

<h1>ACF</h1> <p>Administration For Children And Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES	
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**CHILD CARE AND DEVELOPMENT FUND
PROGRAM INSTRUCTION**

To: Tribal Lead Agencies administering child care programs under the Child Care and Development Block Grant (CCDBG) Act of 1990, as amended, and other interested parties.

Purpose: This Program Instruction (PI) informs Tribes and Tribal Organizations of the process for obtaining Fiscal Year (FY) 2009 Child Care and Development Fund (CCDF) Tribal Mandatory and Discretionary Funds.

References: The Child Care and Development Block Grant Act of 1990 (CCDBG), as amended; section 418 of the Social Security Act; 45 CFR Parts 98 and 99.

Background: Federal regulations at 45 CFR 98.81 require Tribal Lead Agencies to apply for CCDF funds. For years in which the Tribal Lead Agency submits a biennial CCDF Plan, the Plan itself serves as the application. However, in non-Plan years, the Tribal Lead Agency must apply for funds in accordance with the guidance in this Program Instruction.

The CCDF is comprised of two funding sources:

- Discretionary Funds – funding that is provided to eligible Tribes and Tribal organizations under the CCDBG Act of 1990, as amended; and
- Tribal Mandatory Funds – funding that is provided to eligible Tribes and Tribal organizations under Section 418 of the Social Security Act.

CCDF 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 the Administration for Children and Families (ACF) Region X (Attachment A) with questions about this Special Rule.

Application Process:

Current Tribal CCDF Grantees – Tribal Lead Agencies that received FY 2008 funds must submit a new Child Count Declaration (Attachment C). By submitting a signed, completed Child Count Declaration, the Tribal Lead Agency is thereby making an application for FY 2009 CCDF funds.

By applying for FY 2009 CCDF funds, the Tribal Lead Agency: 1) agrees to follow the provisions of the CCDBG Act of 1990, as amended, and applicable regulations at 45 CFR Parts 98 and 99; and 2) continues to be subject to the assurances and certifications provided in the CCDF Plan for the remainder of the FY 2008-2009 Plan period.

New Tribal CCDF Applicants – Tribes that did not receive FY 2008 CCDF funds must submit a CCDF Biennial Plan. If approved, the new CCDF plan will cover a one-year period of October 1, 2008 to September 30, 2009 (consistent with the current plan period for all CCDF tribal plans which extends through September 30, 2009). Please contact your ACF Regional Office (Attachment A) to obtain a copy of the CCDF plan document.

Tribal Child Counts:

For funds that become available in FY 2009, 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 2009 CCDF funds. The Child Count Declaration must certify the number of Indian children (as defined by a Tribal Lead Agency in Appendix 2, #2 of the Plan), under age 13, who reside on or near the reservation or service area (as defined by a Tribal Lead Agency in Appendix 2, #3 of the Plan). 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 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 must be submitted to the ACF Regional Office (Attachment A) by July 1, 2008.

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 2009 funding, the child count of children under age 13 must be completed **no later than** June 30, 2008, and **no earlier than** July 1, 2007.

**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.

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 (October 1, 2007 – September 30, 2009). For example, if a new Tribe joins a tribal consortium to receive CCDF funds, or if a current tribal consortium member elects not to receive CCDF funds through that tribal consortium -- these changes must be conveyed to ACF in writing by the tribal consortium.

**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 four 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 2008 allocation moved it into the non-exempt category, the Tribal Lead Agency must meet the non-exempt requirements by October 1, 2008. In this case, the Tribal Lead Agency must describe how it is meeting non-exempt requirements in plan sections: 1.4 (quality funds); 3.1 (description of child care services); 3.2 (payment rates); 3.6 (certificate payment system); and 5.1- 5.2 (activities and services to improve the quality of child care). Please contact your ACF Regional Office (Attachment A) if you have any questions about non-exempt grantee status.

**Funding Estimates
and Allocation
Formulas:**

ACF estimates that \$99,581,617 in FY 2009 CCDF funds will be available for tribal grantees starting October 1, 2008 (\$41,241,617 in Discretionary Funds and \$58,340,000 in Tribal Mandatory Funds). Grants from Discretionary Funds will include a base amount of \$20,000 plus a per child amount (approximately \$53 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 \$97 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 2009 Tribal Estimates Chart (See Attachment B) as a guide. A new applicant should use the base amount plus approximately \$53 per child to estimate its allotment for Discretionary funding, and should use approximately \$97 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 beginning October 1, 2008, and may increase or decrease when updated data become available before the final grant awards are issued. The estimates reflect the Administration's FY 2009 budget request.

Discretionary Targeted Funds:

The Administration's FY 2009 budget request includes targeted funds for school-age care and resource and referral activities. The FY 2009 Tribal Estimates Chart (Attachment B) shows the estimated targeted funds requirement for FY 2009. The column labeled Discretionary Targeted Funds shows the estimated amount that must be spent on resource and referral activities and/or school-age care. The column labeled Discretionary Excluding Targeted Funds is the amount of Discretionary Funds remaining (other than targeted funds) that can be spent on any allowable CCDF activities (assuming quality expenditure, administrative cost and other Federal requirements are met). The amount of targeted funds for resource and referral activities and school-age care is based on a \$500 amount per Tribe plus a per child amount. All amounts in the FY 2009 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 targeted funds are to be used in addition to the "not less than four 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:

In order to use CCDF funds for construction or major renovation projects, all Tribes receiving CCDF funds are required to follow ACF's construction and renovation application procedures (Program Instruction CCDF-ACF-PI-2007-03, dated May 9, 2007). This Program Instruction is available on the Child Care Bureau's website at: http://www.acf.hhs.gov/programs/ccb/law/tribal_topic_construction.htm.

Early in the planning process, Tribes are advised to contact their appropriate ACF Regional Office (Attachment A). 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).

Obligation and Liquidation Periods:

Tribal Lead Agencies must obligate FY 2009 Tribal Mandatory and Discretionary Funds by September 30, 2010, and liquidate all funds by September 30, 2011. FY 2009 CCDF Funds that are approved by ACF to be used for a construction or major renovation project must be liquidated by September 30, 2011.

Reallotted Discretionary Funds

Tribal Lead Agencies are required to notify ACF by April 1, 2009 if they will be unable to obligate any portion of their FY 2008 CCDF Discretionary Funds allotment by September 30, 2009. In accordance with 45 CFR 98.64(d), any portion of a Tribe's allotment of Discretionary Funds that is not required to carry out its plan, in the period for which the allotment is made available, shall be reallotted to other tribal grantees in proportion to their original allotments. Tribal Lead Agencies indicate their interest in receiving their proportional share of reallotted Discretionary Funds that may become available in the second fiscal year of a given grant period on their annual ACF-696T CCDF financial expenditure report.

Deadlines:

FY 2009 CCDF Funding Applications must be received by ACF no later than July 1, 2008.

Electronic Format:

The required Child Count Declaration is available in electronic format from the ACF Regional Offices (see Attachment A) and on the Child Care Bureau's website :
http://www.acf.hhs.gov/programs/ccb/law/tribal_topic_application.htm.

Submitting the Application:

Submit copies of the application as follows:

One (1) copy to:

ACF Regional Office
Attn: Child Care Program Manager
(see Attachment A)

One (1) copy to:

TriTAC
c/o Native American
Management Services, Inc.
re: CCDF FY 2009 Tribal
Applications
12110 Sunset Hills Road
Suite 450
Reston, VA 20190

Note: ACF's Tribal Child Care Technical Assistance Center (TriTAC) is only serving as a receipt point for applications. ACF will conduct the review and approval of Tribal FY 2009 CCDF funding applications.

Public Law 102-477 Option: The "Indian Employment, Training and Related Services Demonstration Act of 1992" (P.L. 102-477) permits tribal governments to consolidate a number of Federal programs to integrate their Federally funded employment, training and related services programs into a single, coordinated comprehensive program. CCDF is one of the programs that may be consolidated under P.L. 102-477. This Program Instruction (i.e., for FY 2009 CCDF Funds) does not apply to those Tribes and Tribal organizations that consolidate CCDF funds under P.L. 102-477. A separate Program Instruction contains P.L. 102-477 application and plan requirements and is also available on the Child Care Bureau's website at: http://www.acf.dhhs.gov/programs/ccb/law/tribal_topic_application.htm.

Reporting Requirements: By the end of December each year, Tribal Lead Agencies are required to report CCDF aggregate program data on the ACF-700 report form, and CCDF financial expenditures on the ACF-696T report. Separate Program Instructions are issued each year providing information on the ACF-700 and ACF-696T reporting requirements. These Program Instructions are also available on the Child Care Bureau's website at: http://www.acf.dhhs.gov/programs/ccb/law/tribal_topic_data.htm and http://www.acf.dhhs.gov/programs/ccb/law/tribal_topic_financial.htm.

Audits: Tribes 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 August 31, 2008.

Inquiries: Direct all inquiries to the ACF Regional Offices (see Attachment A)

Sidonie Squier
Director
Office of Family Assistance

Attachments:
Attachment A - ACF Regional Child Care Program Managers List
Attachment B - FY 2009 Tribal Estimates Chart
Attachment C - Child Count Declaration