



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

September 12, 2012

Dear Tribal Leader:

On March 5 and 6, 2012, the Administration for Children and Families (ACF) held our annual tribal consultation session in Washington, D.C. This session marked the first consultation held in accordance with the ACF Tribal Consultation policy signed in August 2011. Sixty-nine Tribal Leaders representing thirty-one tribes attended this session. As a follow up to the consultation session, ACF would like to share our responses to the testimony submitted at the session.

As we continue to work towards strengthening our relationship with all tribal nations, we wish to thank you for your comments and trust our responses provide you with a better insight regarding our programs. These responses were prepared by each of the responsible offices. These responses will also be posted on the ACF website at the following address <http://www.acf.hhs.gov/tribal/index.html>.

Our next tribal consultation will be scheduled for early 2013 here in Washington, D.C. We will be sending you a formal invitation to the meeting announcing that session along with the logistics regarding the meeting. We also invite you to participate in planning our next consultation session via telephone conference calls to be set up in the months ahead of the scheduled date. We will also publish a notice of the meeting in the *Federal Register*.

We look forward to our continuing relationship with you and trust that you are able to receive the kind of services you expect from the ACF programs working together to build healthy and happy communities.

Sincerely,

A handwritten signature in black ink, appearing to read "George H. Sheldon".

George H. Sheldon  
Acting Assistant Secretary  
for Children and Families

Enclosure

**Administration for Children and Families (ACF)**

**CHEROKEE NATION**

**Comment:** Tribal Consultation Policy

**Action Requested:** Cherokee Nation applauds the Administration of Children and Families for establishing their own consultation policy in August 2011 and appreciates this particular consultation session.

**ACF Response:** ACF looks forward to building a stronger relationship with tribal governments and one that is responsive to tribal issues/concerns.

**COOK INLET TRIBAL COUNCIL**

**Comment:** We have one major point of concern with the Consultation Policy related to the definition of “Tribe.”

**Action Requested:** CITC urges that the consultation policy continue to utilize the definition of “Indian Tribe” as articulated in PL 93-638 (25 U.S.C. Sec. 450b), as it did in the last consultation policy, rather than the Federally Recognized Tribe List Act of 1994, 25 USC 479a, currently part of the revised consultation policy.

**ACF Response:** The ACF Tribal Consultation Policy does include the definition of Indian and Indian Tribe as defined in P.L. 93-639 450(b). It is the definition of Tribal Government that refers to 25 USC 479a and we will address the suggested changes when the policy is reviewed in 2013.

**NORTH FORK RANCHERIA OF MONO INDIANS OF CALIFORNIA**

**Comment:** Expansion of Self-Governance into DHHS

**Action Requested:** We ask the Department to make Self-Governance a top priority allowing Tribe's to better serve their communities

**ACF Response:** ACF is working closely with the Intradepartmental Council on Native American Affairs to develop a plan to develop a policy that engages the Self-Governance concept and works with our grant programs.

**NORTH FORK RANCHERIA OF MONO INDIANS OF CALIFORNIA**

**Comment:** Timeliness of Policy Clarifications, Guidance and Requests: Region IX does not respond to request for policy clarifications in a timely and expeditious manner.

**Action Requested:** Plus all central and regional ACF staff will benefit from annual training on Congressionally mandated flexibility and the new Tribal Consultation Policy signed by Assistant Secretary Sheldon last August 2011.

**ACF Response:** ACF is working towards providing training on consultation for all ACF staff. We recently sponsored a 2-day training on cultural awareness for all ACF staff. This training also included an overview on consultation and our policy. We will continue to provide cultural training as well as training on the consultation policy in the upcoming months.

**NORTH FORK RANCHERIA OF MONO INDIANS OF CALIFORNIA**

**Comment:** Tribal Advisory Committee

**Action Requested:** The North Fork Rancheria supports NCAI's recommendation to create an ACF Tribal Advisory Committee which can help develop a framework for better collaboration among related programs and entities.

**ACF Response:** We will take it under consideration. Currently ACF utilizes the Secretary's Tribal Advisory Committee (STAC) for outreach and review of programs.

**Administration on Children, Youth and Families/Children's Bureau (ACYF/CB)**

**FALLON PAIUTE -SHOSHONE TRIBE**

**Comment:** There is a need for comprehensive federal finance reform that will include and support the Tribal Nations of this land. Federal funding through ACF should be available for a broader array of services that address the root causes of child abuse and neglect, as well as services that strengthen families and expedite permanency. These services should be available to our Native American families. Federal reimbursement through Title IV-E is triggered once a child enters foster care. Title IV-E compliance and reporting requirements are daunting; the small tribes of Nevada do not have the numbers to support implementing a Title IV-E plan, which would leave a consortium as the option for tribes to implement the plan. When several tribes are united to build this association it infringes on their individual sovereignty. Another issue for the consortium would be if one entity does not comply with the requirements of IV-E then the other participants would be sanctioned and lose funding of the Title IV-E. The current funding structure fails to align desired outcomes with funding although existing federal policy has long supported the goals of safety, strengthening families, maintaining connections with family and community and expediting permanency. Tribal traditions are the very essence of what the federal policy and social work practice has come to embody yet, the funding of Title IV-E is very restrictive.

**Action Requested:** That ACF support a comprehensive federal finance reform that would give Tribal child welfare programs the ability to invest existing federal funds in different ways to address the unique needs of our communities. Change is needed to create a federal child welfare financing structure that better supports safety and permanency outcomes for our children within the existing traditions of our Tribe.

**ACF Response:** Comprehensive financial reform for child welfare is a suggestion that CB continues to explore. Specific suggestions would be welcome. Any changes would require Congressional action.

**NATIONAL CONGRESS OF AMERICAN INDIANS (NCAI)**

**Comment:** Fund foster care initiative to identify innovative strategies that improve outcomes for children in long-term foster care with demonstration grants to tribes, states and localities to test new, innovative strategies for improving outcomes for foster care children - especially those children who have had long-term involvement in the foster care system. Grantees demonstrating improved outcomes would be eligible for bonus funding. Track tribal awards and outcomes for Native children in foster care including outcomes for Native children residing in states in which the state received a grant award.

**Action Requested:** Provide \$20 million to fund CB foster care demonstration grants and track tribal awards.

**ACF Response:** The Children's Bureau did fund a cluster of grants, under the Permanency Innovations Initiative or PII. Awards were made to six grantees for up to \$2,500,000 per year for up to 5 years. The purpose of the funding opportunity announcement was to fund demonstration projects that support the implementation and test the effectiveness of innovative intervention strategies to improve permanency outcomes of subgroups of children that have the most serious

barriers to permanency in spite of the reform efforts in the Adoption and Safe Families Act of 1997 (ASFA). Projects addressed site specific issues in order to help children leave foster care in fewer than three years. The funding opportunity announcement was open to tribes, however no tribes received grants under this initiative. We will keep in mind your suggestions for future funding opportunities.

NATIONAL INDIAN CHILD WELFARE ASSOCIATION (NICWA)

**Comment:** Increase efforts to recruit and hire AI/AN staff in CB and regional ACF offices to assist in the provision of child welfare technical assistance for tribal communities.

**Action Requested:** Increase efforts to recruit and hire AI/AN staff in CB and regional ACF offices to assist in the provision of child welfare technical assistance for tribal communities.

**ACF Response:** Currently, ACYF does not have the authority to implement Native preference, but we do post vacancies nationally. In addition, CB posts its vacancy announcements on its various list serves including its tribal list serv.

NAVAJO NATION

**Comment:** Navajo Division of Social Services Title IV-B Subpart I and II

**Action Requested:** The Navajo Division of Social Services is requesting the US Department of Health and Human Services, Administration for Children and Families to increase the 10% administrative cost cap to 20%.

**ACF Response:** For tribes, the administrative cost cap only applies to title IV-B subpart 1. (The 10% cap on administrative costs for subpart 2 applies to States only.) Changing the requirement regarding the cap on administrative costs for title IV-B, subpart 1 would require Congress to enact a legislative change.

NAVAJO NATION

**Comment:** The Children's Bureau allowed tribes to submit a competitive grant application for the Fostering Connections to Success and Increasing Adoptions Act Development Grant. This grant is a one-time grant for two years that allows for tribes to develop their Title IV-E Tribal Plan. ... The biggest challenge that the Division of Social Services faces is the development of the data collection system due to the lack of funds to purchase hardware and software plus hire the technical personnel to maintain the system. We are estimating the cost will run over \$3 million dollars

**Action Requested: Title IV-E amendments:** The Navajo Nation respectfully requests that the Title IV-E regulation be amended to provide funding to tribes to develop and maintain a data collection system that is in compliance with IV-E requirements.

**ACF Response:** Tribes may use the title IV-E implementation plan grant to begin to address data collection. Once approved to operate a title IV-E program, tribes may access title IV-E funds to develop information systems consistent with federal regulations.

NAVAJO NATION

**Comment:** The Children's Bureau allowed tribes to submit a competitive grant application for the Fostering Connections to Success and Increasing Adoptions Act Development Grant. This grant is a one-time grant for two years that allows for tribes to develop their Title IV-E Tribal Plan. ... The biggest challenge that the Division of Social Services faces is the development of the data collection system due to the lack of funds to purchase hardware and software plus hire

the technical personnel to maintain the system. We are estimating the cost will run over \$3 million dollars

**Action Requested:** National Indian Task Force: The Navajo Nation would like to have a National Indian IV-E Task Force or advisory group be formed to assess and evaluate the IV-E programs.

**ACF Response:** We will consider your request as we consider how best to work with tribes around title IV-E program implementation.

#### NAVAJO NATION

**Comment:** The Children's Bureau allowed tribes to submit a competitive grant application for the Fostering Connections to Success and Increasing Adoptions Act Development Grant. This grant is a one-time grant for two years that allows for tribes to develop their Title IV-E Tribal Plan. ... The biggest challenge that the Division of Social Services faces is the development of the data collection system due to the lack of funds to purchase hardware and software plus hire the technical personnel to maintain the system. We are estimating the cost will run over \$3 million dollars

**Action Requested:** Indian Liaison: The Navajo Nation recommends that an "Indian Liaison" be established in DHHS - Washington, D.C. to offer technical assistance and support to Indian Tribes in meeting opportunities of the new law. While there is a National Resource Center in place, any questions to assist tribes in financial matters is denied. This is the majority of technical assistance that needs to be addressed. Thus NRC is not of assistance at this time.

**ACF Response:** CB will keep your recommendation in mind as we continue to work with tribes on the title IV-E Plan. There are staff in our regional offices dedicated to working with tribes. CB's training and technical assistance network is intended to assist states and tribes with their child welfare programs. Technical assistance and support regarding financial aspects of the title IV-E and IV-B programs is provided by the Office of Grants Management staff in the regional offices.

#### NAVAJO NATION

**Comment:** The Children's Bureau allowed tribes to submit a competitive grant application for the Fostering Connections to Success and Increasing Adoptions Act Development Grant. This grant is a one-time grant for two years that allows for tribes to develop their Title IV-E Tribal Plan. ... The biggest challenge that the Division of Social Services faces is the development of the data collection system due to the lack of funds to purchase hardware and software plus hire the technical personnel to maintain the system. We are estimating the cost will run over \$3 million dollars

**Action Requested:** Indirect Costs: The Navajo Nation recommends that DHHS allow "indirect costs" as an add-on to direct funding.

**ACF Response:** We are not entirely clear about this recommendation. ACF would be pleased to work with the Navajo Nation to more fully explore this issue.

#### NAVAJO NATION

**Comment:** The Children's Bureau allowed tribes to submit a competitive grant application for the Fostering Connections to Success and Increasing Adoptions Act Development Grant. This grant is a one-time grant for two years that allows for tribes to develop their Title IV-E Tribal Plan. ... The biggest challenge that the Division of Social Services faces is the development of

the data collection system due to the lack of funds to purchase hardware and software plus hire the technical personnel to maintain the system. We are estimating the cost will run over \$3 million dollars

**Action Requested:** Maintenance of Efforts: The Navajo Nation recommends that DHHS assist the NN in attempts to tap into respective state general funds for our Nation's "maintenance of effort" activities.

**ACF Response:** State government has the authority to determine use of state funds. However, ACF will work with the Navajo Nation in facilitating discussions with states in preparation for the Tribe's implementation of a title IV-E program.

NCAI

**Comment:** The bare minimum needed to establish a child abuse and neglect prevention program in any tribal community is approximately \$80,000. Title IV-B subpart 1, supports a significant portion of this amount, yet tribes are hindered in their ability to effectively administer a program as the majority of them are only eligible for small grants (less than \$10,000, in most cases). Other sources of support to tribes, such as Indian Child Welfare Act (ICWA) and the Bureau of Indian Affairs (BIA) Social Services funding, are needed to supplement child welfare-related services. There is a particular need to provide tribes with the funding necessary to generate responses to notices of state child custody proceedings that involve tribal member children. No other consistent, stable source of funding is available to tribal governments to provide basic, preventive child welfare services. BIA Social Services funding is discretionary and not available to every tribe.

**Action Requested:** Increase the tribal allocation of title IV-B subpart 1 by creating a 3% set-aside of the total appropriation.

**ACF Response:** Increasing the set-aside would require Congress to enact a legislative change.

NCAI

**Comment:** In order for tribal courts to advance new practices and improve outcomes with children under their jurisdiction, they need access to funding that will support capacity building and innovative practices, such as the funding that states receive under title IV-B subpart 2 of the Promoting Safe and Stable Families Act. Currently the title IV-B subpart 1 program allows the use of funds for family preservation purposes, but title IV-B subpart 2 (the larger of the 2 programs) does not focus on family preservation. Title IV-B subpart 2 should be funded at \$200 million - the full amount authorized under the Act for the discretionary component of the program - so tribes will receive resources from the 3% set-aside.

**Action Requested:** Provide \$200 million for title IV-B, subpart 2 - the full amount authorized for the discretionary component of the program which will benefit tribes and states.

**ACF Response:** Title IV-B subpart 1 allows for the broad use of funds for child welfare. One of the 4 key program areas for which title IV-B subpart 2 funds are to be used is for family preservation. As you noted subpart 2 is funded at a higher level than subpart 1 is. To fully fund the program, the funding level must be in the enacted federal budget. Legislation for a Tribal Court Improvement Program was enacted with the re-authorization of title IV-B. Tribes who meet the eligibility criteria may want to consider applying on behalf of their courts. The funding opportunity announcement will be posted on grants.gov.

NCAI

**Comment:** Tribes and migrant programs must compete with each other for a 1% set-aside of the total funding appropriated under Title II of the Child Abuse and Prevention Treatment Act (CAPTA); Increasing the tribal set-aside listed as a separate line item in the budget, will provide a base level of funding for every tribe, regardless of size, and give every tribal community an opportunity to establish a quality child abuse and neglect prevention program.

**Action Requested:** Provide a separate line item for tribal Title II grants and set-aside 3% of total funding for tribes and tribal consortia.

**ACF Response:** Increasing funding would require Congress to enact a legislative change. The amount of the set-aside is in legislation.

#### NICWA

**Comment:** Recommendations for foster care and adoption assistance funding reform.

**Action Requested:** Work with tribes and tribal organizations to amend the statute to increase the technical assistance funds made available from \$3 million to \$6 million annually. Extend the possible lifecycle of the tribal IV-E development grants from 2 to 3 years and increase the maximum level of funding from \$300,000 to \$450,000.

**ACF Response:** These funding and time limitations are in legislation and would require Congress to enact legislation to increase them. However, using existing administrative authority ACF has approved one-year no-cost extensions of tribal title IV-E development grants that provide an additional year for tribes to complete activities of the grant that could not be completed in the original two-year project period.

#### NICWA

**Comment:** Recommendations for Title IV-B subpart 1

**Action Requested:** Work with tribes and tribal organizations to amend the statute to create a set-aside for tribes of 3% of the total appropriation and hold the state allocations harmless.

**ACF Response:** Creating a set-aside and holding states' allocations harmless would require Congress to enact a legislative change.

#### NICWA

**Comment:** Recommendations for Title IV-B subpart 2

**Action Requested:** Request the full amount of authorized funding under the discretionary portion of the program (\$200 million). Continue funding state court improvement programs at the fully authorized amount and increase the set-aside for tribal court improvement program funding from \$1 to \$5, while holding state allocations harmless.

**ACF Response:** Increasing funding for the tribal court improvement program would require Congress to enact a legislative change. In addition, Congress would then have to pass a budget that includes fully funding the programs.

#### NICWA

**Comment:** Tribes and migrant programs must compete with each other for a 1% set-aside of the total funding appropriated under Title II of CAPTA. These are multi-year grants and typically only 1 or 2 tribes are funded at a time.

**Action Requested:** Increase funding by \$5 million for the child abuse discretionary activities for which tribes are now eligible under the new CAPTA Reauthorization Act of 2010 and establish grant criteria in consultation with tribes that will help tribal applicants compete more

successfully. Request a \$2 million increase (5%) for the Community-Based Prevention Programs to support a tribal set-aside of 5% and hold state allocations harmless. Amend the law to create a 5% allocation for tribes under the Community Based Prevention Programs. Currently tribal governments share a 1% set-aside with migrant population grantees.

**ACF Response:** Increasing funding would require Congress to enact a legislative change. The amount of the set-aside is in legislation.

#### PUEBLO OF ZUNI

**Comment:** The Pueblo of Zuni, Children's Foster home has faced uncertainty of funding to keep the home in operation. This program is an emerging program that has not had the opportunity to develop a reputation for its designed services. Although the home still requires the following: Operational funds, Salaries for a staff of 7 consisting of a Program Manager, Administrative Assistant, Cook, 3 Full time Shelter Assistants 2 Part-time Shelter Assistants to serve as an on-call staff. Facility upgrade for its Storage building, Playground upgrade, Parking lot improvements and Equipment purchase of a propane operated generator for backup during interruption of electrical power outage.

**Action Requested:** We ask that you support this vital program needed not only on our reservation but to serve Native American children who are victims of abuse and neglect who reside within the New Mexico boundaries.

**ACF Response:** Title IV-B funds may be used for administrative expenses. We suggest working with staff in our regional office to explore the feasibility of using the funds for that purpose. There is a 10% cap on subpart 1 funding for administrative costs.

### Administration on Children, Youth and Families/Family and Youth Services Bureau (ACYF/FYSB)

#### NAVAJO NATION

**Comment:** Navajo Division of Social Services Family Violence Prevention Service Act: The Navajo Nation requests for an additional 9 months after the grantee period to complete liquidation of funds to meet grant requirements, due to the fact that the Notice of Grant Awards are received in October, and only allows the Navajo Nation to expend funds for a 12 month period.

**Action Requested:** Evaluate and assess the possibility of reinstating the obligation of funds by year end with a 9 month liquidation period. This would allow the Navajo Nation to obligate funds through a contract and or purchase order.

**ACF Response:** The FVPSA grant award is available for obligation over a two-year period and liquidation immediately after the award has been made to the grantee. For example, although fiscal year 2011 awards were not made available until September 2011, programs could have begun obligating on October 1, 2010 and drawing down/ liquidating when the award was received in September of 2011. The program office is unable to extend the liquidation period. However, it is anticipated that the FVPSA fiscal year 2013 funding opportunity will be announced in September of 2012 and awarded no later than January 2013.

### Office of Child Care (OCC)

#### CHEROKEE NATION

**Comment:** Cherokee Nation appreciates that the President's fiscal year 2013 budget increases the Child Care Development Block Grant Funds. It demonstrates his continued strong commitment to early childhood education. In order to ensure that our Tribal citizens receive services, parent co-payments for subsidies are set higher than the recommended percentages of a family's income. Our payment rates for a child care provider are lower than the 75th percentile. Cherokee children have greater risk factors than their non-Indian counterparts for school failure, making child care settings necessary for the success of our children. Quality cannot be achieved without higher reimbursement rates. Training and technical assistance and other services that could otherwise be provided through increased CCDBG funding. With the diversity of need and funding allocations in Tribal child care, and increase of the set-aside is imperative to ensure quality services.

**Action Requested:** Increase in funding for the Child Care Development Block Grants. The Administration should include a recommendation of an increase in the Tribal CCDBG set-aside to 5%. Tribes currently receive only up to 2% of the CCDBG.

**ACF Response:** The Administration supports reauthorization of the Child Care and Development Fund and looks forward to working with Congress to develop a reauthorization package that improves health and safety in child care settings, supports parents in making child care choices, and improves the overall quality of child care available to families. The Administration provides the maximum amount allowable under law to Indian tribes (two percent of CCDF funds)

#### CHEROKEE NATION

**Comment:** Cherokee Nation is hoping for a specific set-aside in child care research funds and any new funding for early childhood initiatives. There is limited research relating to Tribal child care. In order to plan and implement programs for Cherokee children, we must have information about the practices that would be effective in our community. Research that is relevant to the child care program, through Tribal government's effective practices with Indian children to enhance early learning and the effects of quality initiatives would be beneficial as we plan effective and efficient spending. Tribes must have set-asides for any new funded early childhood programs, as has occurred with the Maternal and Child Health Home Visiting Program. The Office of Child Care should work with the Department of Education to explore options for Tribal funding and from the Early Learning Challenge Grant as Secretary Duncan looks at local funding options.

**Action Requested:** None

**ACF Response:** Beginning in FY 2000, Congress authorized ACF to spend approximately \$10 million annually for the CCDF funds for research, demonstration, and evaluation. The ACF Office of Planning, Research and Evaluation (OPRE) oversees the projects related to Native Americans. Each project is guided by consultation with American Indian and Alaska Native experts and collaboration with the tribes and tribal organizations affected. Previously, OPRE tribal specific projects included: Market Rate Survey practices in State, Territories and Tribes; Sparking Connections: Oklahoma tribal connection: Report on outcomes of Cherokee Nation Sparking Connections program; and Access to Quality Child Care in Montana: Exploring Parent and Provider Perspectives. In addition, OPRE supports the Tribal Early Childhood Research Center (TRC) which seeks to address gaps in research on child outcomes for young American Indian/ Alaska Native (AI/AN) children. The TRC's plans and activities will be continually informed and refined with the feedback and contributions of researchers, tribal community

leaders, and federal staff who have been involved in conducting research and evaluation on maternal, infant, and early childhood programs in tribal communities.

#### CHEROKEE NATION

**Comment:** Our third area is Tribal and State collaborations. As States work toward comprehensive and coordinated systems of early childhood education, Tribal partners must be at the table. At a minimum, the Administration should mandate Tribal Consultation. Preferably, the Cherokee Nation suggests mandated Tribal participation in the redesign of systems through the Early Learning Challenge Fund or other statewide system building initiatives

**Action Requested:** None

**ACF Response:** The Child Care and Development Fund (CCDF) regulations and Plan Preprint requires both tribes and states to coordinate the provision of services funded with federal, state, and local child care and early childhood development programs supports self-sufficiency for low-income working families and promotes children’s learning and development. The Race To The Top Early Learning Challenge statute prevented tribes from applying for competition.

#### CHEROKEE NATION

**Comment:** The President’s child care agenda indicates emphasis in quality and early learning. In order to improve the quality of child care, additional training and technical assistance must be available to the Tribe. However, much of the training currently conducted through the technical assistance contractor is at a level more appropriate to a less experienced administrator. Cherokee Nation’s training and technical assistance needs are similar to that of State-operated systems. In order to meet our needs additional training is necessary but the training needs to be appropriate to our level of sophistication.

**Action Requested:** We’d like to request an increase in the Tribal Child Care training and technical assistance budget.

**ACF Response:** Responding to tribal CCDF grantees' request for a higher level of training and technical assistance offered, the National Center on Tribal Child Care (NTC) is collaborating with the National Center on Child Care Professional Development Systems and Workforce Initiatives and others to provide a more sophisticated level of technical assistance and training during the 2012 American Indian/Alaska Native Child Care Institute. Similar requests (post-institute) may be addressed through increased collaborative efforts.

#### COLUSA

**Comment:** In California, because of Region IX, we’ve had a great opportunity to begin the process of doing our own quality rating system for Tribal centers. I know it’s just in the process, but we really do hope and encourage that we get support for that. I think it’s a wonderful opportunity. We are in the very beginning stages of looking into how we could possibly do that. It’s really a proactive approach on our part in California. And I think that it needs to be recognized that we need to have that support in order to be successful. Because we don’t have access to certain things, like the Early Childhood Challenge Funds, this is an opportunity for us to be relevant to Tribal communities and work in a way that makes sense. It doesn’t necessarily need to be one assessment fits all. It’s going to possibly take into consideration the uniqueness of every community and honor that. We are in that process right now and I’m really proud of that effort,

**Action Requested:** Office of Child Care support for efforts regarding tribal QRIS.

**ACF Response:** The OCC applauds your efforts to develop quality rating systems for tribal centers. In support of these efforts, OCC Region IX recently held a two meetings on “Developing a Culturally Focused Quality Rating and Improvement System” (QRIS) with Tribal CCDF Programs in California. The purpose of the meetings is to identify standards that would form the basis for a Tribal QRIS in California. Meeting participants included California CCDF Tribal programs, OCC and Indian Health Service representatives, and other early childhood stakeholders, including the California Child Care Resource and Referral Network and the University of California/San Francisco Child Care Health Program

#### DELAWARE TRIBE OF INDIANS

**Comment:** The number of CCDF grantees has increased from 226 grantees in 1994 to 266 in 2012. That means the Tribal CCDF per child amount has gone from \$165 in 2003 to \$140 in 2011. As more Tribes apply for CCDF, the less funding per child is available unless there’s an increase in funding or the set-aside amount. Coupled with the cost of living increases, wages, goods, utilities and everything else, it makes it almost impossible for Tribal CCDF grantees to maintain the same level of service with funding.

**Action Requested:** The CCDF should be amended to allow 5% of the aggregate amount appropriated to be reserved for Tribal programs that receive Child Care Development Funds

**ACF Response:** The Child Care and Development Fund (CCDF) made available \$5.2 billion to states, territories, and tribes in Fiscal Year (FY) 2012. There are 260 Tribal CCDF program representing 539 tribes. The Administration provides the maximum amount allowable under law to Indian tribes (two percent of CCDF funds)

#### DELAWARE TRIBE OF INDIANS

**Comment:** CCDF has a set-aside for research on early childhood. Research is needed that is specific to Tribal children in child care. This research will assist Tribes to shape their programs and better serve their children and families. Tribes need research on practices in Tribal Early Childhood programs and how they affect child well-being indicators for Native American children. Tribes need research to obtain information on working with Tribal parents with children in child care and how best to support them. Most national research-based data is collected from States or non-Tribal communities.

**Action Requested:** We request that ACF provide continued support in expansion for research, which is relevant to services for our children.

**ACF Response:** Beginning in FY 2000, Congress authorized ACF to spend approximately \$10 million annually for the CCDF funds for research, demonstration, and evaluation. The ACF Office of Planning, Research and Evaluation (OPRE) oversees the projects related to Native Americans. Each project is guided by consultation with American Indian and Alaska Native experts and collaboration with the tribes and tribal organizations affected. In addition, OPRE supports the Tribal Early Childhood Research Center (TRC) which seeks to address gaps in research on child outcomes for young American Indian/ Alaska Native (AI/AN) children. The TRC’s plans and activities will be continually informed and refined with the feedback and contributions of researchers, tribal community leaders, and federal staff who have been involved in conducting research and evaluation on maternal, infant, and early childhood programs in tribal communities.

#### DELAWARE TRIBE OF INDIANS

**Comment:** Tribes should be afforded the same opportunities as States to provide additional child care service for Indian communities. As the new initiatives are proposed, through the Child Care Bureau and Congress, Tribes must have equal access to funding and services, and it sounds like you are on the right path with that as well.

**Action Requested:** The new initiative for the Early Learning Challenge Grants for States will allow a provision that will enable local education agencies to apply for funding. Tribes should also be eligible for this opportunity

**ACF Response:** Because Congress did not authorize the Department of Education (ED) to fund tribes directly, ED only has authority to make RTT-ELC awards to states or to LEAs. We encourage States to partner with Tribes on the implementation of early care and education initiatives.

#### DELAWARE TRIBE OF INDIANS

**Comment:** Continued training and technical assistance to Tribes must be sufficient to provide adequate services to Tribes. Tribes have developed a variety of early childhood programming and parent community support systems that fit the need within their communities. Increased training and resources for culturally appropriate curriculum development support Tribal grantees with technical assistance through conferences and sharing of resources with national organizations that have similar goals. The support of Tribal child care programs through increased onsite training and technical assistance, which can meet the needs of individual Tribes and communities are very beneficial. The level of knowledge regarding early childhood has grown tremendously over the years. But many child care staff and Tribal Leaders provide ways to support and enhance those programs with their knowledge and leadership

**Action Requested:** Continue to provide conferences that are specific to Tribal child care. The ability for Tribes to gather and learn from each other is important not only as a learning tool, but as a time of sharing the cultural exchange aspects of programming. Early childhood conferences are usually geared more towards the general audience and will not meet the needs of our Tribal administrators.

**ACF Response:** While the OCC continues to support development of tribal CCDF programs through the use of regional and national meetings, webinars, and conference calls, it also supports tribal programs through the redesigned Technical Assistance (TA) system, which includes the National Center on Tribal Child Care (NTC). Planning TA that is both intentional and sequential in nature, intensive TA efforts shall be available from NTC for those tribal grantees who need the basic CCDF Fundamentals, as well as those who may benefit from advanced CCDF administration, program quality and professional development, health and safety guidelines, and strategies to promote optimal childhood development. Through the 2012 American Indian/Alaska Native Child Care Institute, creation of tribal "communities of practice" will be supported by a peer learning and leadership network developed from among best practices within the tribal child care programs.

#### KARUK

**Comment:** Recently I worked with my Program Specialist out of Region IX and I pretended that I was almost going to get out of compliance, so they came to my site for T&TA. We were able to bring all our ACF programs together. It was really interesting to see that we also got approval for the Presidential Management Fellow from OFA to come with her. So we pulled all of our ACF programs together and it was amazing to see that each program was using different

poverty level income eligibility, there are some different applications across the board. When you come to do T&TA, I want to remind you that in 2000 they had the QUILT [Quality In Linking Together] Project, which was focused on collaboration. I would not recommend something like that, but maybe a bigger project or a bigger quilt with more patches from the different programs. It was so beneficial to bring everyone together and talk with the Federal representatives there. Like Barb was saying, that makes a huge difference with your Tribal Council. We were given a directive to align all of our programs so it's really exciting and that's what made the difference, the T&TA coming to our Tribe. We are very rural so it was a huge thing for us.

**Action Requested:** Recommend supporting collaboration projects that help bring tribal programs together.

**ACF Response:** ACF shares your views about collaboration and has recently established a Tribal Early Childhood Workgroup, chaired by the Directors of the Office of Child Care and the Office of Head Start, and the Commissioner of the Administration for Native Americans. Tribal Home Visiting is also represented on this group which is developing an action plan to provide more targeted TA to tribal early learning programs later this year. A successful collaboration approach already underway is the P.L. 102-477 the Indian Employment, Training, and Related Services Demonstration Act that allows tribes to combine formula-funded Federal grants funds, which are employment and training-related into a single plan with a single budget and a single reporting system. This method improves the delivery of services, increases funding to program services and a reduces administrative requirements.

#### KARUK

**Comment:** The second thing I'd like to comment about is State and Tribal collaboration. In California, we're probably the worst example of collaboration with Tribes and State. California received the Early Learning grant, we found out that Tribes could be mentored in the third year of the grant and that's where we fit in. The money's all going to the southern half of the State. So we really feel left out in California. We really need that support and we really need that encouragement from the Federal government to get the State involved. Although the Governor appointed a Tribal Liaison and all of these things were still out in the perimeter when it comes to early childhood.

**Action Requested:** Better State and Tribal collaboration

**ACF Response:** The Office of Child Care (OCC) fully supports tribal/state collaboration and coordination to build strong programs. OCC developed the *Tribes and States Working Together - a guide to Tribal-State Child Care Coordination* to promote the foundation for successful efforts between tribes and states is directly related to the understanding and appreciation for tribal Sovereignty. This effort is reinforced with the Health and Human Services Tribal Consultation Policy. OCC plans to update the guide to elevate the quality of child care and maximize the program's effectiveness in achieving its dual goals of supporting employment for low-income families and promoting healthy development and school success for children in both tribal and state programs. In recognition of the importance of tribal-state collaboration, the OCC included a task in its new National Tribal Center (NTC) contract to promote tribal-state innovations that address OCC goals, including quality improvement activities (such as Quality Rating and Improvement Systems), professional development, health and safety, and tribal-state coordination. The OCC and NTC will produce materials and provide technical assistance and guidance to Tribal Lead Agencies that are interested in replication of certain tribal-state policies

and practices.

#### NAVAJO NATION

**Comment:** Navajo Division of Social Services Child Care and Development Fund (SSDF), the Child Care and Development Fund is requesting the tribes 2% cap be increased to 5% to accommodate the growing needs of children and increased tribal participation cost.

**Action Requested:** The Navajo Nation recommends that DHHS increase the 2% to 5% allocation from the discretionary and mandatory funds to meet the need of the increased population of children.

**ACF Response:** The Child Care and Development Fund (CCDF) made available \$5.2 billion to states, territories, and tribes in Fiscal Year (FY) 2012. There are 260 tribal CCDF program representing 539 tribes. The Administration provides the maximum amount allowable under law to Indian tribes (two percent of CCDF funds)

#### SEMINOLE

**Comment:** What is your stance on the language immersion programs and cultural programs for our Native youth?

**Action Requested:** Supports high quality child care including cultural and language immersion programs.

**ACF Response:** The CCDF Tribal Plan Preprint allows tribes flexibility to design a program to meet the needs of their tribal children and families. This includes Activities and Services to Improve the Quality of Child Care such as culturally relevant activities supporting language immersion programs, integration of storytelling, cultural training opportunities for parents and providers. Additionally, ACF program such as the Administration for Native Americans (ANA) support and have funds available for language immersion projects.

#### WHITE EARTH

**Comment:** We appreciate the President's efforts on putting more money in child care and his commitment to early care. One thing we would like to know, what in there is specific to Tribes? I know that within that proposed funding increase, there's some dollars that may be proposed for quality that will be coming out of CCDBG. What we would like to see is the Tribal set-aside increased by 5%. In addition to that, more research dollars in child care. We would like ACF's support of CCDBG's reauthorization and Tribal set-aside increased 5%.

**Action Requested:** What we would like to see is the Tribal set-aside increased by 5%. In addition to that, more research dollars in child care. We would like ACF's support of CCDBG's reauthorization and Tribal set-aside increased 5%

**ACF Response:** The Administration supports reauthorization of the Child Care and Development Fund and looks forward to working with Congress to develop a reauthorization package that improves health and safety in child care settings, supports parents in making child care choices, and improves the overall quality of child care available to families. The Administration provides the maximum amount allowable under law to Indian tribes (two percent of CCDF funds)

#### WHITE EARTH

**Comment:** Professional development in Indian Country is very critical but it's also very challenging because child care staff work 40 plus hours a week, they have to. So getting time off

to attend college classes is very difficult. In our area we are trying to work with colleges and technical colleges to create a high quality early childhood map. We're trying to get them to the table to work out the articulations to offer college classes in different formats, as far as on-line, in seat, or a hybrid of both. Again, child care is very limited on funding and we don't necessarily have the funding to support those higher education degrees. Anything along these lines is appreciated. I also want to say that we would like to see more travel money in the Regional Office for T&TA. We really appreciate and welcome our regional staff to our Tribal programs. It helps us as programs to make sure we are in compliance with all CCDF regulations.

**Action Requested:** Increase funding for professional development for child care staff, including increased travel money for regional offices to provide T/TA

**ACF Response:** OCC supports tribes to build professional development systems and workforce initiatives to help child care professionals pursue quality training and advancement in higher education. With the limitation of federal travel funds, OCC is exploring options to increase TA provided locally through the use of webinars, live meetings, conference calls, and peer-to-peer efforts. With a focus on professional development, the National Center on Tribal Child Care (NTC) will begin to offer continuing education units (CEUs) for intensive TA received through an articulation agreement with one of the Tribal Colleges and Universities (TCU). Professional development opportunities may also be enhanced through additional TCU agreements as well as through collaboration with American Indian/Alaska Native Head Start programs with improved access to professional development programs.

### Office of Community Services (OCS)

#### NAVAJO NATION

**Comment:** Navajo Division of Social Services Low Income Home Energy Assistance Program (LIHEAP). The Navajo Nation Division of Social Services requests that the administrative cost cap be increased to 20% and that funding for LIHEAP are continued. That the award to Tribes be made before the end of the previous fiscal year.

**Action Requested:** 1) The Navajo Nation strongly recommends that the Federal Government increase the 10% limitation on the administrative cost to 20%. We would like to employ a LIHEAP worker(s) on a long-term basis for planning and carrying out the strategies to maximize the LIHEAP dollars and services to clients. 2) Continuation of funding for the Low Income Home Energy Program for Tribes. This funding has provided many low income homes with warmth during cold winter months and cooling during hot summer months. 3) DHHS issue an interim Notice of Grant Award to Tribes so they can begin providing services in a timely manner for the winter months when heating assistance is most needed.

**ACF Response:** 1) The administrative cost cap was set by Congress as explained in assurance 9 of the LIHEAP statute. For directly funded tribes, the administrative cost cap is 20% of the first \$20,000 of the LIHEAP award, and then 10% of the remaining total of LIHEAP funding for that federal Fiscal Year (see LIHEAP regulations at 45 C.F.R. § 96.88). This amount is higher than the flat 10% that states are limited to. 2) LIHEAP funding is set each year by Congress through the annual appropriations process. LIHEAP has been funded each year since 1981. Typically, Congress enacts one or more temporary budgets ("Continuing Resolutions" at the start of the Federal Fiscal Year (October 1st) until agreement on the final budget is reached. ACF issues grant awards to all directly funded LIHEAP grantees with each release of funding from Congress until the final budget is made available. 3) ACF/HHS cannot issue grant award letters until

Congress appropriates funding for LIHEAP. LIHEAP grantees usually do begin preparations for the upcoming program year prior to receiving the first grant award letter; however, ACF does not recommend that grantees approve or fund new LIHEAP applications prior to the first grant award letter. The exception to this would be if the grantee carried over funding from the prior year and used those carry over funds to begin funding applications in the fall of the next year. LIHEAP grantees are permitted to carryover up to 10% of their total LIHEAP funding to the next Federal Fiscal Year (October 1-September 30) (see 42 U.S.C. § 8626(b)(2)(B)).

#### NAVAJO NATION

**Comment:** Navajo Division of Social Services Social Services Block Grant (Title XX): The Navajo Nation is requesting the assistance of USDHHS in supporting the Nation in obtaining direct funding under the Social Services Block Grant to provide service to the children on the reservation.

**Action Requested:** The Navajo Nation respectfully requests for direct funding from the federal government, to streamline the contracting process and to improve communication through direct contact with funding sources regarding funding shortfalls. This will allow Tribes to operate and negotiate their own grant and programs.

**ACF Response:** The statute provides for direct SSBG funding to states and territories. The statute does not permit direct funding for tribes or tribal organizations. Tribal members receive SSBG services through the state in which they reside. This is a matter for Congress to decide. HHS can provide technical support such as potential funding calculations, if requested.

#### NAVAJO NATION

**Comment:** Navajo Nation Division of Social Services Community Service Block Grant (CSBG), The Community Services Block Grant cut will affect many Navajo families and the constant target of eliminating the CSBG program from the DHHS budget is unacceptable.

**Action Requested:** The Navajo Nation respectfully requests the CSBG program not be targeted for elimination in coming years and that DHHS make every effort to convey to other federal oversight departments of restoring CSBG through the unique flexibility of the program and limited economic opportunities in tribal communities and other available funding sources to Indians.

**ACF Response:** In the midst of current economic pressures, every government agency is working to make critical government programs sustainable for the future. The Budget proposes to introduce competition into the program over time to maximize the impact on community outcomes. Currently, this funding stream supports the important work for Community Action Agencies (CAAs), but has few mechanism to assure funds are targeted to the most effective agencies. The Budget proposes to target resources to high-performing, innovative agencies by establishing a set of core federal standards that states will use to assess whether a Community Action Agency is meeting a high standard of service delivery. The budget proposes that if a grantee falls short of meeting these standards, states will be required to implement immediate open competition for the community currently being served.

### Office of Child Support Enforcement (OCSE)

#### CHEROKEE NATION

**Comment:** Cherokee Nation opened its own child support office in 2007. Since that time the office has concentrated on building a program that is demonstrative of the regulations for tribal child support offices. Cherokee Nation has a caseload of approximately 2700 active cases.

**Action Requested:** Currently, tribes cannot directly access all of the same systems that states access and Cherokee Nation would like to see direct access to more of the systems. For example, having direct access to tax intercepts is a beneficial enforcement remedy that states automatically utilize. Currently, a tribe may only access this system if there is an agreement with a state. Absent such an agreement, tribes lose out on this enforcement remedy. Therefore, the Office of Child Support Programs should partner with tribal and state entities and determine the necessary steps for tribes to have direct access to these systems.

**ACF Response:** The President proposed legislation in Fiscal Years 2012 and 2013, (and in previous years) to allow access to the federal enforcement remedies, including Federal Income Tax Refund Offset. OCSE has been working with IRS to pave the way for that access. We will do everything we can to support that authorization.

#### CHEROKEE NATION

**Comment:**

**Action Requested:** Cherokee Nation recommends that the Office of Child Support makes it a priority to review the current regulations for possible changes reflecting the holistic mission of child support. Cherokee Nation would like to see language included addressing the service of establishing and locating alternatives to incarceration as an allowable cost. This could include ensuring the bridge to probation services, court ordered employment programs, and/or ankle bracelet monitoring be considered as an allowable cost.

**ACF Response:** The tribal child support regulations, written after extensive consultation with tribes, were published in 2004. We appreciate the fact that these regulations are now eight years old and we are interested in beginning conversations with our the tribal IV-D community about what is working and what needs to be reevaluated. OCSE will begin these discussions this year during meetings and ongoing conversations, and then begin planning next steps.

#### CHEROKEE NATION

**Comment:** The narrow definition of support as being bound only to monetary obligations, is somewhat limiting to families. Tribal programs approach support not solely as money, but also work with both the custodial party and non custodial party on true support for the child involved.

**Action Requested:** Embracing the entire family, working with them on establishing the monetary figure, and also locating other potential support solutions for their child, is a step in the right direction.

**ACF Response:** We heard during our consultations prior to drafting the tribal regulations about the importance of non-monetary support. The current regulation authorizes tribal programs, unlike state programs, to allow for non-cash, or in-kind contributions in place of monetary support, when the tribe determines this is appropriate. Many tribal child support programs have availed themselves to this flexibility allowed in the regulation.

#### CLIFF CULTEE

**Comment:** The formula has been changed so that Tribal child support program must report the number of children who were originally born out of wedlock, whether or not paternity has legally been established. Through that and also without consulting the Tribes the year-end report was

amended in August 2010 to change the reporting by all Tribal child support programs for out of wedlock births and establishment of paternity. The instructions that came with the report made it absolutely clear that the OCSE does not intend to report on its own performance, but only to report on the number of children who were originally born out of wedlock within its entire caseload.

**Action Requested:** The term “out-of-wedlock” is offensive to the value that the Tribes place on children. Children should never be stigmatized or by such terminology or put permanently into this category.

**ACF Response:** OCSE began a series of conversations with tribal IV-D directors to discuss the issue of reporting. We are aware that there are some concerns with the current reporting forms, including the "out of wedlock" terminology. Our intent is to make sure that we gather feedback from the tribal child support community to help determine the best way to tell the tribal story and to plan for possible future revisions to the reporting form.

#### CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

**Comment:** Interpretation of Federal Regulations doesn't allow Tribal IV-D programs to address underlying reasons for child support nonpayment.

**Action Requested:** We would like an opportunity to have some flexibility in how we spend our money, as a matter of self-governance to best suit the specific needs of our community.

**ACF Response:** OCSE appreciates the desire for flexibility in terms of child support services. The tribal rule is considerably more flexible than the existing state regulations. An upcoming Notice of Proposed Rulemaking (NPRM), *Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs*, would make child support program operations more flexible and efficient. Tribes will have the opportunity to comment on this NRPM upon publication.

#### CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

**Comment:** Office of Grants Management is looking at imposing a case to staff ratio formula under the guise of “reasonable cost” cutting staff in half. There is currently no funding structure --- ask and receive from funding pool--- arbitrary under “reasonable cost” interpretation and shrinking funding pool as more tribes apply.

**Action Requested:** Caution participants to be aware of consequences for tribally determined performance targets.

**ACF Response:** The staffing standards ratio proposed by the Office of Grants Management was rescinded in late 2010. The Tribal Child Support Program is an entitlement grant; if an applicant meets the requirements of the regulation and the requested budget is "reasonable and necessary" the funding is granted--with a non-federal match provided by the tribe. Tribes do not compete against one another for the funding for tribal IV-D programs. Unlike states, tribes are not held to certain performance standards with associated penalties or incentives. Tribes determine their own performance targets. There are no negative consequences if those targets are not met.

#### CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

**Comment:** The Colville Tribal Child Support program uses existing system technology through the State of Washington. Systems modifications effecting Tribal Policies have to be turned off or manipulated. No federal funding for tribal specific systems modifications without an approved advanced planning document.

**Action Requested:** Recommend that OCSE establish Tribal Advisory Committees to address consultation on State Regulations concerning efficiency and flexibility. Example: Child support as an eligibility requirement for State Child Care Subsidy. Example: Child Support as an eligibility for Children’s State Medical Programs. Example: State Case Closure Requirements and Transfer Agreements.

**ACF Response:** We are interested in gathering more information about the idea of a Tribal Advisory Committee. We currently communicate with the tribal child support directors on a quarterly basis and at various meetings throughout the year. In terms of consultation on the *Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs*, we engaged tribal leaders on the NPRM and received some written feedback. We anticipate the NPRM will be published later this fall. Once that is published, we will distribute it broadly to gather comments from both the tribal and state child support communities.

#### CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

**Comment:** The Tribe lacks the infrastructure and office space to create more family-centered services outside of the program. We requested positions for a fatherhood coordinator and an access and visitation liaison, which were denied because they were deemed as non-allowable costs.

**Action Requested:** Recommend flexibility to allow the tribes to use existing funds to redesign and administer services according to local needs and priorities.

**ACF Response:** We are working to understand the bounds of our legal authority in paying for a range of more holistic services that are child support related and attributable to the child support program. The existing tribal rule is considerably more flexible than the state rule.

#### CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

**Comment:** The Colville Tribal Child Support Program gathers reported information on a case by case basis. Systems manipulation regarding tribal specific coding prohibits CTCSP from pulling data electronically.

**Action Requested:** Recommendation make sure information collection is necessary and means of collection are efficient.

**ACF Response:** OCSE began a series of conversations with tribal IV-D directors to discuss the issue of reporting. We are aware that there are some concerns with the current reporting forms. Our intent is to make sure that we gather feedback from the tribal child support community to help determine the best way to tell the tribal story and to plan for possible future revisions to the reporting form.

#### CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

**Comment:** The next topic is case transfer. The Tribal IV-D regulations do not address how cases will be transferred from the State to the Tribes once Tribal IV-D programs have been approved for Federal funding. State regulations regarding case closure prohibit the State from closing their open support cases once a Tribe is providing IV-D services. This creates confusion on which agency has the authority to perform case management and leads to inefficiencies and redundancies with what money is allocated to Tribal IV-D programs.

**Action Requested:** The Colville Tribe feels that establishing a Tribal Advisory Committee to help address issues like these would help improve the efficiency and level of services that Tribes are able to provide with this funding.

**ACF Response:** When the state case closure rules were written there were no tribal IV-D programs. On April 28, 2011, we invited Tribal Leaders to engage in written consultation regarding case transfer and case closure that impacts tribal programs, which was eventually encompassed in the *Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs* NPRM. As soon as the NRPM is published we will notify Tribal Leaders and tribal IV-D directors of the open comment period. All comments will be considered as the final regulation is written. We are also ready to begin conversing with tribal IV-D directors about the current tribal regulations. We would like to begin gathering information about what changes, if any, tribal IV-D programs think are appropriate.

#### CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

**Comment:** The State has DSHS [Department of Social and Health Services] workers in our Tribal TANF and IHS offices to assist Tribal members in getting their children signed up for children's medical. In order to sign up for children's medical, a custodial parent must assign their child support to the program and a child support order is issued. The Title IV-D programs must honor these orders and give them Full Faith and Credit once established.

**Action Requested:** The Tribe feels that the children's medical is a Federal trust responsibility and a referral to child support should not be generated by the State in these cases.

**ACF Response:** OCSE is aware of the complicated issues that stem from the referral of an individual receiving services from an Indian Health Services facility. We held a series of medical support conversations in 2011, co hosted by tribes, to discuss these issues. On April 28, 2011, we invited Tribal Leaders to engage in written consultation regarding case transfer and case closure that impacts tribal programs. Once the *Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs* NRPM is published we will notify Tribal Leaders and tribal IV-D directors of the open comment period. All comments will be considered as the final regulation is written.

#### CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

**Comment:** The next topic is funding flexibility. Initially the Colville Tribal Child Support Program pursued funding under this grant in order to address the underlying issues, which lead to nonpayment of child support as a matter of self-governance. We are interested in providing a valuable service to our Tribal members as opposed to merely collecting a debt. However, we have been prohibited in doing this in some ways. For instance, we submitted a comprehensive plan, which included positions for a fatherhood coordinator and an access and visitation liaison. Both of these positions were not funded because they were deemed as non-allowable costs. Furthermore, because of the imposition of the Federal case load ratio, we are not able to run our program as we see best.

**Action Requested:** We would like an opportunity to have some flexibility in how we spend our money, as a matter of self-governance to best suit the specific needs of our community.

**ACF Response:** We are working to clarify our legal authority to pay for more holistic services that are child support related and attributable to the child support program.

#### ONEIDA

**Comment:** We recognize that the program staff at OCSE does not have the authority to draft legislation.

**Action Requested:** We do feel that you can support and affect efforts of Tribes to gain access to the Internal Revenue Service

**ACF Response:** The Administration's 2012 and 2013 Budget proposes legislation to permit tribal access to IRS tools. As a part of the Executive Branch of government we can neither encourage nor discourage lobbying of any sort. Currently, tribal programs can work cooperatively with state child support programs for access to Federal Income Tax Refund Offset. Many tribes have found this to be an acceptable arrangement in obtaining overdue child support payments.

#### ONEIDA

**Comment:** The Tribes often do not have a tax base to meet the match requirements. In these times of economic uncertainty, many of the Tribes have also felt the effects of the downturn of the economy and our Tribal resources. The regulations allow for a waiver over the match but do not appear to have a formal decision-making process on whether or not a waiver is granted. We certainly do hope that you consult with the Tribes on this and define the waiver process with us.

**Action Requested:** Also, we are in favor of waivers to the match requirement.

**ACF Response:** Tribal child support program expenditures are matched with federal funds at a 90 or 80 percent rate (depending upon the number of years the tribal program has been operating). The tribal program must provide the non-federal share of expenditures (either 10 or 20 percent of expenditures) through cash or in-kind contributions. Our current tribal program regulations do contain limited authority to grant a waiver of the non-federal match requirement. However, they do not clearly permit us to grant a waiver based solely on economic conditions (in the absence of a natural disaster such as a hurricane or flood). We have begun to discuss with tribal program directors the possibility of additional rulemaking related to waivers and other areas covered by our existing regulations. Once we complete these exploratory discussions over the next year or so, we will consult with tribal leaders about whether to amend our program rules, and if so, which areas to consider regulatory changes.

#### PORT GAMBLE S'KLALLAM

**Comment:** Something called the Strength and Vitalize Enforcement of Child Support Act began going through deliberation in Congress. It contains many provisions, including a fairly comprehensive provision regarding jurisdiction over cases. This is quite an important topic. Anything regarding jurisdiction, especially something effecting Full Faith and Credit for child support orders, will have an effect on Tribes.

**Action Requested:** There should have been Tribal consultation in this case.

**ACF Response:** The SAVE legislation [S.1383 Strengthen and Vitalize Enforcement of Child Support (Save Child Support) Act] was introduced by Senators Menendez and Grassley on July 19, 2011. This is not an Executive Branch initiative; it was introduced by those Senators. We have not taken a formal position on this legislation.

#### PORT GAMBLE S'KLALLAM

**Comment:** You also spoke about the Tribal Model System roll out. Tribes have been hearing about the system for 10 years, since 2002. I did make a note that you had a pilot in Forest County Potawatomi and Modoc Tribe in Oklahoma.

**Action Requested:**

**ACF Response:** In 2003, OCSE convened an automated systems workgroup to look at what might be involved in the development of a Model Tribal System. This group had meetings for two years. In 2010, the regulation authorizing funding for systems and systems development for tribal programs was published. After the publication of the regulation OCSE solicited volunteers to conduct a pilot of the Model Tribal System (MTS). Both Forest County Potawatomi and the Modoc Tribe are piloting that system. The testing is nearing completion and the tribes will begin to enter live cases within the next few months. We are working on an implementation plan for roll-out of this system. Once that is completed tribes can submit an Advanced Planning Document to move towards using the MTS.

### Office of Family Assistance (OFA)

#### COOK INLET TRIBAL COUNCIL

**Comment:** Seamless integration of the TANF, CCDF and NEW funds in tribal 477 programs is important to the success of the program as well as to the self-determination of tribes, tribal organizations and the people that they serve. The proposed changes will undermine the stability of this important and very successful tribal program and will affect the efficiency and continued operation of the 477 program.

**Action Requested:** Cook Inlet Tribal Council asks that the OMB Circular A-133 Compliance Guidance regarding PL 102-477 be permanently rescinded. HHS also needs to provide specific articulation of the problem it is trying to resolve regarding 477 issues that the Tribes and Tribal organization have been requesting for two years, and identify reporting information required by law but not currently covered in 477 reports. Tribes and Tribal organizations would also like confirmation in writing that the funding mechanism is permanently in place and for new programs as well.

**ACF Response:** Department of the Interior (DOI), Department of Health and Human Services (HHS), and Department of Labor (DOL) leadership continue to work together in consultation with tribes to resolve issues regarding implementation of Public Law 102-477. The P.L. 102-477 Administrative Flexibility Work Group, chaired by Anthony Walters of DOI and including representatives from DOI, HHS, DOL, and tribes, began meeting in November 2011, and continues to meet via conference call on a regular basis.

#### JIM THOMAS, CHIEF EXECUTIVE OFFICER OF THE SAUK-SUIATTLE INDIAN TRIBE OF DARRINGTON, WASHINGTON

**Comment:** Tribal TANF Flexibility

**Action Requested:** Officials in Washington DC need to be flexible in their review and approval of requested changes in Tribal TANF PLANS.

**ACF Response:** ACF reviews both renewal plans and plan amendments as quickly as possible. It is always ACF's goal to approve a renewal TANF plan well before the current plan expires and to approve plan amendments by the earliest date allowable under the Tribal TANF regulations at 45 CFR 286.165.

#### JIM THOMAS, CHIEF EXECUTIVE OFFICER OF THE SAUK-SUIATTLE INDIAN TRIBE OF DARRINGTON, WASHINGTON

**Comment:** Tribal TANF

**Action Requested:** The Sauk-Suiattle Indian Tribe initiated a letter of intent to provide tribal TANF in two counties. This tribe has tribal reservation lands in both counties. We were advised that it is ACF policy to work with tribes who have BIA designated “near reservation” status.

**ACF Response:** The tribal TANF regulations provide that federally-recognized tribes are authorized to provide TANF services on their reservations and in their Bureau of Indian Affairs (BIA)-designated service area for financial and social services. This has been consistent HHS policy (see TANF PI 2005-03). The purpose of this policy is to ensure that a proposing tribe has the administrative capacity to provide services across multiple counties and other tribes have equal opportunity to provide services in these counties as appropriate. ACF has been in frequent communication with BIA to determine if the Tribe has a BIA-designated service area. ACF has attempted to contact the Tribe several times recently but has been unsuccessful. ACF will continue to reach out the Tribe, and once the service area is established, ACF will continue to provide technical assistance to the Tribe in implementing a Tribal TANF program.

#### NAVAJO NATION

**Comment:** Navajo Division of Social Services Program for Self-Reliance formerly TANF: Maintaining Tribal TANF program flexibility

**Action Requested:** TANF is currently up for Congressional reauthorization. The Navajo Nation strongly advocates that the flexibility provided to Tribes, including the Navajo Nation, to design and operate their Tribal TANF program, be maintained, as stated in the Welfare Reform Law.

**ACF Response:** We appreciate the Tribe’s interest in TANF reauthorization. At the present time, we have not initiated a formal process for the solicitation of comments on the reauthorization of the TANF program. However, if a tribe wishes to provide ideas or suggestions on TANF reauthorization, it should be encouraged to submit them in written form (either a letter or e-mail) to the appropriate OFA Regional Office TANF Program Manager. We will advise our TANF jurisdictions of any future plans that we develop relative to conversations on TANF reauthorization.

#### NAVAJO NATION

**Comment:** Navajo Division of Social Services Program for Self-Reliance formerly TANF: Maintaining Current Funding Level.

**Action Requested:** The Navajo Nation strongly advocates that funding for Tribal TANF Programs, including the Navajo Nation, be increased.

**ACF Response:** There is currently no provision under the law which allows ACF to increase the Tribal TANF grants; however, we appreciate the Tribe’s interest in TANF reauthorization. At the present time, we have not initiated a formal process for the solicitation of comments on the reauthorization of the TANF program. However, if a Tribe wishes to provide ideas or suggestions on TANF reauthorization, it should be encouraged to submit them in written form (either a letter or e-mail) to the appropriate OFA Regional Office TANF Program Manager. We will advise our TANF jurisdictions of any future plans that we develop relative to conversations on TANF reauthorization.

#### NAVAJO NATION

**Comment:** Navajo Division of Social Services Program for Self-Reliance formerly TANF: Maintaining Unobligated Funds in Reserve.

**Action Requested:** The Navajo Nation strongly advocates maintaining the current allowance for tribal TANF programs to place unobligated funds in reserve without fiscal year limitation.

**ACF Response:** The Social Security Act, as amended in December 1999 and February 2009, permits tribal and state TANF grantees to reserve and carry forward unobligated TANF fund balances without fiscal year limitation. As amended in 2009, section 404(e) of the act states, "A State or tribe may use a grant made to the State or tribe under this part for any fiscal year to provide, without fiscal year limitation, any benefit or service that may be provided under the State or tribal program funded under this part."

#### NORTH FORK RANCHERIA OF MONO INDIANS OF CALIFORNIA

**Comment:** GAO Report to Congress: GAO report "Temporary Assistance for Needy Families: HHS Needs to Improve Guidance and Monitoring of Tribal Programs

**Action Requested:** The North Fork Rancheria is interested in clear, consistent, and accessible communication procedures between DHHS/ACF and Tribes. It is imperative that ACF and the Office of Family Assistance respond immediately to the GAO recommendation to improve guidance and monitoring of Tribal Programs.

**ACF Response:** ACF is committed to continuously improving its monitoring and technical assistance to tribes. In response to both this comment and the GAO report recommendations, ACF central and regional offices will continue to work together to improve monitoring, guidance, and technical assistance efforts.

#### NORTH FORK RANCHERIA OF MONO INDIANS OF CALIFORNIA

**Comment:** Timeliness of Policy Clarifications, Guidance and Requests

**Action Requested:** Region IX does not respond to requests for policy clarifications in a timely and expeditious manner. Policy modifications or interpretations particularly in regards to the flexibility of Tribal TANF should be subject to the ACF Tribal Consultation Policy Process and the information must be disseminated in a formal Program Instruction or similar mechanism equitably across the Country.

**ACF Response:** All of ACF, including OFA, is committed to upholding and following the ACF Tribal Consultation Policy. When policy clarifications are made either in a PI or Q&A format, this information is sent out to each Tribal TANF grantee. OFA will continue to ensure that guidance is shared nationwide with Tribal TANF grantees.

#### NORTH FORK RANCHERIA OF MONO INDIANS OF CALIFORNIA

**Comment:** Tribal TANF Work Participation Rates: Tribal TANF Programs submit their Work Participation Data on a quarterly basis. In turn, ACF Division of Tribal TANF Management publishes this data on their web site. Unfortunately, the posted information is currently four year (FY '07) behind.

**Action Requested:** Work Participation Rates, Caseload Data and Recipient Data should be maintained in a more timely fashion.

**ACF Response:** In 2010 ACF hired an additional Tribal TANF data specialist and has been making substantial progress on these reports since then. We regret any inconvenience caused by past delays and hope to provide data more timely in the future.

#### NORTH FORK RANCHERIA OF MONO INDIANS OF CALIFORNIA

**Comment:** Tribal TANF clients are among the most difficult to serve due to a high rate of unemployment, substance abuse, child abuse, mental health challenges, domestic violence, lack of educational opportunities, and other social issues.

**Action Requested:** Help us create a tight weave of services by establishing programs, policies, and opportunities for collaboration among related services that will enable Indian families to become self sufficient.

**ACF Response:** ACF continues to host a variety of meetings across the country to encourage interoperability and cross-program coordination. Examples of such meetings include ACF conferences in Washington, D.C. and the Regional Tribal TANF Technical Assistance Conferences. OFA will continue to work with tribes and other ACF program offices to improve coordination of services to needy families.

#### NORTH FORK RANCHERIA OF MONO INDIANS OF CALIFORNIA

**Comment:** TANF Reauthorization: We are concerned TANF Reauthorization will take place with limited tribal input.

**Action Requested:** Reauthorization should include adequate funding equivalent of Federal Funds as combined with federally recognized Maintenance of Effort Funds, additionally Tribal Flexibility, and direct funding to Tribes eliminating the concept of funding Tribes through States. Furthermore, reauthorization should allow tribes the option to renegotiate their funding level utilizing their caseload/projected caseloads and administrative needs to determine an adequate level of base funding.

**ACF Response:** There is currently no provision under the law which allows ACF to increase the Tribal TANF grants; however, we appreciate the Tribe's interest in TANF reauthorization. At the present time, we have not initiated a formal process for the solicitation of comments on the reauthorization of the TANF program. However, if a Tribe wishes to provide ideas or suggestions on TANF reauthorization, it should be encouraged to submit them in written form (either a letter or e-mail) to the appropriate OFA Regional Office TANF Program Manager. We will advise our TANF jurisdictions of any future plans that we develop relative to conversations on TANF reauthorization.