funds remaining after the earmark that can be spent on any allowable CCDF activities (assuming quality expenditure, administrative cost, and other Federal requirements are met). The earmark for resource and referral activities and school-age care is based on a \$500 amount per Tribe plus a per-child amount. Amounts in the FY 2006 Tribal Estimates Chart (Attachment B) are estimates that may increase or decrease when final grant awards are issued.

Note to Non-Exempt Tribal Lead Agencies: The earmarked funds are to be used in addition to the “not less than 4 percent” required to be spent on activities that improve the quality and availability of child care.

Administrative Costs: Tribal Lead Agencies are reminded that no more than 15 percent of the aggregate CCDF funds expended from each year’s allotment may be used for administrative costs. Tribal Lead Agencies are advised to review the CCDF regulations at 45 CFR 98.52 for a discussion of administrative costs. Note: the Discretionary Funds base amount is neither subject to the 15 percent limitation, nor included in the calculation for the 15 percent limitation.

Construction and Renovation Under a 102-477 Plan: In order to use CCDF funds for construction or major renovation projects, all Tribes receiving CCDF funds -- including Tribes with approved 102-477 plans - - are required to follow ACF’s construction and renovation application procedures (Program Instruction ACYF-PI-CC-04-01, dated January 23, 2004). This Program Instruction is available under the “Application and Plan” section of the Child Care Bureau’s website at: <http://www.acf.dhhs.gov/programs/ccb/policy1/triblist.htm>. Early in the planning process, Tribes are advised to contact their appropriate ACF Regional Office (Attachment C). If a Tribe constructs or renovates more than one facility, it must seek ACF approval for each project (even if the projects use identical plans and specifications).

Deadlines: All CCDF applications (and plans, if applicable) must be postmarked or hand delivered to the Office of Self Governance and Self Determination, Department of the Interior, no later than July 1, 2005. Any applications and plans postmarked after that date will not be accepted. Faxed copies will not be accepted.

Electronic Format: The required Child Count Declaration is available in electronic format from ACF Regional Offices, and under the “Application and Plan” section of the Child Care Bureau’s website at: <http://www.acf.dhhs.gov/programs/ccb/policy1/triblist.htm>

Submitting the Materials:	The original and 1 copy of the materials must be mailed or <u>hand-delivered to the:</u>	An additional copy must <u>also be sent to the:</u>
	Department of the Interior, Office of Self Governance and Self Determination Office of Economic Development Division of Job Placement and Training 1849 C Street, NW Mail Stop 4063 MIB Washington, D.C. 20240	ACYF Operations Center c/o The Dixon Group, Inc. CCDF 2006 Tribal Applications 118 Q Street, N.E., Washington, DC 20002-2132

Technical Assistance: Tribes should refer to the “**Preparation of Tribal Plans, Pursuant to Public Law 102-477, PROPOSED GUIDANCE FOR TRIBAL GOVERNMENTS**” in completing a consolidated 102-477 plan. To obtain a copy of this document, or for questions related to overall operation of P.L. 102-477, please contact: Jody Garrison at: (202) 208-2685.

Questions related to the CCDF program should be directed to the appropriate ACF Regional Office (Attachment C). For general inquires about consolidating CCDF into a 102-477 plan, you may also contact ACF's Child Care Bureau at: (202) 690-6782.

Reporting Requirements: CCDF Tribal grantees with an approved 102-477 plan will receive their CCDF funding through the BIA. Therefore, program and financial reporting of CCDF funds awarded under a 102-477 consolidated plan will be made to the BIA. However, the expenditure and obligation of all CCDF funds awarded prior to a 102-477 plan approval will continue to be reported to ACF on the ACF-696-T financial reporting form. Similarly, program data on CCDF funds awarded prior to a 102-477 plan approval must be reported on the ACF-700 data reporting form.

Obligation and Liquidation Periods Tribal Lead Agencies must obligate FY 2006 Tribal Mandatory and Discretionary Funds by September 30, 2007 and liquidate all funds by September 30, 2008.

Audits: Tribes that elect to consolidate their CCDF funds under a 102-477 plan must follow the audit requirements established in OMB Circular A-133 "Audits of States, Local Governments and Non-Profit Organizations," pursuant to the Single Audit Act Amendments of 1996.

Paperwork Reduction Act: An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The information collection required under this Program Instruction is approved under OMB Number 0970-0198, which expires June 30, 2005. ACF is requesting an extension of this information collection with no changes. Since the authority to collect information under OMB number 0970-0198 is extended during the OMB review process, Tribal Lead Agencies are required to submit the application and/or plan information requested in this Program Instruction for FY 2006 CCDF funding purposes

Joan E. Ohl
Commissioner

Attachments:

- A - Child Count Declaration
- B - FY 2006 Tribal Estimates Chart
- C - ACF Regional Administrators List
- D - List of Assurances and Certifications
- E - CCDF Statutory and Regulatory Requirements That Will Not Be Waived