

# ACF

Administration  
for Children  
and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

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**4. Key Words:** Child Care and Development Fund (CCDF); Economic Recovery; Stimulus; Supplemental Grant Award

## PROGRAM INSTRUCTION

**To:** State, Territorial and Tribal Lead Agencies administering child care programs under the Child Care and Development Block Grant Act of 1990 (the CCDBG Act), as amended, and other interested parties.

**Subject:** Notification of supplemental CCDF Discretionary grant award funding for FY 2009.

**References:** The CCDBG Act (42 U.S.C. 9858 et Seq.); section 418 of the Social Security Act; 45 CFR Parts 98 and 99; 63 FR 39936-39998; P.L.111-5

**Purpose:** This Program Instruction provides guidance regarding Public Law 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA), which appropriates an additional \$2 billion in CCDF Discretionary funding available to State, Territory and Tribal Lead Agencies in Fiscal Year (FY) 2009 as part of the economic stimulus package.

The purposes of the ARRA include the following: (1) to preserve and create jobs and promote economic recovery; (2) to assist those most impacted by the recession; (3) to provide investments needed to increase economic efficiency by spurring technological advances in science and health; (4) to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and (5) to stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

[ARRA, sec.3(a)]

The ARRA provides CCDF Lead Agencies with an important opportunity to assist those most impacted by the recession through the provision of funds to expand services to additional children and families facing difficult economic circumstances. The ARRA also provides supplemental targeted funding for investments to improve the quality of child care to support the health and well-being of children.

**Background:** In the ARRA, Congress appropriated \$2 billion in supplemental funding for the CCDF Discretionary fund. These funds are in addition to the FY 2009 CCDF Discretionary fund appropriation amount provided through the regular appropriation process. Lead Agencies should note that ARRA funds are one-time funds included in the FY 2009 CCDF grant award. In accordance with Section 658O(a) of the CCDBG Act, one half of 1 percent of the amount appropriated is allotted to Territorial Lead Agencies and 2 percent allotted to Tribal Lead Agencies.

**Guidance:** Supplemental CCDF funds provided through the ARRA are considered FY 2009 CCDF funds and are subject to all existing requirements for Discretionary CCDF funds. A separate Notice of Grant Award to State, Territorial and Tribal Lead Agencies will include the total amount of supplemental CCDF Discretionary funds awarded under the ARRA. Allocation tables indicating the amount of funds, including targeted funds for quality activities (discussed below), will be posted on the Child Care Bureau website at:  
[http://www.acf.hhs.gov/programs/ccb/law/funding\\_allocations.htm](http://www.acf.hhs.gov/programs/ccb/law/funding_allocations.htm).

ARRA supplemental funds are Discretionary funds; these are 100 percent Federal funds. There is no Match requirement associated with the supplemental grant award.

A new Catalogue of Federal Domestic Assistance (CFDA) profile and number have been assigned to the supplemental funding for CCDF. The supplemental funding is catalogued at “93.713 ARRA – Child Care and Development Block Grant.” Access to the CFDA is available at:  
<http://www.cfda.gov/>

### **CCDF Discretionary Allocation Formula**

Lead Agencies will receive allotments from the supplemental CCDF Discretionary fund appropriation based on the FY 2009 allocation formula for the CCDF Discretionary fund. State and Territorial allotments for the Discretionary fund are determined based on the formula outlined in section 658O(b) of the CCDBG Act. Tribal allocations are based on child counts. (Also see 45 CFR 98.61 of CCDF Regulations).

### **Non-Supplantation Requirement**

The ARRA requires that Discretionary CCDF funds made available under the law must be used to supplement, not supplant State general revenue funds for child care assistance to low-income families. This is an existing requirement for Discretionary CCDF funds and is included in the terms and conditions detailed in the grant award notification. By accepting the grant award, the State is providing an assurance that funds will be used to supplement, not supplant State general revenue funds for child care assistance to low-income families. ACF oversight of this requirement will be consistent with

monitoring, non-compliance, and complaint policies outlined in Subpart J of CCDF regulations. Additionally, States are subject to audit requirements at 45 CFR 98.65 of CCDF regulations. The non-supplantation requirement also applies to Territorial and Tribal grantees.

A State will be considered to have satisfied the “supplement not supplant” requirement if the State has not made administrative or legislative changes to reduce the amount of general revenue funds for child care assistance to low-income families below the amount the State would have spent under State law and policies in place on the date of enactment of the ARRA. If State general revenue funds for child care assistance fall below this amount it will be presumed to constitute supplantation unless the State can demonstrate that the reduction was not due to the availability of additional Federal funds included in the ARRA and does not violate the non-supplantation requirement. (States that made legislative or policy changes prior to the enactment of the ARRA but implemented these changes after the date of enactment are not considered to have violated the non-supplantation requirement.) States wishing to propose an alternative rationale demonstrating compliance with the non-supplantation requirement should submit a detailed justification in writing to the ACF Child Care Bureau. We will make every effort to respond to these submissions as quickly as possible.

#### **Obligation / Liquidation Requirements**

Funds allotted under this supplemental grant award may be obligated in FY 2009 and FY 2010. All supplemental funds are required to be obligated by September 30, 2010. This is consistent with the existing obligation requirement for CCDF Discretionary funds at 45 CFR 98.60(d)(1) of CCDF regulations. Lead Agencies have until September 30, 2011 to liquidate FY 2009 grant award funds including supplemental grant award funds. Lead Agencies may claim expenditures of supplemental CCDF Discretionary funds for obligations and liquidations made in the child care program beginning October 1, 2008.

#### **Targeted Fund Requirements**

The ARRA specifies that States must use approximately \$255 million for quality activities authorized under section 658G of the Child Care and Development Block Grant Act. Of the \$255 million, States must use approximately \$94 million for activities to improve the quality of infant and toddler care. These targeted quality funds under ARRA are in addition to the four percent minimum quality requirement in the CCDBG Act and are applicable only to State and Territorial grantees.

#### **CCDF Plan Amendments**

Any substantial change made by a Lead Agency to the CCDF program requires an amendment to the approved Plan per 45 CFR 98.18(b) of CCDF regulations. A Lead Agency making changes to the child care program prior

to October 1, 2009 as a result of ARRA supplemental funding (such as changes to payment rates, income eligibility guidelines, or sliding fee scales) should submit an amendment to the FY2008-2009 CCDF Plan. Programmatic changes occurring after FY 2009 should be incorporated into the FY 2010-2011 CCDF Plan.

A Lead Agency needing to amend its Plan should enter amendment information on the Amendment Log at the beginning of the Plan and submit the Log and amendment to the ACF Regional Office within 60 days of the effective date of the change. ACF will make determinations on amendments no later than 90 days following the date on which the amendment is received. Program Instruction, CCDF-ACF-PI-2009-01, provides additional clarification regarding Plan amendments and is available on the Child Care Bureau website at:

<http://www.acf.hhs.gov/programs/ccb/law/guidance/current/pi2009-01/pi2009-01.htm>

### **Transparency & Accountability Provisions**

The ARRA includes provisions related to ensuring transparency and accountability for all funds made available by the law. Information on expenditures from stimulus funding will be made available to the public through the website <http://www.recovery.gov/>. This involves implementation of specific reporting requirements for all recipients of recovery funds, including CCDF Lead Agencies. ACF plans to issue follow-up guidance specifically addressing any ARRA-related data reporting requirements pertaining to the CCDF program. In the interim, Lead Agencies should take note of the content of required recipient reports as written in the ARRA law listed below and begin taking steps to ensure information will be available:

*Title XV, Subtitle A (P.L. 111-5) - Sec.1512 Report on the Use of Funds*

*c) Recipient Reports- Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains--*

- (1) the total amount of recovery funds received from that agency;*
- (2) the amount of recovery funds received that were expended or obligated to projects or activities; and*
- (3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including--*
  - (A) the name of the project or activity;*
  - (B) a description of the project or activity;*
  - (C) an evaluation of the completion status of the project or activity;*
  - (D) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and*
  - (E) for infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available*

*under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.*

### **Additional Financial Reporting (ACF-696 & ACF-696T)**

As part of the efforts to ensure transparency and accountability, the ARRA requires Federal agencies and grantees to track and report separately on expenditures from funds made available by the stimulus bill. Therefore, Lead Agencies will be required to submit reports detailing categorical expenditures from the supplemental CCDF Discretionary funds. As noted above, ACF will be providing additional guidance regarding specific reporting requirements for the stimulus funds.

### **Quality Minimum and Administrative Costs Cap**

CCDF regulations at 45 CFR 98.50(c) require that States, Territories and non-exempt Tribes (receiving total CCDF allocations of at least \$500,000) use a minimum of 4 percent of the aggregate amount of CCDF funds expended for activities to improve the quality of care. Additionally, CCDF regulations at 45 CFR 98.50(d) require that States and Territories use no more than 5 percent of the aggregate amount of CCDF expenditures for administrative activities. The administrative cap for Tribes is 15 percent. ACF will determine compliance with the minimum quality requirement and the limitation on administrative costs based on the aggregate amount of funds expended (includes Discretionary, Mandatory, and Federal and State Share of Matching funds for States; Discretionary only for Territories; and Discretionary and Mandatory for Tribes) from the fiscal year's allotment. The aggregate amount includes both the regular FY 2009 grant award and the FY 2009 supplemental Discretionary grant award as indicated by the totals from the Lead Agency's FY 2009 ACF-696 or 696T final reports.

### **Exempt vs. Non-Exempt Status for Tribes**

The final FY 2009 CCDF funding allocation amounts, which will include the supplemental ARRA funds, may cause some Tribes that are currently "exempt" grantees to become "non-exempt." Tribal Lead Agencies with CCDF allocations equal to or greater than \$500,000 for a fiscal year are considered non-exempt grantees. Non-exempt Tribal Lead Agencies must: 1) use for quality activities at least four percent of the aggregate CCDF funds expended for a fiscal year; and 2) operate a certificate program that offers parental choice from a full range of providers (i.e., center-based, group home, family and in-home care). A Tribal Lead Agency that moves from the exempt to non-exempt category has a phase-in period of one year to meet the CCDF non-exempt requirements. The one year period begins with the issuance date of the grant award letter indicating that a Tribe's final allocation is equal to or greater than \$500,000. A non-exempt Tribal Lead Agency must describe how it is meeting non-exempt requirements in its FY 2010-2011 CCDF plan, including Plan sections 1.4 (quality funds), 3.1 (description of child care services), 3.2 (payment rates), 3.6 (certificate payment system), and

5.1-5.2 (activities and services to improve the quality of child care).

**Technical Assistance**

In accordance with 45 CFR 98.60(b)(1), one quarter of 1 percent of the CCDF funding made available under the ARRA will be used for national technical assistance activities to help States, Territories, and Tribes administer the CCDF program. We encourage Lead Agencies to utilize information resources and technical assistance available through ACF Regional Offices and the Child Care Bureau’s Child Care Technical Assistance Network (CCTAN) when planning how to best utilize the funding made available under the ARRA. For more information on the CCTAN, see:

<http://www.acf.hhs.gov/programs/ccb/ta/cctan.htm>.

Funding for  
Other Programs:

The ARRA includes supplemental appropriations for several other early care and education programs as part of the economic stimulus package. ACF encourages Lead Agencies to coordinate planning efforts with these programs to find the most effective use of the supplemental funding made available by the stimulus package. Other programs that received supplemental funding include:

- \$1 billion for Head Start
- \$1.1 billion for expansion of Early Head Start
- \$5 billion for Temporary Assistance for Needy Families (TANF) Emergency Contingency Fund
- \$400 million IDEA Part B grants to States for preschool and school age programs for children with disabilities
- \$500 million IDEA Part C for formula grants to help States serve infants and toddlers with special needs
- \$13 billion for Title I Education (which Local Educational Agencies can choose to use for early childhood education)

Questions:

Please direct inquiries to the Child Care Program Manager in the appropriate ACF Regional Office.

/s/

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Ann H. Barbagallo  
Acting Director  
Office of Family Assistance

Attachment: List of ACF Regional Child Care Program Managers

## Child Care Bureau Regional Program Managers

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