

# ACF

Administration  
For Children  
And Families

## U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. Log No: CCDF-ACF-PI- 2009-04

2. Issuance Date: April 27, 2009

3. Originating Office: Child Care Bureau, Office of Family Assistance

4. Key Words: Child Care and Development Fund (CCDF) Fiscal Year 2010 Funding; Indian Tribes and Tribal Consortia

Child Care and Development Fund Tribal Plan Preprint

### 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) conveys the pre-printed Tribal Plan for Child Care and Development Fund (CCDF) services for the Fiscal Year (FY) 2010 – 2011 biennium and provides guidance for completing and submitting the required form. This Plan is required by Section 658E of the CCDBG Act.
- 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:** Tribes are required to submit a complete Tribal Plan for the FY 2010 -2011 biennium. The Plan Preprint will be effective for a two-year period beginning October 1, 2009 through September 30, 2011.
- The attached Tribal Plan format is the same as the one used for the FY 2008 - 2009 biennium. We strongly recommend that you review the “**Guidance for Completing the Plan**” (Attachment B), the amended CCDBG Act and the CCDF regulations as you develop your Tribal Plan for the FY 2010 – 2011 Plan period. Each Tribal Plan section includes a statutory citation or reference to the applicable regulation.
- 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 tribal 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

- 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.

**Tribal Child Counts:** ACF will calculate grant awards based on a self-certified Child Count Declaration for the number of children under age 13 (not age 13 and under) who reside on or near the reservation or service area. Because the definitions for “Indian child” and “reservation/service area” help determine the Tribal grant award amounts, please keep in mind the following information as you prepare annual Tribal child counts for CCDF funds:

- While Tribal Lead Agencies have some flexibility in defining “Indian Child,” the definition must be limited to children from Federally recognized Indian Tribes, consistent with the Child Care and Development Block Grant Act’s definition of Indian Tribe.
- “Service area” must be “on or near the reservation,” and therefore must be within a reasonably close geographic proximity to the delineated borders of a Tribe’s reservation (with the exception of Tribes in Alaska, California and Oklahoma). Tribes that do not have reservations must establish service areas within reasonably close geographic proximity to the area where the Tribe’s population resides. ACF will not approve an entire state as a Tribe’s service area.

Tribal Lead Agencies are advised that ACF will not accept child count declarations based on child counts that were conducted prior to July 1 of the previous year. For FY 2010 funding, the child count of children under age 13 must be completed **no later than** June 30, 2009, and **no earlier than** July 1, 2008.

Additional child count guidance is provided in the “**Guidance for Competing the Plan**” (Attachment B).

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

The final FY 2009 CCDF funding allocation amounts, which will include the American Recovery and Reinvestment Act (ARRA) of 2009 supplement funds, may cause some Tribes that are currently “exempt” grantees to become “non-exempt.” Tribal Lead Agencies with CCDF allocations equal to or greater than \$500,000 for a fiscal year are considered non-exempt grantees. Non-exempt Tribal Lead Agencies must: 1) use for quality activities at least four percent of the aggregate CCDF funds expended for a fiscal year; and 2) 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). A Tribal Lead Agency that moves from the exempt to non-exempt category has a phase-in period of one year to meet the CCDF non-exempt requirements. The one year period begins with the issuance date of the grant award

letter indicating that a Tribe's final allocation is equal to or greater than \$500,000. A non-exempt Tribal Lead Agency must describe how it is meeting non-exempt requirements in its FY 2010-2011 CCDF plan, including Plan sections 1.4 (quality funds), 3.1 (descriptions 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).

**Funding Estimates  
and Allocation  
Formulas:**

Estimated FY 2010 CCDF funding allocations are not yet available, but in the coming weeks will be posted on the Child Care Bureau's website at: <http://www.acf.hhs.gov/programs/ccb/law/allocations/tribal.htm>. Tribal Lead Agencies are advised to check this site for updated allocation amounts prior to the Tribal Plan submission deadline (July 1, 2009).

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 \$100 per child) and do not include a base amount.

A new applicant should use the base amount plus approximately \$56 per child to estimate its allotment for Discretionary funding, and should use approximately \$100 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 eligible 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: Estimated funding amounts may increase or decrease based on the final FY 2010 appropriation level, as well as updated child count data that are used to calculate grant awards.

**Discretionary  
Targeted Funds:**

The FY 2010 CCDF allocations may include targeted funds for school-age care and resource and referral activities. This amount must be spent on resource and referral activities and/or school-age care. The amount of targeted funds for resource and referral activities and school-age care is based on \$500 per Tribe plus a per child amount. Further information about the targeted funds will be included on estimated and final allocation tables posted on the Child Care Bureau website.

Note to Non-Exempt Tribal Lead Agencies: The targeted 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:**

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 should 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 Tribal Lead Agencies are required to follow ACF's construction and renovation application procedures, Program Instruction CCDF-ACF-PI-2007-03, dated May 9, 2007, which is available on the Child Care Bureau's website at: <http://www.acf.hhs.gov/programs/ccb/law/index.htm>. If a Tribal Lead Agency constructs or renovates more than one facility, it must seek ACF approval for each project (even if the projects use identical plans and specifications). Early in the planning process, Tribal Lead Agencies are advised to contact their appropriate ACF Regional Office (Attachment A)

**Local Market Rate Survey:**

ACF has clarified certain provisions of the CCDF regulation regarding local market rate surveys to address: 1) the conditions under which a Tribal Lead Agency may provide alternative documentation in lieu of conducting or using a market rate survey; 2) conditions under which a Tribal Lead Agency may base its payment rates on the State market rate survey rather than conducting its own survey; 3) State-Tribal coordination around market rate surveys; and 4) local market rate survey completion deadlines. For additional information, see Program Instruction CCDF-ACF- PI-2009-02, which is available on the Child Care Bureau's website at: <http://www.acf.hhs.gov/programs/ccb/law/index.htm>.

**Family Co-Payments:**

Under section 3.5 of the Tribal Plan, each Tribal Lead Agency must describe and attach a sliding fee scale that provides for cost sharing by families and is based on income and family size. A Tribal Lead Agency may waive contributions from families whose incomes are at or below the poverty level for a family of the same size.

Note: A Tribal Lead Agency cannot use Federal CCDF dollars to pay the parental contribution (co-payment) on behalf of an Indian family who is receiving a CCDF subsidy from a State.

**Health and Safety Requirements:**

By submitting a Tribal Plan, a Tribal Lead Agency is certifying there are in effect, under tribal, local or State law, requirements designed to protect the health and safety of children. These requirements are applicable to child care providers that provide services for which assistance is made available under the CCDF. To ensure that children are being cared for in safe and clean child care facilities, Tribal Lead Agencies are encouraged to partner with local health agencies, including the Indian Health Service (IHS), which conducts environmental health surveys, and reflect these partnerships in Sections 2.2 and 6 of the Tribal Plan, as appropriate.

In 2000, after three years of consultation with Tribes, Tribal organizations and Tribal child care programs, the Child Care Bureau issued *Minimum Tribal Child Care Standards* as voluntary guidelines that represent the baseline from which all programs should operate to ensure that children are cared for in healthy and safe environments and that their basic needs are being met. These voluntary guidelines express minimum standards for health and safety in child care and are not intended to supersede any existing federal, state, Tribal or local laws or regulations. An updated (June 2005) copy of this resource document is available on the Child Care Bureau's website at: <http://www.acf.hhs.gov/programs/ccb/ta/pubs/ms/ms1.htm>.

**Obligation and Liquidation Periods:** Tribal Lead Agencies must obligate FY 2010 Tribal Mandatory and Discretionary Funds by September 30, 2011, and liquidate all funds by September 30, 2012. These terms are further defined in Program Instruction CCDF-ACF-PI-2008-05, which is available on the Child Care Bureau's website at: <http://www.acf.hhs.gov/programs/ccb/law/index.htm>

**Deadlines and Effective Dates:** Tribal Plans must be submitted for ACF review by July 1, 2009 for the FY 2010 – 2011 biennium (October 1, 2009 - September 30, 2011). When approved by ACF, the Tribal Plans are effective on October 1, 2009.

**Electronic Format:** The Tribal Plan is available in word processing format from the ACF Regional Offices. If you would like a copy of the Tribal Plan in an electronic format, or to submit the Tribal Plan electronically, contact your ACF Regional Office. If submitting a Tribal Plan electronically, a Tribal Lead Agency should: (1) "write protect" the Tribal Plan, and (2) submit a letter signed by the program administrator to the appropriate Regional Office confirming that on a specific date the Tribal Plan is submitted for review and approval. A copy of the Tribal Plan is also available on the Child Care Bureau's website at: <http://www.acf.hhs.gov/programs/ccb/law/index.htm>.

**Plan Amendments:** Any substantive change to the CCDF program requires an amendment to the approved Tribal Plan (45 CFR 98.18(b)). Tribal Lead Agencies should enter amendment information on the Amendment Log at the beginning of the Tribal Plan and submit the Log and amendment within 60 days of the effective date of the change. ACF will make determinations on amendments no later than 90 days following the date on which the amendment is received, unless a written agreement to extend that period has been secured (45 CFR 98.18(b)). ACF Program Instruction CCDF-ACF-PI-2009-01 provides additional clarification regarding CCDF Plan amendments. This Program Instruction is available on the Child Care Bureau's website at: <http://www.acf.hhs.gov/programs/ccb/law/index.htm>.

Submit copies of the Tribal Plan as follows:

**Submitting the Tribal Plan:**

**One (1) copy to:**  
ACF Regional Office  
Attn: Child Care Program Manager  
(see Attachment A)

**One (1) copy to:**  
Tribal Technical Assistance Center (TriTAC)  
c/o Native American Management  
Services  
re: CCDF 2010-2011 Tribal Plans  
12110 Sunset Hills Road, Suite 450  
Reston, VA 20190

Note: TriTAC is only serving as a receipt point for Tribal Plans. ACF will conduct the review and approval of FY 2010-2011 CCDF Tribal Plans. All other correspondence with the Child Care Bureau should be addressed to: 370 L'Enfant Promenade, 5<sup>th</sup> Floor East, Washington, D.C. 20024.

**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 several Federally funded employment, training and related services programs into a single, coordinated comprehensive plan. CCDF is one of the programs that may be consolidated under P.L. 102-477. This Program Instruction (i.e., for the Tribal Plan) does not apply to those Tribes and Tribal organizations that consolidate CCDF funds under P.L. 102-

477. A separate Program Instruction (CCDF-ACF-PI-2009-03) containing the 102-477 application and plan requirements is available on the Child Care Bureau's website at: <http://www.acf.hhs.gov/programs/ccb/law/index.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 available on the Child Care Bureau's website at: <http://www.acf.hhs.gov/programs/ccb/law/index.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 September 30, 2011.

**Technical Assistance Trainings:**

During March and April 2009 the Child Care Bureau sponsored the *Tribal Plan Trainings* in ACF Regional Office cities to provide Tribal Lead Agency Administrators with a thorough review of the Tribal CCDF plan sections, including requirements for: coordination; family eligibility; payment rates/family co-payments; parental choice; and health and safety. For additional information about the regional *Tribal Plan Trainings* please contact your Regional Office (Attachment A) or TriTAC at 1-800-388-7670.

**Inquiries:**

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

/s/

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Ann H. Barbagallo  
Acting Director  
Office of Family Assistance

Attachments:

- Attachment A - ACF Regional Child Care Program Managers List
- Attachment B - Guidance for Completing the Plan
- Attachment C - Tribal Plan Checklist: Attachments & Appendices
- Attachment D - Tribal Plan Preprint 10/1/09 – 9/30/11