



ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

Office of Grants Management  
Division of Mandatory Grants  
370 L'Enfant Promenade, SW  
Washington, DC 20447

**Office of Child Care  
Child Care Development Fund Grants**

*Program Specific Terms and Conditions for Tribal Grantees operating under Public Law 102-477*

By acceptance of this award, the Tribe agrees to comply with the terms and conditions detailed below. Failure to comply with these terms and conditions may result in the loss of Federal funds and may be considered grounds for the suspension or termination of this grant. These terms and conditions stand alone and referring to the General Terms and Conditions for program operation is not necessary.

This award is subject to the following terms, conditions and provisions:

**PROGRAM STANDARDS**

1. The provisions of the Child Care and Development Block Grant (CCDBG) Act of 1990 and section 418 of the Social Security Act, as amended by Title VI of the Personal Responsibility and Work Opportunity Reconciliation Act, P.L. 104-193, and the provisions of the current approved CCDF Tribal plan, including all approved amendments or revisions.

**ADMINISTRATIVE REQUIREMENTS**

2. The following regulations from Title 45 of the Code of Federal Regulations (CFR):

**45 CFR Part 98** – Child Care and Development Fund; Final Rule

**45 CFR Part 99** – Procedures for Hearings for the Child Care and Development Fund

3. The following Circulars from the Office of Management and Budget (OMB):

**OMB Circular A-133**, Audits of States, Local Governments, and Non-Profit Organizations and the **Single Audit Act of 1984**, as amended.

4. Tribal Mandatory and Discretionary funds are 100% Federal funds and no Tribal match is required. These funds must be obligated by September 30, of the year immediately following the current fiscal year and liquidated by September 30, of the next year (e.g. if the current year is FY 2012 then the funds must be obligated by September 30, 2013 and liquidated by September 30, 2014).
5. Non-exempt Tribes, (receiving \$500,000 or greater in CCDF allocations), must spend not less than 4% of the aggregate of all Federal funds expended from each fiscal year's award on quality activities. The Discretionary base amount is not included in the expenditure total that is used to calculate the 4% threshold. However, when determining if a non-exempt Tribe has actually met its threshold at the end of the liquidation period, Tribes will receive credit for any quality expenditures made from the base amount.
6. Each fiscal year the Appropriations Law targets specific amounts which are applicable tribes for Child Care Resource and Referral and School Aged Child Care Activities
  - a. The expenditures of these targeted amounts are not counted as quality activities for purposes of meeting the 4% minimum quality expenditure requirement at section 658G of the CCDBG Act. These targeted amounts are in addition to expenditures under the 4% quality requirement.

- b. Tribes are required to spend their allotment of targeted funds. After final appropriation has been signed into law, the required amount of targeted funds for each Tribe will be inputted on the Office of Child Care website at: <http://www.acf.hhs.gov/programs/occ/funding>
7. Not more than 15% of the aggregate of all Federal funds may be expended from each fiscal year's award on administrative costs. The Discretionary base amount is not in the calculation or subject to the administrative cap.
8. Grantee's fiscal and accounting procedures must be sufficient to permit the preparation of required reports and the tracing of expenditures to a level of expenditure adequate to establish that such funds have not been used in violation of 45 CFR Part 98.
9. Grantees must request and receive approval from the Administration for Children and Families, (ACF), in accordance with CCDF-ACF-PI-2010-03, dated April 7, 2010, prior to using CCDF funds for construction or renovation purposes. Funds may not be used for construction or major renovation of child care facilities until the Tribe's 102-477 scope of work has been modified. Grantees are not permitted to use amounts for construction or renovation purposes if such use will result in a decrease in the level of services provided by the grantee in the preceding year.
10. Direct Federal grants, sub-awards, or contracts under this program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this program. (See 45 CFR Part 98.54(d), Restrictions on Use of Funds, <http://www.acf.hhs.gov/sites/default/files/occ/fr072498.pdf>)
11. Federal grant funds provided under this award may not be used by the grantee or any sub-grantee to support lobbying activities to influence proposed or pending Federal or State legislation or appropriations. This prohibition is related to the use of Federal grant funds and is not intended to affect an individual's right or that of any organization, to petition Congress, or any other level of Government, through the use of other resources. (See 45 CFR Part 93.)
12. In accordance with Part C of Public Law 107-110 (No Child Left Behind), the "Pro-Children Act of 2001," no Federal agency shall permit smoking within any indoor facility (or portion of such facility) operated by such agency, directly or by contract, to provide routine or regular health or child care or early childhood development services to children. This *does not apply to any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol, or any private residence.* Individuals in violation are subject to a \$1,000 fine, administrative compliance, or both. The above language must be included in any subawards that contain provisions for children's services and that all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1,000 per day.
13. The Drug-Free Workplace Act of 1988, 42 U.S.C. 701 et seq., requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. The recipient must notify the awarding office if an employee of the recipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. HHS implementing regulations are set forth in 45 CFR Part 82, "Government wide Requirements for Drug-Free Workplace (Financial Assistance)."
14. This award is subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). For the full text of the award term, go to: <http://www.acf.hhs.gov/grants/terms-and-conditions> The use of Federal funds from this award constitutes the Tribe's acceptance of these terms and conditions.

15. The Consolidated Appropriations Act, 2012 (Pub.L. 112-74), enacted December 23, 2011, limits the salary amount that may be awarded and charged to ACF grants and cooperative agreements. Award funds issued under CCDF may not be used to pay the salary of an individual at a rate in excess of Executive Level II. The Executive Level II salary of the Federal Executive Pay scale is \$179,700 (<http://www.opm.gov/oca/12tables/html/ex.asp>). This amount reflects an individual's base salary **exclusive** of fringe and any income that an individual may be permitted to earn outside of the duties to the applicant organization. This salary limitation also applies to subawards/subcontracts under an ACF grant or cooperative agreement.

## SUB-RECIPIENTS AND VENDORS UNDER GRANTS

16. Tribes are required to determine recipient type when sub-granting or contracting using Federal funds. Recipient type includes sub-grantees/sub-recipients, vendors and contractors. OMB Circular A-133 establishes the standards for determining the difference between a sub-grantee and a vendor, based on the substance of the relationship with the Tribe, rather than the form of the agreement.

A recipient is considered a sub-grantee and is subject to OMB Circular A-133 if it meets the following conditions:

- a. Determines who is eligible to receive what Federal financial assistance;
- b. Has its performance measured against whether the objectives of the Federal program are met;
- c. Has responsibility for programmatic decision making;
- d. Has responsibility for adherence to applicable Federal program compliance requirements;
- e. Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity;

A recipient is considered a vendor and is not subject to OMB Circular A-133 if it meets the following conditions:

- a. Provides the goods and services within normal business operations;
- b. Provides similar goods or services to many different purchasers;
- c. Operates in a competitive environment;
- d. Provides goods or services that are ancillary to the operation of the Federal program;
- e. Is not subject to compliance requirements of the Federal program.

17. Tribes are required to advise sub-grantees/sub-recipients of requirements imposed on them by Federal laws, regulations, and the provisions of grant agreements or contracts as well as any supplemental requirements imposed by the Tribe. These include grant administrative requirements and cost principles according to recipient type.
18. Tribes must ensure that sub-recipients and sub-grantees expending more than \$500,000 or more in Federal awards during the sub-recipient/sub-grantee's fiscal year have an audit in compliance with the requirements of OMB Circular A-133.
19. HHS now requires this program award to adhere to the Subaward and Executive Compensation reporting requirements of "the Transparency Act" (as defined in 2 CFR Part 170). Under the Transparency Act, all subawards (as defined in 2 CFR Part 170) over \$25,000 must be reported, unless exempted. Please see the newly applicable Award Term for Federal Financial Accountability and Transparency Act (FFATA).

**NOTE:** The U.S. Government Accountability Office (GAO) maintains **FraudNET**, a system for reporting allegations of fraud, waste and abuse under Federal grants and cooperative agreements. Reports are kept confidential; you need not provide your name. Information provided through the Internet web site is secure and all information is safeguarded against unauthorized disclosure.

To report the possible misuse of federal funds, the E-mail address is [fraudnet@gao.gov](mailto:fraudnet@gao.gov) ; the fax number is 202-512-3086 and the mailing address is GAO **FraudNET**, 441 G Street N.W., Washington, D.C. 20548. When you submit allegations, please provide as much detailed information as possible. For other sources of fraud contacts are provided below:

OIG Fraud Hotline: 1-800-447-8477; fax 1-800-223-8164

<http://oig.hhs.gov/fraud/hotline/>

ACF Fraud Hotline: 1-888-289-8442