

Tribal Consultation Report Meeting the Child Care Needs in Tribal Nations: Request for Information Anchorage, Alaska



Office of Child Care



**U.S. Department of Health and
Human Services
Administration for Children and
Families
Office of Child Care**

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Tribal Consultation Report
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Cook Inlet Tribal Council
Conference Center

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Consultation Overview

Background

The Child Care and Development Fund (CCDF) program provides funding to states, territories, and tribal governments to provide access to child care for families with low incomes and support the quality of child care for all children. The Office of Child Care (OCC) oversees the implementation of CCDF, clarifying child care policies and program guidance, and offering training and technical assistance to CCDF tribes, states, and territories. Working within the federal regulations and guidelines, tribes, states, and territories use CCDF funds to meet the child care needs of the children, families, and child care providers in their communities.

The Child Care and Development Block Grant (CCDBG) Act does not explicitly apply most of its provisions to the Tribal CCDF program, so regulations were designed to account for the needs of tribal nations. However, Tribal Nations have noted that existing CCDF requirements, regulations, and processes are often not appropriate for all Tribal Nations and impact their ability to implement CCDF in a manner that best meets the needs of the children, families, and child care providers in their communities. In recognition of these concerns and the principles of strong government-to-government relationships and tribal sovereignty, OCC sought feedback on whether and what changes to requirements, regulations, and processes are needed to improve implementation of the Tribal CCDF program.

For additional information on the general federal request for information (RFI) process and the background for releasing this RFI, please see our [fact sheet](#). Additional resources on the RFI, such as webinar recordings, slides, and consultation venue details, can be found on our [resource page](#).

Consultation Opportunity

Tribal leaders in Alaska or their designated representatives were invited to join OCC in Anchorage, Alaska, on November 27, 2023, for an in-person consultation regarding a RFI titled: Meeting the Child Care Needs in Tribal Nations. During this consultation, input and suggestions were gathered to inform potential future regulatory changes (e.g., Notice of Proposed Rulemaking), sub-regulatory guidance (e.g., Program Instructions), information collections (e.g., reporting questions), and/or technical assistance (e.g., individualized support) on the Tribal CCDF program. The consultation session covered the breadth of the Tribal CCDF program in four parts, which are described below, including links to video resources on these topics:

- [CCDF Funding](#): Child Count, Consortia, Service Area, Allocation Size and Tiered Requirements, CCDF Plan, and the Discretionary Base Amount
- [CCDF Administration](#): Early Childhood and Related Systems Coordination, Spending Requirements, Construction and Major Renovation, Obligation and Liquidation Deadlines, Reporting Requirements, Quality Activities, Tribal and State Coordination
- [Increasing Family Access](#): Consumer Education, Eligibility
- [Building Child Care Supply](#): Early Childhood Workforce, Eligible Child Care Providers, Comprehensive Background Checks

The session took place on November 27, 2023, with background on the Tribal RFI shared first, including general background on the RFI process, why this RFI was issued by OCC, and the possible impacts of the RFI on the Tribal CCDF program going forward. Next, technical overviews were provided on the topics listed above, followed by in-depth discussion of the potential implications for Tribal Nations via tribal testimony and

feedback. Tribal testimony and discussion was not limited to the above topics, and time was provided to give feedback on any areas that may fall into the “Other” category. Next steps were also discussed regarding the timeline for testimony, comment period, summary report, and follow up email. Most of the session allowed time for testimony from tribal leaders, designees, CCDF administrators and program directors.

Session Logistics

Dr. Ruth Friedman, OCC Director, sent an invitation letter to tribal leaders of existing Tribal CCDF Lead Agencies in Alaska informing them of the consultation opportunity and inviting them to participate on October 27, 2023. Consultation information and reminders of the consultation were also sent via email from the OCC Region 10 Seattle office to Tribal CCDF administrators and leaders in Alaska. The consultation session was held in person on November 27, 2023, at the Cook Inlet Tribal Council facility in Anchorage, Alaska. OCC accepted written testimony and other comments following the consultation through January 2, 2024.

Director Friedman led the consultation session with facilitation support from Sarah Stafford, Senior Tribal Child Care Program Specialist. Cook Inlet Tribal Council Deputy Operating Office, Holly Snowball Morales provided opening remarks. Other OCC staff in attendance included Paul Noski, Region 10 Program Manager and Regional Program Specialists Cathy Jackson, Josh Lee, and Michael Kulbida.

The OCC Tribal Child Care Capacity Building Center (TCBC) and the Child Care Meeting Management Center (CMC) worked in collaboration with OCC to plan the event and provided logistical support.

A full list of participants can be found in the [Consultation Session Participants](#) section.

Consultation Summary

The oral and written testimonies from 13 Alaska Native Villages and Native Non-Profits were synthesized into the topics below. Each section discusses concerns, strengths, and suggestions raised by Tribes during consultation. OCC developed initial general responses for each of the four broad RFI categories, which are included at the end of each section. It is important to note that some requested changes would require statutory changes and thus are beyond the Administration’s authority. More in-depth responses to tribal feedback on the RFI testimony, as well as clarifications on federal authority and limitations, will be forthcoming this year.

Topics Covered

The topics covered included: Child Count, Consortia, Service Area, Allocation size and Tiered Requirements, CCDF Plan, the Discretionary Base Amount, Early Childhood and Related Systems, Spending Requirements, Construction and Major Renovation, Obligation and Liquidation Deadlines, Reporting Requirements, Quality Activities, Tribal and State Coordination, Consumer Education, Eligibility, Early Childhood Workforce, Eligible Child Care Providers, Comprehensive Background Checks, Tribal Sovereignty and Self Determination, Federal Program Coordination, Language and Cultural Preservation, Culture Camps, Land Jurisdiction, and Critical Subsistence Activities. Although all RFI topics were presented and an opportunity was given for testimony, not all RFI topics received feedback.

Several comments received through the consultation were related to land jurisdiction issues within Alaska and described the impacts on Tribal CCDF programs. Tribes in Alaska are governed under the Alaska Native

Claims Settlement Act (ANCSA). ANCSA established a unique governance structure for Tribes within Alaska, and outside of the Metlakatla Indian Community, there are no reservations, despite there being 229 federally recognized tribes in the state. The State of Alaska retains land jurisdiction because of ANCSA, and therefore retains oversight of child care licensing. Under current State of Alaska licensing rules, any child care center, including those operated by Tribal CCDF Lead Agencies, must be licensed by the state. Tribal Lead Agencies in Alaska may regulate only a small subset of child care providers – relative care, in-home care, and non-relative family child care providers caring for four or fewer children. Although OCC lacks the authority to determine these regulations, we strongly encourage ongoing coordination between tribes and the state to expand access, affordability, and the quality of child care services for Alaska Native and American Indian families across the state. The ANCA also created unique needs for tribes in Alaska, including a mechanism to manage lands designated for tribes under the Act, non-profit organizations to provide social services and health care (Alaska Native Regional Non-profit Organizations), and private for-profit corporations owned by Alaska Native shareholders (Alaska Native Regional and Village Corporations).

Content Summary: CCDF Funding

Child Count

Testimony Summary:

Tribes shared the impacts of Child Count requirements, including the submission process through the online Child Care Automated Reports System (CARS). One lead agency shared the burden for maintaining staff credentials in the system, and another shared that the system did not account for the mandatory funding options available for Alaska Native Villages and Corporations. Many tribes shared that Alaska's diverse landscape and migration of families throughout the year make it difficult to gain an accurate child count and would like technical assistance and to partner with other local Alaska Native Villages and Native Nonprofits to discuss processes for collecting data. One Tribal Lead Agency noted that they are finding individual villages are undercounting children by as much as 50 percent.

Several participants shared that ACF policies that require member tribes in a tribal consortium to provide an authorization every 3 years that the consortium Lead Agency may act and receive funds on its behalf were burdensome and suggested such authorizations be valid in perpetuity to honor the government-to-government relationship and the ACF Principles for Working with Federally Recognized Tribes. One tribe expressed that federal regulations do not specify the frequency which a tribe must reauthorize a resolution to participate in a consortium, and that the requirement to renew these resolutions every three years goes against the purpose of Pub. L. 102-477. One lead agency shared they appreciated ACF's good faith efforts to support and resolve the Fiscal Year (FY) 2022 child count issues.

Tribes reiterated that the State of Alaska and its landscape are very unique, and further explained that a July submission deadline for the child count is challenging to meet as many subsistence activities take place during that time. Many administrators, administrative staff, and families are engaged in these critical activities and not available to work on the child count submissions to meet short revision deadlines often given by OCC. Another tribe shared that some tribal councils meet quarterly, or less frequently, and are not able to make changes that require leadership signature or approval quickly.

Specific Tribal Suggestions in Testimony:

- Allow more time to submit child count declarations, including before and after the July 1 time period
- Not require submission in the Child Care Automated Reports System (CARS) for Pub. Law 102-477 programs and allow a different process for submission
- Provide a less burdensome way to show consortium member demonstrations by not requiring new tribal resolutions with every child count submission. Adding a permanent option on the declaration form to indicate continued membership of the participating Alaska Native Village, Corporation, or tribe could resolve the issue
- Follow the ACF Principles for Working with Federally Recognized Tribes and honor the government-to-government relationship between Tribal Nations, Alaska Native Villages and Corporations, and the federal government

- Do not require the child count submission to be submitted more often than every three years
- Offer more targeted and intensive training and technical assistance for conducting the child counts including resources on child count data options and coordination with neighboring or overlapping CCDF service areas

Service Area

Testimony Summary:

One lead agency shared that it is hard identifying and counting American Indian and Alaska Native (AI/AN) children as their service area is so large, is neighboring or overlapping with another CCDF service area, and the CCDF programs have different definitions of Indian Child. They shared there is not access to data sources that adequately represents the AI/AN population, which is one of their biggest challenges in conducting the child count.

Specific Tribal Suggestions in Testimony:

- Offer more targeted and intensive training and technical assistance for conducting the child counts including resources on child count data options and coordination with neighboring or overlapping service areas

Allocation Size and Tiered Requirements

Testimony Summary:

Comments in this program area expressed appreciation for flexibilities provided under CCDF, particularly for tribes with small allocations, which allow tribes to exercise their tribal sovereignty and self-determination and design their CCDF program to meet the unique needs of Native families. In addition to bringing the tribe closer to truly exercising tribal sovereignty, these flexibilities (for tribes with small allocations) also provide a learning opportunity for OCC to understand how tribes define child care and early learning priorities in their nations and communities and bolster the government-to-government relationship. Tribes strongly discourage the re-allocation of sizes but suggested the thresholds could be increased if they did not have to move to the next higher allocation size. The high cost of child care in Alaska was raised, and any action or change that takes the high costs into account is helpful for CCDF programs in the state.

Specific Tribal Suggestions in Testimony:

- Highly discourage the re-allocation size designation for Tribal Lead Agencies
- Increase each allocation size dollar threshold so that each tribes' allocation designation remains the same. An example of \$400,000 as the minimum threshold for the small allocation size was proposed as that would allow that particular tribal Lead Agency to maintain their small allocation designation

Tribal CCDF Plan

Testimony Summary:

Tribal comments in this area concerned Pub. L. 102-477 plans. Many tribes shared that having a five-year plan that addresses CCDF requirements, instead of a three-year plan, would reduce administrative burden. They testified that submitting a new plan that addresses CCDF requirements every three years can be redundant as there are not many changes in program implementation, and when there are changes, they can submit a plan amendment instead to reflect that. Tribes appreciate the flexibility allowed in writing Pub. Law 102-477 plans, including other programs that allow five-year plans (which does not align with OCC's requirement of submitting a new plan that addresses CCDF requirements every three years). Another tribe shared they appreciated needing to submit a new plan, as some programs change substantially during the plan period, and the changes require many amendments.

Specific Tribal Suggestions in Testimony:

- Allow for a five-year Pub. Law 102-477 plan that addresses CCDF requirements
- Accept plan amendments as the way to update the program implementation, instead of requiring a new CCDF plan every cycle

Discretionary Base Amount

Testimony Summary:

Overall, Alaska Native Villages and Native Nonprofits noted that the current discretionary base amount of \$30,000 is insufficient in Alaska, as the cost of child care and operating a child care program are extremely expensive as compared to the lower 48 states. Tribes proposed that a regional or locality formula be applied to each tribe's base amount, as well as an increase across the board in the discretionary base amount.

Specific Tribal Suggestions in Testimony:

- Increase the discretionary base amount to \$50,000 per child
- Create a per child amount for the discretionary base amount, to take into consideration the child count number
- Base discretionary base amount on the funding amount received through a formula
- Increase the discretionary base amount for Alaska Native Villages and Consortia as the cost of care is substantially higher than the lower 48

OCC Response

OCC appreciates the feedback provided on topics within this category of CCDF Funding, including concerns and suggestions on the child count, consortia, service area, allocation size, the tribal CCDF Plan, and the discretionary base amount. Below is a general response to the concerns and suggestions raised as well as clarifications on specific current CCDF requirements as indicated in the subsections above. It is important to note that some requested changes would require statutory changes. More in-depth responses to tribal feedback on the RFI testimony, as well as clarification on federal authority and limitations, will be forthcoming this year. Any significant revisions to the tribal CCDF program would first include additional opportunities for consultation and input from Tribal Nations.

OCC is committed to providing policy guidance as well as training and technical assistance as requested by Tribal Lead Agencies to meet CCDF requirements and priorities for CCDF funds (e.g., on consortia and the child count). We hear the call for increased flexibilities within the tribal CCDF program to honor tribal sovereignty and are carefully considering the suggestions within the context of our federal authority to determine the best mechanisms to address concerns.

CCDF Administration

Early Childhood System Coordination

Testimony Summary:

Tribal comments in this program area emphasized the importance of the Tribal Early Learning Initiative (TELI), which is an intensive technical assistance program offered through ACF and designed to support tribes to coordinate and maximize multiple early learning programs and create streamlined services for children and families. Tribes advocated for more opportunities for intensive support in this program area, and one stated it would enable them to serve children wholistically across multiple service deliveries.

Specific Tribal Suggestions in Testimony:

- Increase training and technical assistance opportunities for coordination of early learning programs like the Tribal Early Learning Initiative

OCC Response

All TLAs had the opportunity to apply to use their CCDF funds for TELI purposes and to apply to participate in a technical assistance opportunity by submitting a TELI Appendix indicating an interest as part of the FY 2023-25 Child Count submission in July 2022. TLAs had the option to participate in the TELI Network, a broad-based learning community, or the more technical assistance-intensive TELI Collaborative. Forty-nine tribes applied and were approved to use their CCDF funds for TELI activities. Eight applied for and were accepted to participate in the TELI Collaborative to receive individualized and collective technical assistance as part of a peer learning network over a 3-year period. This includes direct support from technical assistance providers, federal staff, and decision makers across ACF tribal early childhood programs, including CCDF, Head Start, and Tribal Home Visiting. Support for the TELI Collaborative and TELI Network is provided through the OCC's Tribal Child Care Capacity Building Center (TCBC). Resources from the TELI program are available to any TLA by contacting the OCC Regional Office if they are direct-funded or by contacting BIA if they are a Pub. Law 102-477 program.

Spending Requirements

Testimony Summary:

One tribe stated that they negotiate an indirect cost rate with the U.S. Department of Health and Human Services, and that rate should be honored by OCC. One Native Non-Profit noted that the

direct service minimum should include activities designed to expand access to child care services. Regarding quality set-aside requirements, one TLA stated that although a worthwhile investment, quality spending requirements limit the amount that TLAs have available to provide direct services to families.

Specific Tribal Suggestions in Testimony:

- Honor the negotiated indirect costs rate, even it is higher than the 15 percent administrative cap amount allowed by CCDF

Construction and Major Renovation

Testimony Summary:

A regional native non-profit stated that there is a high need for high-quality early learning facilities in their communities that addresses early learning and staffing needs. They stated in particular that there is not enough room in their facility for staff to create lesson plans, and often have to find outside space that is not safe or up to building codes. Several tribes indicated that they have gone through the CCDF Construction and Major Renovation application and approval process, and that the requirements are burdensome and challenging. They stated that the application due date of July 1 every year conflicts with the season for critical subsistence activities. Specifically, depending on when OCC issues approval, it could happen outside the small window available for construction in Alaska, requiring one tribe to take action prior to OCC approval. Because the climate and environment allow for a small window for construction, projects often take multiple years to complete and the process is different than for projects in the lower 48, tribes shared. Comments included a request for more training and technical assistance for the application and planning process, although there is an appreciation for the current training and support available. One tribe also shared that their Head Start facilities are inadequate and the lack of funding for construction and renovation inhibits them from creating a language immersion program in their community. Another tribe stated that the one-time COVID supplemental funds were the only way they were able to fund their construction project.

Specific Tribal Suggestions in Testimony:

- Provide more and intensive training and technical assistance for the Construction and Major Renovation application
- Reduce the burden of the application
- Improve the program instruction and clarify requirements regarding construction and major renovation
- Issue approvals in a window that aligns with the construction season in Alaska
- Allow the submission of applications sooner than July 1
- Increase funding available for construction and major renovation projects

Obligation and Liquidation Deadlines

Testimony Summary:

One TLA suggested that any funds that remain unobligated or unliquidated by other TLAs should be redistributed to tribes who have fully utilized their funding as opposed to reverting to the Treasury.

Specific Tribal Suggestions in Testimony:

- Any CCDF funds that remain unobligated or unliquidated by other TLAs should be redistributed to tribes who have fully utilized their funding as opposed to reverting to the Treasury

Quality Activities

Testimony Summary:

One TLA stated that it is difficult to implement quality activities among their providers. Family child care providers are typically unaware of quality improvement activities and are unable to conceptualize what may be beneficial. Additionally, this TLA voiced that they struggle with being able to offer quality activities to all of the remote Villages within their service area.

Specific Tribal Suggestions in Testimony:

No specific suggestions from tribal leaders, authorized representatives, or other representatives received.

Reporting Requirements

Testimony Summary:

One tribe stated they appreciate the reduced reporting requirements under the Pub. Law 102-477 program and that it is manageable.

Specific Tribal Suggestions in Testimony:

- No specific suggestions from tribal leaders, authorized representatives, or other representatives received.

State System Impacts on Tribal Sovereignty

Testimony Summary:

While discussing the need for adequate child care and learning facilities, tribes shared that even when there are available and sufficient spaces for child care, Alaska state child care licensing requirements and lack of access to child care licensors severely inhibits the tribe's ability to offer quality child care. One tribe offered to pay the high-cost travel expenses for state child care licensors to travel to their service area and license providers, but the offer was declined by the state. Another tribe shared that they would like to invest their CCDF funds in culturally responsive child care services, or culture camps, as they were allowed to prior to the 2014 reauthorization of the CCDBG Act, but no longer could because it is under the jurisdiction of the state and needs to be licensed. Multiple tribes agreed that they have the capacity to offer similar programs in their communities, but that the state child care licensing requirements prevents them from doing so, and that the state will not travel to their communities to license the care. Tribes noted that the inability of the state to regulate care in their region reduces Native children and families' access to CCDF funds and other funding opportunities. Several tribes stated that they would like the opportunity to regulate child care in their service area.

Tribal leaders remarked that the state does not adequately consult or coordinate with them, which creates less access to child care for Native children and families, creates frustration in working

with the state, and infringes on tribal sovereignty. One tribe said that even when the state reaches out, the communication is often missed or not received by the tribe as it is not responsive to the tribes' communication needs.

Specific Tribal Suggestions in Testimony:

- Allow a pathway for tribes to regulate (license, monitor, or inspect) eligible child care providers in their service area when state licensing requirements are otherwise applicable
- Address the issue of the state not licensing otherwise eligible CCDF providers in tribal service areas
- Have OCC work with the state to meet the CCDF requirements to coordinate, collaborate, and consult with each federally recognized tribe or Alaska Native Village or Corporation for CCDF services, and hold the state accountable
- Support Alaska's understanding of how their requirements and/or lack of child care licensing presence in tribal service areas impacts a tribe's sovereignty and ability to self-determine child care services for their citizens

OCC Response

OCC appreciates the feedback provided on topics within this category of CCDF administration, including concerns and suggestions on the early childhood systems' coordination, spending requirements, construction and major renovation, obligation and liquidation deadlines, reporting requirements, quality activities, and state systems' impact(s) on tribal sovereignty. Below is a general response to the concerns and suggestions raised as well as clarifications on specific current CCDF requirements as indicated in the subsections above. Please note that not all questions or suggestions are addressed at this time. More in-depth responses to tribal feedback on the RFI, as well as clarifications on federal authority and limitations, will be forthcoming this year. Any significant revisions to the tribal CCDF program would first include additional opportunities for consultation and input from Tribal Nations.

OCC will continue to encourage states to meet the CCDF requirements at 45 CFR § § 98.10(f), 98.12(c), 98.14(a)(4), and 98.44(b)(2)(vi) – which require states to: (1) Consult, collaborate, and coordinate in the development of the State CCDF Plan in a timely manner with Indian Tribes (2) Coordinate, to the maximum extent feasible with any Indian Tribes in the State receiving CCDF funds; (3) “Demonstrate in the CCDF Plan how the State, Territory, or Tribe encourages partnerships among its agencies, other public agencies, Indian Tribes and Tribal organizations and private entities...to leverage existing service delivery systems for child care and development services and to increase the supply and quality of child care and development services; and, (4) Ensure that required training and professional development are accessible to CCDF child care providers supported through Tribes or tribal organizations and, to the extent practicable, appropriate for Native American children. TLAs are required to coordinate with the state in which their tribal child care program resides: however, this is to the maximum extent feasible for the Tribe, and the Tribe can choose how they engage in this coordination.

OCC provides T/TA on construction and major renovation and is committed to providing future technical assistance as requested by TLAs and Pub. Law 102-477 programs to meet CCDF

requirements or OCC priorities for CCDF funds. Tribes may use CCDF funds to lease facilities to provide child care services.

OCC can reallocate CCDF discretionary funds from a TLA that will not be able to obligate those funds by the deadline to Tribal Lead Agencies that have demonstrated they can obligate the funds by the deadline. However, OCC must be notified by April 1 that the funds will not be obligated by the September 30 deadline. OCC will continue providing guidance and technical assistance for TLAs around this reporting in order to limit the amount of funding returned to the U.S. Department of Treasury.

CCDF quality funds can be spent on language and culture curriculum activities. They can also be used on any tribally defined quality improvement activity. TLAs have significant flexibility to set their own quality standards provided the standards fit in one of the ten broad allowable quality activities and the spending requirement (at least 9%) is met. OCC provides technical assistance on quality improvement activities as requested.

OCC hears the call for increased flexibilities within the Tribal CCDF program to honor tribal sovereignty and is carefully considering the suggestions within the context of our federal authority to determine the best mechanisms to address concerns.

Increasing Family Access to Child Care

Eligibility

Testimony Summary:

One comment was received regarding eligibility centered around the difficulty in utilizing the Federal Poverty Level in Alaska, particularly throughout remote areas of the state, due to the significantly higher cost of living and family incomes as compared to the lower 48 states. The participant was appreciative of the CCDF flexibility for grantees receiving a small allocation that allows them to serve all families within their communities, regardless of income levels.

Specific Tribal Suggestions in Testimony:

- No specific suggestions from tribal leaders, authorized representatives, or other representatives received.

OCC Response

Tribes with small allocations can implement categorical eligibility, where any child who meets their definition of Indian Child (and resides in service area) is eligible for CCDF regardless of the family's income, work, or training status. Tribes with medium and large allocations must follow standard eligibility requirements unless they can demonstrate that 100% of the Tribal Median Income is less than 85% of the State Median Income in the state where the tribe is located. If this is demonstrated, the tribe can use categorical eligibility as long as services are prioritized for children with the highest need. TLAs with medium and large allocations would need to make this demonstration every new plan cycle.

Building Child Care Supply

Early Childhood Workforce

Testimony Summary:

Tribal comments in this program area emphasized a need for increased compensation for and recognition of tribal providers and staff. Tribes expressed concerns around workforce recruitment and retention, such as child care staff often leaving for better paying jobs, seeing early childhood as a stepping stone rather than career in itself. Tribes reported that the cost to provide child care in Alaska is significantly higher than in the continental United States, with the cost per slot being almost double in remote Alaska. Commentors stated that CCDF funds are inadequate to support sufficient staffing levels in their tribally operated child care centers. One commentor shared that their Early Head Start-Child Care Partnership is on a Head Start corrective action plan due to under enrollment as they are unable to open three of their classrooms due to a shortage of staff. Commentors shared that the supplemental American Rescue Plan (ARP) Stabilization funding was critical to being able to properly support their workforce and expressed a strong need for additional supplemental funding to support staff. One commentor shared that the taxable nature of the ARP Stabilization funding created concerns for their staff and providers, and recommended ACF explore options to make any future supplemental funds nontaxable. One TLA provided comment that they would like to be able to provide different levels of staff compensation to better reflect the cost of providing care in remote regions of their service area.

Specific Tribal Suggestions in Testimony:

- Create a tribal set aside specifically for staff compensation which is considered nontaxable for staff
- Increase the percentage and amount of CCDF Mandatory funding that is set aside for tribes to better support staffing levels

Eligible Providers

Testimony Summary:

Tribal comments in this program area overwhelmingly expressed a need for additional flexibilities in CCDF requirements, discussing who is considered an eligible relative provider and traditional Indigenous definitions of kinship. Many tribes emphasized close relationships with community members who are not blood relatives, and stated they know who they can trust with the health and safety of their children. Commentors expressed that although the authority may exist within CCDF for TLAs to waive all health and safety requirements for relative providers, their tribal policies in fact mandate that relative providers abide by health and safety standards. Several tribes highlighted the economic and social benefits for the family and community of being able to utilize additional relative care providers.

Tribes expressed facing a lack of available child care providers as a result of land jurisdiction issues that are specific to Alaska, as the state retains legal jurisdiction over the land and tribes are prevented from regulating all provider types. Commentors expressed that many of the state's licensing requirements are based off building standards in urban areas of Alaska and are not realistic for structures in the remote tribal villages, severely restricting the availability of child

care. Tribes emphasized the lack of housing available in their nations, resulting in many multi-group families in one household, with grandparents and adult children often living in the home alongside families. Commentors expressed that housing is difficult to construct and maintain in remote areas of the state due to the need to fly or barge in material and the lack of qualified individuals to repair homes. One TLA voiced disappointment of OCC's denial of a waiver request to expand the relative provider definition, reflecting on language within Pub. L. 102-477, which requires Federal agencies to waive certain programmatic requirements if requested within the Pub. L. 102-477 Plan.

Specific Tribal Suggestions in Testimony:

- Allow older siblings or other individuals (including those who do not meet the CCDF definition of a relative) residing in the household to be eligible CCDF relative providers, which would encourage young people to go into the job market
- Allow tribes to define relative providers and potential exemptions based on their traditional kinship definitions and what they know works best for them

Comprehensive Background Checks

Testimony Summary:

Commentors raised several concerns related to the federal comprehensive background check requirements and the difficulty of completing these across the state. Multiple tribes noted that due to the state holding jurisdiction over licensing they must comply with state background checks and are not able to take advantage of tribal flexibilities within CCDF. Tribes noted the additional difficulty and expense of conducting background checks within Alaska due to its size and remoteness. Most tribal villages are not connected via road, and individuals must fly to other cities to conduct background checks, with flights costing thousands of dollars per person in some instances. Tribes noted that they were appreciative of the flexibility for alternative approaches to comprehensive background checks within CCDF; however, they would like to gain the authority to conduct the Federal Bureau of Investigation (FBI) fingerprint check and the National Sex Offender Registry (NSOR) check. Other tribes noted they do not currently have an approved alternative approach to the comprehensive background checks, and it would be beneficial for OCC to publish a resource for TLAs on what specific options in their states might look like for the purposes of developing an approvable alternative approach. One tribal consortia suggested utilizing the Department of Justice's Tribal Access Program (TAP) to allow for processing of comprehensive background checks.

Specific Tribal Suggestions in Testimony:

- Allow TLAs the ability to access the systems needed for all required components of the CCDF comprehensive background checks
- Publish a technical assistance resource with examples of approved alternative approaches to the CCDF comprehensive background checks
- Expand access to and use of the Department of Justice's Tribal Access Program to allow tribes to meet the CCDF requirements

Other Topics

Testimony Summary:

Some tribal leaders and authorized representatives raised issues that did not fit in existing RFI categories, including the availability of OCC guidance and technical assistance to tribes across Alaska, especially those incorporating CCDF into a Pub. Law 102-477 Plan. Specifically, one Pub. Law 102-477 lead agency shared that they rely on OCC for training and technical assistance for the CCDF program, as they follow the CCDF regulations.

Another topic raised was the need for specific training for Early Head Start Child Care Partnerships, as many tribes have both federal programs.

Specific Tribal Suggestions in Testimony:

- Improve communication and dissemination of CCDF rules, processes, and technical assistance opportunities to all Tribal CCDF programs, including those integrated into Pub. Law 102-477 programs
- Continue federal visits to Indian country and in-person technical assistance opportunities

OCC Response

OCC appreciates the feedback related to building child care supply, including concerns and suggestions on early childhood workforce, eligible child care providers, and comprehensive background checks. During consultation, OCC also welcomed feedback on topics outside those outlined in the RFI, which generated comments in many other areas (listed above in the "Other Topics" section). Below is a general response to the concerns and suggestions raised. Please note that not all questions or suggestions are addressed at this time. More in-depth responses to tribal feedback on the RFI, as well as clarifications on federal authority and limitations, will be forthcoming this year. Any significant revisions to the Tribal CCDF program would first include additional opportunities for consultation and input from Tribal Nations. OCC hears the call for increased flexibilities within the Tribal CCDF program to honor Tribal sovereignty, and is carefully considering the suggestions within the context of our federal authority to address concerns.

Given the unique land jurisdiction conditions for tribes within Alaska under the ANCSA, OCC reiterates its recommendation noted earlier in this report for continuous collaboration and coordination between the State of Alaska and Tribal Nations to expand access to quality child care for Alaska Native and American Indian families across the state. OCC is encouraged regarding the testimony received from Tribal Lead Agencies surrounding the implementation of approved alternative approaches to comprehensive background checks and will continue to advocate for tribal lead agencies to gain access to complete all required components of the background check process required under the law.

OCC appreciates the request for training and technical assistance from Pub. L. 102-477 programs that have integrated their CCDF funds. The Bureau of Indian Affairs (BIA) is the cognizant agency for all Pub. L. 102-477 programs, including all training and technical assistance requests. Pub. L. 102-477 programs may request training and technical assistance from their assigned Workforce Development Specialist, and BIA will forward the request to OCC as appropriate.

Many OCC-sponsored training and technical assistance offerings are open to Pub. Law 102-477 programs that would like to attend. Information about national trainings can be obtained by signing up for OCC Announcements at

https://forms.office.com/pages/responsepage.aspx?id=wPYof9WYc0C34M_lXxa2XPj_ly5YtjxLsnUGWpEs4nBUODVBTzE5Ujg4TFILTDBSTkJLV0ZYQkkxSC4u.

Next Steps

This consultation report, including the testimony submitted by tribes, will be posted on [Regulations.gov](https://www.regulations.gov) as part of the public docket (ACF-2023-0004) associated with the RFI that was published in the *Federal Register* on July 27, 2023. OCC will review this consultation report and testimony, along with other public comments received in response to the RFI, and more in-depth responses to tribal feedback and testimony, as well as clarification on federal authority and limitations, will be forthcoming this year.

Next steps discussed at this tribal consultation included:

- Sharing feedback with Congress
- Providing clarity on Executive Branch versus Congressional authority for the CCDF Tribal program
- Additional opportunities for discussion on the Tribal CCDF program
- Follow up with Tribal Lead Agencies for clarity as needed
- Increased collaboration with other programs in early childhood and child care
- Follow up with states to support implementation of federal requirements to collaborate, consult, and coordinate with Tribal Nations

Tribal Consultation Invitation Letter



ADMINISTRATION FOR
CHILDREN & FAMILIES
330 C Street, S.W., Washington DC 20201 | www.acf.hhs.gov

October 27, 2023

Dear Tribal Leader:

The Administration for Children and Families' Office of Child Care (OCC) announced a Request for Information (RFI) titled: *Meeting the Child Care Needs in Tribal Nations*. This request was published in the Federal Register on July 27, 2023, and can be found on the [Federal Register website](#). In addition to the in-person Tribal Consultation planned for November 29-30, 2023, in Albuquerque, New Mexico, OCC will also host an in-person Tribal Consultation **November 27, 2023**, at the Cook Inlet Tribal Council in Anchorage, AK to discuss the RFI. This November 27 OCC Tribal Consultation is the day before the 2023 Bureau of Indian Affairs Tribal Provider's Conference in Anchorage, AK. Due to time and space limitations, this Tribal Consultation is open only to Alaska Native villages and corporations. The registration form, draft agenda, and other logistics information can be found on the OCC Tribal Consultation [website](#).

OCC seeks input on whether existing Child Care and Development Fund (CCDF) requirements, regulations, and processes are appropriate for Tribal Nations to implement CCDF in a manner that best meets the needs of the children, families, and child care providers in their Nations and communities, and that properly recognizes the principles of strong government-to-government relationships and Tribal sovereignty.

Please visit the [RFI resource page](#) on the OCC website to learn more about the topics included and the information requested.

OCC will keep the Tribal Consultation testimony record open through January 2, 2024. Written testimony may be submitted to OCC at OCC Tribal@acf.hhs.gov.

Should you have any questions about the consultation, please email OCC Tribal@acf.hhs.gov.

We look forward to working together to envision a CCDF program that supports Tribal Nations' efforts to promote the early learning and development of Native children and family economic stability and well-being.

Sincerely,

Ruth J. Friedman -S
Digitally signed by Ruth J. Friedman -S
Date: 2023.10.26 19:25:22 -0400

Ruth Friedman, Ph.D.
Director
Office of Child Care

Consultation Session Participants

These tables list those participants who registered for the consultation session. The registered participants are broken down by the following categories: Tribal Participants and Other Interested Parties, Federal Participants, and Technical Assistance and Support Staff.

Tribal Participants and Other Interested Parties

First Name	Last Name	Job Title	Tribe/Tribal Organization
Jami	Creasey	Education and Employment Coordinator	Aleutian Pribilof Islands Association
Jacob	Timmons	Division Administrator	Aleutian Pribilof Islands Association
Amanda	Burnell	Vice President of Administration	Arctic Slope Native Association
Serena	Atkins-McArthur	Workforce Development/477 Director	Bristol Bay Native Association
Krystal	Alakayak	Case Management Division Director	Bristol Bay Native Association
Pamela	Murphy	Eligibility Division Manager	Bristol Bay Native Association
Brittany	Suralta	CCDF Administrator	Cook Inlet Tribal Council
Holly	Morales	Employment and Training Director	Cook Inlet Tribal Council
Debi	Baldwin	Contractor	Kawerak, Inc.
Luisa	Machuca	Vice President, Education, Employment & Supportive Services	Kawerak, Inc.
Bridie	Trainor	Child Care Program Director	Kawerak, Inc.
Jasmine	Leiva	Support Services Coordinator	Kodiak Area Native Association
Rosa	Skonberg	Workforce Development Manager	Kodiak Area Native Association
Madeline	Gallahorn	Workforce Development Director	Maniilaq Association
Jessica	Thomas	Workforce Development Deputy Director	Maniilaq Association
Alicia	Morris	CCDF Administrator	Ninilchik Village Tribe
Christina	Pinnow	Tribal Services Director	Ninilchik Village Tribe
Cindy	Wurst		Ninilchik Village Tribe
Rachel	Worthey	Grants Administrator	Sitka Tribe of Alaska
Lynda	Lorenson	Program Services Director	Sun'aq Tribe of Kodiak
Desiree	Joseph	Workforce Support Manager	Tanana Chiefs Conference
Angela	Martinez	Child Care Coordinator	Tanana Chiefs Conference
Alice	Bagoyo	Child Care Manager	Tlingit & Haida
Sara	Gregory	Child Care Specialist	Tlingit & Haida
William	Martin	Director, 477 Division	Tlingit & Haida
Amelia	Rivera	Cultural Heritage & Education Senior Director	Tlingit & Haida
Ruth	Friedman	Director	Office of Child Care, ACF, HHS
Sarah	Stafford	Senior Tribal Specialist	Office of Child Care, ACF, HHS
Paul	Noski	Region 10 Program Manager	Office of Child Care, ACF, HHS
Cathy	Jackson	Regional Program Specialist	Office of Child Care, ACF, HHS
Mike	Kulbida	Regional Program Specialist	Office of Child Care, ACF, HHS
Josh	Lee	Regional Program Specialist	Office of Child Care, ACF, HHS
Kimber	Olson	Tribal Technical Assistance Manager	Tribal Child Care Capacity Building Center

Office of Child Care
Tribal Consultation

First Name	Last Name	Job Title	Tribe/Tribal Organization
Violet	Yeaton	Technical Assistance	Tribal Child Care Capacity Building Center
Ida	Doyle	Workforce Development Specialist	Bureau of Indian Affairs
Carrie	Mcmillan	Workforce Development Specialist	Bureau of Indian Affairs
Anthony	Riley	Acting Chief	Bureau of Indian Affairs
Raebell	Whitcomb	Workforce Development Specialist	Bureau of Indian Affairs