DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

MAY 19 2006

Dear Honorable Tribal Leaders:

In December 2005, the Administration for Children and Families (ACF) conducted a one-day Tribal Consultation session at the Wyndham Hotel in Palm Springs, California, that preceded the ACF National Native American Conference. Both events were a tremendous success. On behalf of ACF, I want to thank the many Tribal leaders and representatives from the Native communities who joined ACF senior leadership and our partners in the discussions and the informative conference sessions over those three and a half days.

Copies of the consultation agenda, executive summary and program response documents will be posted on the ACF website at www.acf.hhs.gov, for your review.

I encourage you to also participate in the annual regional HHS Tribal Consultation sessions so that you may become familiar with our regional office personnel who are there to assist you in your endeavors to make your communities strong and healthy in every respect.

Sincerely,

Wade F. Horn, Ph.D.
Assistant Secretary
for Children and Families

Health and Human Services
Administration for Children and Families
Tribal Consultation Agenda
Wyndham Hotel
Meeting Room: California Grand Ballroom
Tuesday, December 6, 2005
9:00 a.m. – 3:30 p.m.

9:00 AM	Opening Session - Introductions *Quanah Crossland Stamps, Commissioner, Administration for Native Americans*
	Invocation *Ernest Siva, Tribal Historian/Cultural Advisor, Morongo Band of Mission Indians*
	Opening Welcome *Joan Ohl, Commissioner, Administration on Children, Youth and Families*
	Review of Agenda and Consultation Protocol *Commissioner Stamps, Administration for Native Americans*
9:45	Children's Bureau Gil Vigil, All Indian Pueblo Council Vice-Chairman
10:00	Children's Bureau Response *Dr. Susan Orr, Associate Commissioner*
10:05	Child Care Bureau Phyllis Yargee, Cherokee Nation Tribal Council Member Tracy "Ching" King, Fort Belknap Community Council Member William D. Coleman, Nooksack Indian Tribal Council Member
10:20	Child Care Bureau Response *Shannon Christian, Associate Commissioner*
10:25	Head Start Bureau Rebecca A. Miles, Nez Perce Tribal Chairman Gil Vigil, All Indian Pueblo Council Vice-Chairman
10:55	Head Start Bureau Response *Frank Fuentes, Deputy Commissioner*
11:05	AM Break
11:20	Family and Youth Services Bureau Tracy "Ching" King, Fort Belknap Community Council Member

11:25	Family and Youth Services Bureau Response *Harry Wilson, Associate Commissioner*
11:30	Open Mike Discussion
11:50	Morning Recap
Noon	Lunch Recess (On your own)
1:30 PM	Call to Order
1:35	Administration for Native Americans Tracy "Ching" King, Fort Belknap Community Council Member Delia Carlyle, Ak-Chin Indian Community Vice Chairman Elizabeth Hansen, Redwood Valley Reservation Tribal Chairperson
1:50	Administration for Native Americans Response *Quanah Crossland Stamps, Commissioner*
1:55	Office of Family Assistance James W. Thomas, Nooksack Director Program Development Gil Vigil, All Indian Pueblo Council Vice-Chairman
2:10	Office of Family Assistance Response *Sidonie Squier, Director*
2:35	Open Mike
2:50	Testimony Resumes
2:50	Office of Child Support Enforcement Ronald G. Charles, Port Gamble S'Klallam Tribal Chairman Jim St. Martin, Director- Department of Children and Family Services (DCFS), Confederated Tribes of the Umatilla Indian Reservation Sharon Olsen, Division Director for Employment and Training for Central Council Tlingit and Haida Indian Tribes of Alaska
2:50	OCSE Response *Margot Bean, Commissioner*
2:55	Office of Community Services (OCS) Ron Andrade, Potter Valley Tribal Representative Bill Coleman, Nooksack Indian Tribal Leader
3:10	OCS Response *Josephine Robinson, Director*

3:15 Wrap-up & Next Steps
Joan Ohl, Commissioner, Administration on Children, Youth and Families
Quanah Crossland Stamps, Commissioner, Administration for Native Americans

The record will remain open for 60 days to receive additional written testimony. Submit testimony to: Administration for Native Americans, 370 L'Enfant Promenade SW, Washington DC 20447.

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

- Tribal Consultation -

SUMMARY REPORT

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Tuesday
December 6, 2005

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Wyndham Hotel and Resort
California Grand Ballroom
Palm Springs, CA

Tribal Consultation

December 6, 2005

Welcome/Introductory Remarks

QUANAH CROSSLAND STAMPS, Commissioner, Administration for Native Americans

Participants were welcomed by the Commissioner.

The purpose of the consultation is to provide an opportunity for Tribal Leaders and representatives to communicate directly with HHS about the needs and progress in Native American communities.

Invocation

ERNEST SIVA, Tribal Historian/Cultural Advisor, Morongo Band of Mission Indians

Mr. Siva led the invocation and sang the Prayer of Directions.

Opening Welcome

JOAN OHL, Commissioner, Administration on Children, Youth and Families

HHS wants to ensure Tribal access to the Department with the goal of developing comprehensive policies to transcend poverty and bring sustainability to Native American communities in partnership with Native Communities.

Review of Agenda and Consultation Protocol

QUANAH CROSSLAND STAMPS, Commissioner, Administration for Native Americans

Notice of this consultation session was given nationwide through varied communication means. This session will be transcribed and the record will remain open for 60 days from the date of the session for submission of written comments.

CHILDREN'S BUREAU

Tribal Comments

GIL VIGIL, Vice Chairman, All Indian Pueblo Council

Consultation is meaningless to Tribes without results. ACF should increase Tribal allocations under Title IV-B, Child Welfare Services, to 3 percent of the overall appropriation, or $8.8 million annually. It should also increase the Tribal set-aside under the mandatory portion of Title IV-B, Promoting Safe and Stable Families, to 3 percent and allow Tribal consortia to apply.

ACF should support congressional bills providing Tribal access to Title IV-E, Foster Care and Adoption Assistance. The Tribes request a written description of the President's flexible funding

proposal, but recommend that the Tribal allocation be increased to $68 million annually for foster care assistance.

ACF should develop a separate Tribal child abuse prevention fund. Data measurement efforts should be expanded and used to assist States in implementing ICWA. ACF's Tribal technical assistance efforts should involve Tribal consultation and reflect Tribal priorities. ACF should take a leadership role in child welfare issues that arise between States and Tribes.

Response

DR. SUSAN ORR, Associate Commissioner, Children's Bureau

The Children's Bureau has implemented a series of quarterly conference calls with States and Tribal leaders to bridge gaps between the groups, and there will be an increased effort to notify Tribal leaders of the calls. ACF regional offices have received Tribal consultation guidelines.

The flexible funding option provides Tribes direct access to $30 million annually to be used for child welfare services. Specifications for the child welfare option will be posted.

CHILD CARE BUREAU

Tribal Comments

PHYLLIS YARGEE, Tribal Council Member, Cherokee Nation

ACF should provide additional funding for child care training and technical assistance and increase relevant research. A short-term workgroup could be initiated to review current technical assistance efforts. ACF should consider the finding by the Congressional Budget Office that estimates the cost of implementation of the House Welfare Reform bill at $12.5 billion over the next five years. The Tribes would like to see increased collaboration between the Child Care Bureau and the Head Start Bureau.

TRACY KING, Fort Belknap Community Council Member

The Federal Government, through USDA, is willing to provide more funding for installing fence posts than for child care subsidies. The ACF panel members are invited to visit reservations to experience Tribal needs firsthand.

WILLIAM COLEMAN, Nooksack Indian Tribal Council Member

Head Start technical assistance (TA) currently places financial, travel, and work burdens on Tribal Head Start personnel. TA and Federal program specialist personnel change frequently and are difficult to contact. Grant review teams need to be more culturally sensitive when conducting reviews. The rate of funding does not keep up with cost of living increases. The National Reporting System test is not culturally sensitive.

Response

SHANNON CHRISTIAN, Associate Commissioner, Child Care Bureau

ACF does not have the power to redirect or increase Federal funding to Tribes. Creation of a short-term workgroup to look at technical assistance efforts is a possibility.

A Tribal guide to the President's *Good Start, Grow Smart Initiative* has been developed. CCB is promoting collaboration between States and Tribes under that initiative. Specific technical assistance training efforts are underway to address topics raised by Tribal grantees.

Only 80 percent of Tribes engage in data reporting to the bureau. Three research projects are underway to look at training to improve family, friend, and neighbor care; to study how market rate surveys affect policy and program choices; and to examine cultural preservation efforts in Child Care programs and whether and how State programs assist in those efforts.

HEAD START BUREAU

Tribal Comments

REBECCA MILES, Tribal Chairman, Nez Perce

Federal funding does not reflect increased program costs. Funding to successful Indian Head Start programs should be increased. The Nez Perce have put their own money towards teacher scholarships, transportation, renovation of Head Start facilities, and kindergarten readiness efforts. Any extra available funding should be used for the Head Start program itself, not re-review efforts.

GIL VIGIL, All Indian Pueblo Council Vice Chairman

The Federal Government should be accountable to the Tribes, just as the Tribes are accountable to the government for the funding they receive and spend. It is estimated that new reviews to be conducted as a result of the loss of 23 grantee review reports will cost nearly $500,000. This money would be better spent preparing for the next round of reviews. On-site review teams should be more culturally sensitive.

Delays in the grants management process can cause delays in Tribes receiving grant monies and a disruption in cash flow. HSB should offer its funding opportunities together rather than as multiple one-time opportunities.

The Head Start National Reporting System is not culturally sensitive and does not take into account cultural preservation efforts.

For several years, HHS has wrongfully redirected 3 percent, or $50 million per year, of the 13 percent mandated set-aside for Indian Head Start.

Early Head Start programs in Alaska should be returned to the AI/AN technical assistance program branch. The National Indian Head Start Directors' Association requests clarification of the role of the Region X TA field staff.

Response

FRANK FUENTES, Deputy Commissioner, Head Start Bureau

A Head Start Tribal consultation session was held December 5, 2005. A compendium of the proceedings will be compiled. The Department will prepare an action plan to address issues from that session that are within its control. HSB will address its timeliness and responsiveness to Tribal concerns, and a timeline for the monitoring and grant review processes will be provided.

HSB's MOU with IHS is being renewed and covers Head Start medical care and facilities. Reviews, monitoring, and re-reviews are governed by statute and regulation. The Head Start program review team will include at least one member knowledgeable about Indian culture.

HSB is evaluating the National Reporting System for its cultural appropriateness. The National Native American Research and Information Center was funded September 30, 2005, under a five-year grant program. HSB will examine the issue surrounding the 13 percent set-aside.

FAMILY AND YOUTH SERVICES BUREAU

Tribal Comments

TRACY KING, Council Member, Fort Belknap Community

The 15-day time period allocated for youth services under the Runaway and Homeless Youth Initiative is inadequate. Better services are required to address high suicide rates in Indian Country. A comprehensive plan is necessary to help teens who can no longer be handled by the foster care system.

Response

HARRY WILSON, Associate Commissioner, Family and Youth Services Bureau

The 137 Federal funding streams aimed at youth services need to be better coordinated. The Mentoring Children of Prisoners Program and the Abstinence Program are designed to reach youth before they get into trouble. The 15-day stay in the RHY centers is not a restriction on working with children, merely a function of limited funding.

Comment Session

ROBERT CONOYER, Tribal Chairman, Yankton Sioux

True consultation between the government and Tribes is lacking. A recent blizzard has exhausted both Tribal resources and LIHEAP assistance. The Yankton Sioux Tribe is about to lose its emergency room, which will have dire consequences for Tribal members.

PATRICK THOMAS, Blackfeet Tribal Chairman

Lack of funding for Native Americans is as damaging as any disease. Funding for health care and TANF is inadequate. The government can relieve itself of its trust responsibility to Tribes by returning

Tribal lands.

RONALD RICE, Pawnee Nation Council Member

Cultural differences among Tribes, and between Tribes and the government, make it difficult for each to understand the other. For the relationship to work, each side must try looking through the other's eyes.

ADMINISTRATION FOR NATIVE AMERICANS

Tribal Comments

TRACY KING, Council Member, Fort Belknap Community

Native American economic development opportunities should be supported in order to overcome academic and health challenges and to assist in the reunification of families and create economically competitive communities.

DELIA CARLYLE, Ak-Chin Indian Community Vice Chairman

All HHS departments should use ANA as a model for coordinating with Tribes to meet Tribal needs. Training and technical assistance are needed for greater Tribal self-determination. The recommendations from the U.S. Civil Rights Commission's Report, "The Quiet Crisis: Federal Funding and Unmet Needs in Indian Country" still apply. These include:

1) The Native American crisis should be addressed with urgency;
2) Funding agencies should regularly assess unmet needs;
3) Agencies should replicate the Federal Disparity Index Assessment to evaluate service disparities;
4) Tribes should be consulted in developing assessment measures;
5) Federal agencies administering AI/AN programs should set aside money for building infrastructure;
6) Across-the-board budget cuts by Federal agencies should not apply to AI/AN programs;
7) AI/AN programs should be situated within appropriate Federal agencies;
8) Native Americans should manage programs for Native Americans;
9) Federal appropriations should account for uniquely Tribal needs;
10) Spending patterns of Federal agencies that support AI/AN programs should be regularly assessed;
11) OMB should develop uniform standards for tracking spending on AI/AN programs.

ELIZABETH HANSEN, Redwood Valley Tribal Chairperson

Funding for ANA programs, especially the language preservation program, should be increased; Tribes should be a priority for funding; and ANA should be fully staffed.

Response

QUANAH CROSSLAND STAMPS, Commissioner, Administration for Native Americans

ANA funds projects, not programs, with the goal of helping Native communities achieve social and economic self-sufficiency. ANA is only able to fund one-third of the applications that it receives. ANA has made dramatic improvements within the past three years and improved processes to prepare for an upcoming Program Assessment Rating Tool (PART) assessment and to ensure funded programs accomplish their stated goals. ANA now offers one round of funding annually, which allows more funds for grant awards for all eligible entities.

OFFICE OF FAMILY ASSISTANCE

Tribal Comments

JAMES W. THOMAS, Director of Program Development, Nooksack Tribe

The Nooksack Tribe requests that ACF provide guidance on the issue of TANF cases transferred to Tribal TANF programs by States. State and Tribal TANF programs disagree over eligibility of cases for TANF funding, which program is responsible for the cases, and determination of the true length of time of eligibility of cases.

Tribal TANF programs request clarification of ACF's position on Public Law 102-477 as it relates to Tribal TANF programs.

GIL VIGIL, Vice Chairman, All Indian Pueblo Council

ACF should provide technical assistance to Tribal TANF programs. The Division of Tribal TANF Management needs its own budget and should hire more staff. ACF should facilitate discussion between Tribes and States over human services issues. Compilation and analysis of data needs improvement. TANF Tribal funding streams are inadequate and disproportionate to State TANF funding. Tribal governments should be allowed to establish eligibility requirements for services. TANF reporting requirements must be revised.

Tribes should be eligible for direct funding under the Title XX Social Services Block Grant, Food Stamps, and Title IV-E Foster Care Assistance. Matching funding requirements should be flexible.

Title 1 of the Welfare Law, Section 41.94(b) and Section 41.2(h) should be revised to enable individual Tribes in Alaska to administer TANF programs. Economic development funding should also be available to Tribes who do not administer a TANF program.

Response

SIDONIE SQUIER, Director, Office of Family Assistance

The Reconciliation Bill, which includes TANF reauthorization, is expected to pass in Congress. OFA is

committed to facilitating a discussion between the State and Tribal TANF programs to address their differences. Financial reporting and statutory requirements are not waived for Tribal TANF programs under PL 102-477. OFA is committed to increasing technical assistance provided to Tribes.

Comment Session

BARBARA MURPHY, Chairman, Redding Rancheria

Downsizing should be used as a means to reallocate resources to address need. Institutionalized racism must be eliminated, and increased trust will lead to increased accountability. Legislation should be enacted to place all family programs within Tribal self-governance compacts.

CHARLES WOODS, Tribal Chairman, Chemehuevi

The government should consult with Tribes while developing policies, not seek Tribal opinion after such policies have been developed.

IRENE ARBANAGE, White Earth Executive Tribal Leader

Tribes expect and demand accountability for the money owed to them by the government. Indian Head Start should have been funded at 3.7 percent on a pro rata basis, not the 2.9 percent level established by HHS. Increased funding is needed in all areas. A copy of the list of the 137 Federal funding streams for youth programs is requested.

OFFICE OF CHILD SUPPORT ENFORCEMENT

Tribal Comment

RONALD G. CHARLES, Tribal Chairman, Port Gamble S'Klallam

Tribal child support enforcement programs need the ability to intercept IRS refunds, access to Federal parent locator systems, an automated computer system, and assurance that using child support programs to provide health coverage for children does not interfere with the Federal Government's obligation to provide medical coverage to Native children.

JIM ST. MARTIN, Director, Department of Child and Family Services, Confederated Tribes of the Umatilla Indian Reservation

Research into service delivery and therapeutic models of care for Native families is needed.

SHARON OLSEN, Division Director for Employment and Training for Central Council, Tlingit and Haida Indian Tribes of Alaska

No HHS representative was present at the National 102-477 Conference held in September 2005. The State of Alaska must recognize Tribes funded by HHS under the Title IV-D Child Support Enforcement Program and accept Tribal support orders. HHS should help Tribal support programs develop data tracking systems.

Response

MARGOT BEAN, Commissioner, Office of Child Support Enforcement

Access to IRS refunds and the FLPS system has been proposed in both the House and Senate Welfare Reform legislation. The issue of providing automated data systems is being looked into, as is the issue of medical coverage and the Federal trust obligation. Ms. Bean was not aware of the National 102-477 Conference. OCSE will determine the appropriate Federal role in the Alaska child support dispute and do what is appropriate in the situation.

OFFICE OF COMMUNITY SERVICES

Tribal Comments

RON ANDRADE, Tribal Representative, Potter Valley Rancheria

Congress did not pass the budget for LIHEAP and CSBG, and the President's budget recommended closing the programs. Both programs need to be reauthorized. There is a general lack of awareness that special Tribal funding exists under the two programs. A question was posed as to whether LIHEAP assistance would be counted against TANF assistance.

WILLIAM COLEMAN, Tribal Council Member, Nooksack Indian

Need to address the inequity of a $41 million increase over an eight-year period of Federal funding for migrant worker programs when Head Start and migrant programs were supposed to be equal in funding. Dietary requirements for reimbursement are inappropriate for elders and children and should be changed. The highest elected Tribal officials should be consulting with the highest elected government officials.

Response

JOSEPHINE ROBINSON, Director, Office of Community Services

LIHEAP will be reauthorized and Tribes will receive their allocations. The President has requested moving the CSBG program from HHS to the Department of Commerce as part of his Strengthening America's Communities Initiative to reduce duplication in programs. We are working to make certain people know what LIHEAP and CSBG do and their importance in the community.

Wrap-up and Next Steps

JOAN OHL, Commissioner, Administration on Children, Youth and Families

The day's dialogue and participation will enable the Department and the Tribes to work together to support the social and economic development of Native Americans. The record of the session will remain open for 60 days, and written submissions may be sent to Commissioner Quanah Stamps of ANA.

Closing Remarks

QUANAH CROSSLAND STAMPS, Commissioner, Administration for Native Americans

The Commissioner thanked the participants for their presence at the meeting and their commitment to addressing the issues. She adjourned the meeting at 5:30 p.m.

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Administration for Children and Families
2005 ACF Tribal Consultation
ACF Program Response

The following are ACF program responses to testimony submitted during the 60-day open comment period to issues not fully addressed during the consultation session or updated information.

Administration for Native Americans (ANA) Program Response

National Indian Education Association (NIEA)
Comment: NIEA requests a budget increase of $6 million for the ANA Native Language Preservation and Maintenance program. The majority of this funding would provide financial support for existing and/or the creation of new immersion language schools and programs. This funding would also support a partnership between NIEA and an appropriate academic institution to support a comprehensive assessment of the immersion school experience resulting in a compilation of best practices.

Response: ANA's Native Language program has historically offered the opportunity for communities to submit projects to assess community language skills and to implement community-based language projects (including immersion projects) that meet the community's determination of its long-term language goal(s). From FY 2001 – FY 2005, ANA has increased language funding significantly, and it is now approximately 25% of ANA's annual grant funding.

Karuk Tribe of California
Comment: The Tribe has experienced success through partnership with a Native non-profit organization in an ANA Native Language project. The Tribe encourages ANA to continue funding projects for Native non-profit organizations.

Response: The eligible entities for this program area include Tribes and Native non-profit organizations. ANA has made an effort to increase the opportunities for Native Non-profits to support our Tribes and communities. It is our belief that as long as non-duplicative projects are proposed, ANA funding can complement many diverse community approaches.

Children's Bureau (CB) Program Response

All Indian Pueblo Council
Comment: ACF should increase Tribal Allocations under Title IV-B, Child Welfare Services to 3 percent of the overall appropriation, or $8.8 million annually.

Response: The Children's Bureau will look at the President's proposed FY 2007 budget and amount of growth in the Title IV-B, subpart 1, funding and determine whether this would be feasible.

Comment: It should also increase the Tribal set-aside under the mandatory portion of Title IV-B, Promoting Safe and Stable Families, to 3 percent and permit all Tribal consortia to apply.

Response: Both of these issues would require a change in legislation. The Children's Bureau is not able to make these changes without a change in the law.

Comment: ACF should support congressional bills providing Tribal access to Title IV-E Foster Care and Adoption Assistance.

Response: The Administration has developed the Child Welfare Program Option proposal, which would provide direct Title IV-E funding to Tribes for foster care.

Comment: ACF should develop a separate Tribal child abuse prevention fund.

Response: The Child Welfare Option would allow for funds to be used for Tribal child abuse prevention activities.

Comment: Data measurement efforts should be expanded and used to assist states in implementing ICWA.

Response: ACF will review the findings of its pilot demonstration grant on collecting Tribal data to assist it in determining what, if any, additional data collection activity is feasible.

Comment: ACF's Tribal technical assistance efforts should involve Tribal consultation and reflect Tribal priorities.

Response: Please let us know if the individual Tribal technical assistance that you request is not satisfactory through our National Resource Centers and, if so, the reasons why.

Comment: ACF should take a leadership role in child welfare issues that arise between states and Tribes.

Response: We believe that convening meetings, utilizing the NRCs and the Regional Office staff to help States and Tribes work through their differences is a leadership role and is helpful when utilized. Tribes should contact the ACF Regional Offices for assistance in resolving differences with States.

Comment: The Tribes request a written description of the President's flexible spending proposal.

Response: The following represents some details of the Child Welfare Program Option proposal for Tribes:

The Child Welfare Program Option allows States/Tribes the option to receive their foster care funding as a flexible grant for a period of five years or to maintain the program as it is currently funded. The option gives States and Tribes the flexibility to develop a seamless child welfare system that supports a continuum of services to families in crisis and children at risk.

Those entities that choose the grant option will be able to:

- use the funds for foster care payments,
- develop innovative and effective systems for preventing child abuse and neglect and for keeping families and children safely together,
- increase permanency efforts (including subsidized guardianships),
- provide case management,
- conduct administrative activities (including developing and operating information systems), and
- conduct training for child welfare staff and other such service related child welfare activities.

Other features of the proposal include:

Continued Focus on Child Safety, Permanency, and Well-Being: Tribes must continue to meet existing child protections, including those contained in the Adoption and Safe Families Act. The Department will continue to conduct Child and Family Services Reviews to ensure that States are achieving positive safety, permanency, and well-being outcomes for children.

- Each Tribe participating under the option will have to provide assurances that it will operate a pre-placement preventive services program designed to help children at risk of foster care placement remain safely in their homes and a foster care program for children who cannot remain at home safely. Tribes must also assure that they will provide, or make arrangements with a State or the Bureau of Indian Affairs to provide, a system for child abuse and neglect reporting and prevention, adoption assistance and/or other permanency supports (i.e., guardianship), and independent living services.
- The Secretary may waive burdensome requirements that do not compromise child safety, permanency and well-being on a case-by-case basis. HHS may approve a waiver only if the Tribe has demonstrated that it has an alternate mechanism for complying with the intent of the provision.

Reduce Administrative Burden: The flexible grant will give relief from burdensome administrative activities, such as AFDC eligibility determinations and cost allocation plans.

- In general, Indian Tribes must report case-level data consistent with existing AFCARS requirements. However, on a case-by-case basis, the Secretary may waive the requirements for case-level data in favor of aggregate data on children in foster care and adopted with the involvement of the Tribal agency.

Funding for Indian Tribes: We propose a set-aside for Indian Tribes or consortia that can demonstrate the capacity to operate a Title IV-E program. Indian Tribes will have similar program requirements as do States; however, the Secretary will have the authority to waive certain State program requirements that are burdensome to Indian Tribes but do not affect or compromise child safety. The Indian Child Welfare Program Option Plan must include supporting documentation that demonstrates that the Tribe or consortium has policies and procedures that are essential to the operation of a foster care program that can assure a child's safety, permanency, and well-being.

Specifically, Tribes must have:

- Legal codes that govern Tribal responsibility for the protection of children, that provide for Tribal placement and care responsibility for children who cannot remain safely at home, and that define Tribal authority for judicial proceedings and judicial determinations regarding "contrary to the welfare," reasonable efforts and permanency decisions.
- A designated agency with the ability to administer the program.
- Procedures to meet the case review requirements (i.e., case plans, periodic reviews, permanency hearings, termination of parental rights).
- Provisions to conduct background checks and license foster family homes within a Tribe's jurisdiction.
- Three years of financial stability and management as evidenced by having no uncorrected significant and material audit exceptions under Federal grants or contracts.
- Tribes will have through June 30 of the first fiscal year that the Child Welfare Program Option is authorized [one year longer than States] to submit a plan for implementation to begin no later than the beginning of the second fiscal year of authorization. Tribes whose plans are approved must commit to the Option through the end of the five-year authorization period.
- Tribes may carry over their individual allotments through the end of the authorization period. Funds will remain available until expended. If the authorization continues to exist at the end of the authorization period, funds may roll over to subsequent fiscal years. If the Option authorization expires, then unspent funds will be available (up to these time limits) under the Title IV-B, subpart 1, Child Welfare Services Program.
- Reimbursement for Tribes' indirect costs shall be according to the rates Tribes have negotiated with the Bureau of Indian Affairs for use in Federal programs.
- Tribes shall provide an assurance that grant funds will be used to supplement and not supplant non-Federal funds that would otherwise be made available for these activities or purposes.
- Federal oversight will be provided through the plan approval, partial reviews and through mid-point assessments, for each entity operating under the Option.
- No non-Federal match is required of Tribes.
- A Tribe that has an approved plan under the Child Welfare Program Option is not prohibited from continuing or entering into an agreement under section 472(a) of the Social Security Act for the payment of foster care maintenance payments on behalf of eligible children under the entitlement. The Option, however, does not authorize Title IV-E entitlement funds for Indian Tribes directly.

State/Tribal Relations

- Tribes may apply for and receive funding even if the State in which the Tribe is located is not participating in the Option.
- Tribes and States shall consult with one another and coordinate the provision of services to Indian children. Tribes must serve children within their defined service area, but States may not use the existence of a Tribal plan as a reason to refuse Tribal children services for which they would otherwise be eligible.