

# ACF

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration  
For Children  
And Families

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## CHILD CARE AND DEVELOPMENT FUND PROGRAM INSTRUCTION

**To:** Tribal Lead Agencies consolidating child care programs under Public Law (P.L.) 102-477. This Program Instruction only applies to Tribes currently operating or planning to operate an employment, training and related services program under P.L. 102-477.

**Purpose:** To provide information on the procedures to consolidate the Child Care and Development Fund (CCDF) program with other employment and training funding sources under a P.L. 102-477 plan.

**References:** The Child Care and Development Block Grant Act of 1990 (CCDBG) as amended; section 418 of the Social Security Act; 45 CFR Parts 98 and 99; and the Indian Employment, Training and Related Services Demonstration Act of 1992, as amended (P.L. 102-477).

**Background:** The Indian Employment, Training and Related Services Demonstration Act of 1992, as amended (P.L. 102-477) was enacted to:

- Demonstrate how Indian Tribal governments can integrate the employment, training and related services they provide in order to improve the effectiveness of those services;
- Reduce joblessness in Indian communities;
- Foster economic development on Indian lands; and
- Serve Tribally determined goals consistent with the policies of self-determination and self-governance.

In accordance with P.L. 102-477, eligible Tribal applicants may choose to streamline Tribal services by submitting a consolidated plan for employment, training and related services to the U.S. Department of the Interior (DOI). Eligible applicants may include the Child Care and Development Fund (CCDF) in their 102-477 plan. The CCDF is comprised of two funding sources:

- Discretionary Funds – funding that is provided under the Child Care and Development Block Grant Act, as amended; and
- Tribal Mandatory Funds – funding that is provided to eligible Tribes and tribal organizations under Section 418 of the Social Security Act.

Tribes that elect to consolidate their CCDF funds under a 102-477 plan are still required to operate comprehensive CCDF programs. By applying for CCDF funds, a Tribe agrees to follow the provisions of the CCDBG Act of 1990, as amended, and applicable regulations at 45 CFR 98 and 99, including the obligation and liquidation periods at 45 CFR 98.60(e). However, in contrast to the required CCDF application and plan process, Tribes that consolidate CCDF funds under a 102-477 plan are permitted to submit abbreviated applications and plans for CCDF funding.

**Eligibility:**

Pursuant to 45 CFR 98.62, a Tribe is eligible to receive CCDF funds if the Tribe is Federally recognized and the Tribal population includes at least 50 children under age 13.

A Tribe with fewer than 50 children under age 13 may participate in a consortium of eligible Tribes. In order to be eligible to receive CCDF funds on behalf of its member Tribes, a consortium must:

- Consist of Tribes that meet the eligibility requirements for the CCDF program or that would meet the eligibility requirements if the Tribe or Tribal organization had at least 50 children under age 13; and
- Adequately demonstrate it has authorization from each participating Tribe to receive CCDF funds on behalf of the Tribe.

Special Rule for Indian Tribes in Alaska - Only the Metlakatla Indian Community of the Annette Islands Reserve and the 12 Alaska Native Regional Nonprofit Corporations are eligible to receive Tribal Mandatory Funds. New Tribal applicants in Alaska should contact ACF Region X (Attachment A) with questions about this Special Rule.

**The 102-477 Process:**

To receive CCDF funding under a consolidated 102-477 plan, all Tribal grantees and Tribal applicants must: 1) Be eligible to receive CCDF funding (see Eligibility Section of this Program Instruction); and 2) Have submitted a consolidated 102-477 plan to the Department of the Interior that includes the CCDF program. Although 102-477 plans cover multi-year periods, current 102-477 grantees and new Tribal applicants must apply annually for CCDF funds.

**Annual 102-477 Application Requirements:**

An annual Child Count Declaration (Attachment C) must be submitted to receive fiscal year (FY) 2011 CCDF funds. By submitting a signed Child Count Declaration, the Tribe is making application for FY 2011 CCDF funds.

By applying for FY 2011 CCDF funds a Tribe agrees to follow the provisions of the Child Care and Development Block Grant Act of 1990, as amended and applicable regulations at 45 CFR Parts 98 and 99.

Current grantees that apply for FY 2011 funds continue to be required to meet the assurances and certifications provided in the 102-477 plan for the remainder of the plan period. A new Tribal applicant must include the required assurances and certifications as part of its plan submittal (see Attachment D).

**Tribal Child Counts:**

For funds that become available in FY 2011, ACF will calculate grant awards based on a self-certified Child Count Declaration for the number of children **under age 13** (not age 13 and under) who reside on or near the reservation or service area. Because the definitions for "Indian child" and "reservation/service area" help determine the Tribal grant award amounts, please keep in mind the following information as you prepare annual Tribal child counts for CCDF funds:

- While Tribes have some flexibility in defining "Indian Child," the definition must

be limited to children from federally recognized Indian Tribes, consistent with the Child Care and Development Block Grant Act's definition of Indian Tribe.

- "Service area" must be "on or near the reservation," and therefore must be within a reasonably close geographic proximity to the delineated borders of a Tribe's reservation (with the exception of Tribes in Alaska, California and Oklahoma). Tribes that do not have reservations must establish service areas within reasonably close geographic proximity to the area where the Tribe's population resides. ACF will not approve an entire state as a Tribe's service area.

The Child Count Declaration must certify the number of Indian children (as defined in the CCDF section of the 102-477 plan), under age 13, who reside on or near the reservation or service area. The Child Count Declaration is provided as [Attachment C](#). The Child Count Declaration must be signed by the governing body of the Tribe or a person authorized to act for the applicant Tribe or Tribal organization.

An application or plan submitted without a Child Count Declaration will be treated as an incomplete application. Therefore, to facilitate the approval process, a signed, completed Child Count Declaration ([Attachment C](#)) must be submitted to the U.S. Department of the Interior.

**PLEASE BE ADVISED: The Tribal Lead Agency may not count any children who are included in the child count of another CCDF Tribal Lead Agency.** To ensure unduplicated child counts, a Tribal Lead Agency is **required** to confer with all other CCDF Tribal Lead Agencies that have overlapping or neighboring service areas.

ACF will not accept declarations based on child counts that were conducted 12 months prior to submission of the plan nor on the date the 102-477 plan is submitted. For FY 2011 funding, the child count of children under age 13 must be completed no later than June 30, 2010, and no earlier than July 1, 2009.

**102-477 Plan Requirements:**

The CCDF program may be incorporated into a P.L. 102-477 plan that covers multi-year periods. If an applicant elects to include CCDF in a consolidated 102-477 plan, the following CCDF requirements must be included in the 102-477 plan:

1. A statement of intent to administer the CCDF program under a P.L. 102-477 consolidated plan.
2. A description of the way CCDF services will be integrated and delivered with the employment and training programs included in the 102-477 plan, and the results expected.
3. The agency or agencies of the Tribal government (or Tribal consortium) to be involved in the delivery of CCDF services under the plan. Note: if the CCDF Lead Agency changes during the approved plan period, the grantee must submit a written notification of this change to the Department of Interior.
4. A description of the results of the Tribal Lead Agency's coordination activities with agencies responsible for health (including the agency responsible for immunizations), education, employment services or workforce development, and the State Temporary Assistance for Needy Families (TANF) agency and/or Tribal TANF agency – if the Tribe is operating its own TANF program.
5. A description of the public hearing process held to provide members of the tribal community (or communities in the case of a Tribal consortium) an opportunity to comment on the proposed CCDF activities under the consolidated 102-477 plan.

6. A copy of the payment rates for child care services that ensure eligible children equal access to comparable care and a summary of the facts relied on by the Tribal Lead Agency to determine that the attached rates are sufficient to ensure equal access to comparable child care services provided to children whose parents are not eligible to receive child care assistance under the CCDF and other governmental programs. At a minimum the Tribal Lead Agency must: 1) include the date of the local market rate survey(s); 2) describe how the payment rates are adequate to ensure equal access based on the results of the required local market rate survey (i.e., the relationship between the attached payment rates and the market rates observed in the survey); 3) indicate if the payment rates are based on the State survey(s); and 4) Non-Exempt Tribes must explain how the choice of the full range of providers is made available to parents if the payment rates do not reflect individual rates for the full range of providers -- center-based, group home, family and in-home care. NOTE: A Tribal Lead Agency may base its payment rates on the State's market rate survey rather than conducting its own survey if the Tribe's reservation or Tribal service area is included in the State's survey.
  
7. Indicate if the Tribe's definition of Grantee Median Income (GMI) is based on Tribal Median Income or State Median Income and complete column (a) of the matrix below. Complete column (b) below ONLY if the Tribal Lead Agency is using income eligibility limits lower than 85% of GMI.

Family Size	(a)	(b)
	85% of Grantee Median Income (GMI) (\$/Month)	Income Level, Lower than 85% GMI, If used to limit eligibility (\$/month)
1		
2		
3		
4		
5		

8. A copy of a sliding fee scale that provides for cost sharing by families and is based on income and family size. A grantee may waive contributions from families whose incomes are at or below the poverty level for a family of the same size, or may apply different sliding fee scales. [Note: A Tribe cannot use Federal CCDF dollars to pay the parental contribution (co-payment) on behalf of an Indian family who is receiving a CCDF subsidy from a State or Tribe.
  
9. Definitions for 1) Indian Child; and 2) Indian Reservation or Tribal Service Area. Tribes have broad latitude in defining these terms that are used to determine eligibility. An applicant's Child Count Declaration -- required in the annual CCDF application -- is based on the definition of these terms.
  
10. Any statutory provisions, regulations, policies, or procedures that the Tribe requests to be waived.

A consortium must submit a demonstration (e.g., a Tribal resolution) from each member Tribe that authorizes the consortium to receive CCDF funds on its behalf for the duration of the plan period.

**Plan Waivers:** Section 7 of P.L. 102-477, as amended, authorizes the Secretary of the Department of Health and Human Services to waive any statutory provision, regulation, policy, or procedures requested by a Tribe, as long as the waiver is not inconsistent with the purpose of P.L. 102-477 or with provisions of the Child Care and Development Block Grant Act, as amended.

To obtain a waiver, the 102-477 plan **must:**

- Identify the specific statutory provision, regulation, policy or procedure;
- Justify the need for the waiver; and
- Explain what the Tribe will use to replace the existing statutory provision, regulation, policy or procedure, if applicable.

Waivers will be granted or denied on a case-by-case basis for each plan. Blanket waiver requests are not acceptable. See Attachment E for a list of statutory and regulatory requirements that will not be waived.

**Plan Approvals:** ACF's approval is contingent on several factors, including:

- Receipt of plans, and ACF's requested revisions, if applicable, in a timely fashion; and
- Have no outstanding CCDF program (ACF-700) or financial (ACF-696-T) reports (applicable only to those Tribes submitting initial 102-477 plans).

**Special Instructions For Tribal Consortia:**

Individual Child Counts Required - A Tribal consortium must submit an individual Child Count Declaration, signed by an individual authorized to act for the Tribe, for each Tribal member in a Tribal consortium. A tribal consortium must also provide a summary section listing each Tribal member's name and child count and the total child count for all members.

Because of the statutory "Special Rule for Indian Tribes in Alaska" under Tribal Mandatory Funding, some Alaska Native Regional Non-profit Corporations will have to provide a separate child count certification for Discretionary Funding purposes. This count will consist of its self-certified Tribal Mandatory Funding count, minus the child count number for any Alaska Tribal grantee in its Region that applies directly for Discretionary Funding. In instances where a Regional Corporation has separate child counts for Discretionary and Tribal Mandatory Funds, both counts may be reported on the Child Count Declaration (Attachment A).

**Membership Changes** – It is the responsibility of a Tribal consortium to notify ACF of any changes in its membership for CCDF funding purposes during the approved plan period. For example - - if a new Tribe joins a Tribal consortium to receive FY 2011 CCDF funds, or if a current Tribal consortium member elects not to receive FY 2011 CCDF funds through that Tribal consortium - - these changes must be conveyed to ACF in writing by the Tribal consortium. Alternately, if a member Tribe elects not to receive FY 2011 CCDF funds through a Tribal consortium, it is the Tribal consortium's responsibility to notify ACF of this change.

**Exempt vs. Non-Exempt Grantee Status:**

ACF recognizes that a number of small CCDF grantees do not have the necessary infrastructure to support certain CCDF requirements, such as a certificate program. Similarly, in many small rural communities child care options are often limited. Consequently, additional flexibility has been provided for smaller Tribes and Tribal organizations by "exempting" them from certain CCDF requirements (see 45 CFR 98.83(f)). Tribal Lead Agencies with CCDF allocations equal to or greater than \$500,000 for a fiscal year are considered non-exempt grantees; therefore: 1) no less

than four percent of the aggregate CCDF funds expended for a fiscal year must be used for quality activities; and 2) the Tribal Lead Agency must 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).

#### Transition Period Moving into Non-Exempt Status

A Tribal Lead Agency that moves from the exempt to non-exempt category has a phase-in period **up to 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 102-477 plan.

#### **Funding Estimates and Allocation Formulas:**

ACF estimates that \$132,881,620 in FY 2011 CCDF funds will be available for tribal grantees starting October 1, 2010 (\$58,541,620 in Discretionary Funds and \$74,340,000 in Tribal Mandatory Funds).

Grants from Discretionary Funds will include a base amount of \$20,000 plus a per child amount (approximately \$80 per child) for each Tribe or Tribal consortium with a minimum of 50 children. Grants from Tribal Mandatory Funds are calculated solely on a per child basis (approximately \$120 per child) and do not include a base amount.

Since the per child amount for both Discretionary and Tribal Mandatory Funds depends upon the total number of children in all participating Tribes, ACF cannot calculate in advance the exact per child amount. However, Tribes and Tribal organizations may use the FY 2011 Tribal Estimates Chart (See Attachment B) as a guide. A new applicant should use the base amount plus approximately \$80 per child to estimate its allotment for Discretionary funding, and should use approximately \$120 per child to estimate its allotment for Tribal Mandatory funding.

A Tribal consortium should estimate its allotment for Discretionary funding for each of its members by calculating a portion of the base amount that is equivalent to the ratio of the number of children in each member Tribe to 50, plus the additional per child amount. For example, a Tribe with 49 children is allotted 49/50ths of \$20,000, or \$19,600. The per child amount is then multiplied by 49 and added to the \$19,600 base amount.

Important Note: These amounts are provided for the purpose of estimating the allotments that will become available beginning October 1, 2010 and may increase or decrease when updated data become available before the final grant awards are issued. The estimates reflect the Administration's FY 2011 budget request.

#### **Discretionary Targeted Funds:**

The Administration's FY 2011 budget request includes targeted funds for school-age care and resource and referral activities. The FY 2011 Tribal Estimates Chart (Attachment B) shows the estimated targeted funds requirement for FY 2011. The column labeled Discretionary Targeted Funds shows the estimated amount that must be spent on resource and referral activities and/or school-age care. The column labeled Discretionary Excluding Targeted Funds is the amount of Discretionary Funds remaining (other than targeted funds) that can be spent on any allowable CCDF activities (assuming quality expenditure, administrative cost, and other Federal requirements are met). The amount of targeted funds for resource and referral activities and school-age care is based on a \$500 amount per Tribe plus a per child amount. All amounts in the FY 2011 Tribal Estimates Chart (Attachment B) are estimates that may increase or decrease when final grant awards are issued.

Note to Non-Exempt Tribal Lead Agencies: The targeted funds are to be used in addition to the "not less than four percent" required to be spent on activities that

improve the quality and availability of child care.

**Administrative Costs:**

Tribal Lead Agencies are reminded that no more than 15 percent of the aggregate CCDF funds expended from each year's allotment may be used for administrative costs. Tribal Lead Agencies are advised to review the CCDF regulations at 45 CFR 98.52 for a discussion of administrative costs. Note: the Discretionary Funds base amount is neither subject to the 15 percent limitation, nor included in the calculation for the 15 percent limitation.

**Construction and Renovation Under a 102-477 Plan:**

In order to use CCDF funds for construction or major renovation projects, all Tribes receiving CCDF funds -- including Tribes with approved 102-477 plans -- are required to follow ACF's construction and renovation application procedures (Program Instruction CCDF-ACF-PI-2010-03). This Program Instruction is available on the Child Care Bureau's website at: [http://www.acf.hhs.gov/programs/ccb/law/tribal\\_topic\\_construction.htm](http://www.acf.hhs.gov/programs/ccb/law/tribal_topic_construction.htm). Early in the planning process, Tribes are advised to contact their appropriate ACF Regional Office (Attachment A). If a Tribe constructs or renovates more than one facility, it must seek ACF approval for each project (even if the projects use identical plans and specifications).

**Deadlines:**

All CCDF applications (and plans, if applicable) must be postmarked or hand delivered to the U.S. Department of the Interior no later than July 1, 2010. Any applications and plans postmarked after that date will not be accepted. Faxed copies will not be accepted.

**Electronic Format:**

The required Child Count Declaration is available in electronic format from ACF Regional Offices (see Attachment A) on the Child Care Bureau's website at: [http://www.acf.hhs.gov/programs/ccb/law/tribal\\_topic\\_application.htm](http://www.acf.hhs.gov/programs/ccb/law/tribal_topic_application.htm).

**Submitting the Materials:**

The original and 1 copy of the materials **must** be mailed or hand-delivered to the:

An additional copy **must** also be sent to the:

U.S. Department of the Interior, Office of Indian Energy and Economic Development  
Division of Workforce Development  
1951 Constitution Ave., NW  
Mail Stop 20 SIB  
Washington, DC 20240

Tribal Technical Assistance Center  
c/o Native American Management Services, Inc.  
re: CCDF 2011 Application  
12110 Sunset Hills Road, Suite 450  
Reston, VA 20190

Note: ACF's Tribal Child Care Technical Assistance Center (TriTAC) is only serving as a receipt point for materials. ACF will conduct the review and approval of Tribal FY 2011 CCDF funding applications and/or plans.

**Reporting Requirements:**

CCDF Tribal grantees with an approved 102-477 plan will receive their CCDF funding through the DOI. Therefore, program and financial reporting of CCDF funds awarded under a 102-477 consolidated plan will be made to the DOI. However, the expenditure and obligation of all CCDF funds awarded prior to a 102-477 plan approval will continue to be reported to ACF on the ACF-696T financial reporting form. Similarly, program data on CCDF funds awarded prior to a 102-477 plan approval must be reported on the ACF-700 data reporting form.

**Obligation and Liquidation Periods:**

Tribal Lead Agencies must obligate FY 2011 Tribal Mandatory and Discretionary Funds by September 30, 2012 and liquidate all funds by September 30, 2013 (with the exception of any FY 2011 CCDF funds approved by ACF for construction or major

renovation, which must be obligated and liquidated by September 30, 2013).

**Reallotted  
Discretionary  
Funds:**

102-477 Lead Agencies are required to notify ACF by April 1, 2011 if they will be unable to obligate any portion of their FY 2010 CCDF Discretionary Funds allotment by September 30, 2011. In accordance with 45 CFR 98.64(d), any portion of a Tribe's allotment of Discretionary Funds that is not required to carry out its plan, in the period for which the allotment is made available, shall be reallotted to other tribal grantees in proportion to their original allotments.

If the total amount available for reallocation from all tribal CCDF grantees is \$25,000 or more, funds will be reallotted to other tribal grantees. If the total available is less than \$25,000, no reallocation will take place, and funds will revert to the Federal government. If an individual reallocation amount to a Tribe is less than \$500, a reallocation award will not be issued to that Tribe. If a tribal CCDF grantee does not submit a reallocation report by the April deadline, a determination will be made that no funds are available for reallocation. Any funds reported to be available for reallocation after the April deadline shall revert to the Federal government.

**Application Process to Receive Reallotted Funds**

Should FY 2010 Discretionary Funds become available for reallocation, the 102-477 Tribal Lead Agency must inform ACF whether or not it would like to receive these funds by checking either "Yes" or "No" in the "Request for FY 2010 Reallotted Tribal Discretionary Funds" box on Attachment C.

**CCDF Withdrawal  
from 102-477  
Plan:**

If a Tribe decides to withdraw CCDF from an approved 102-477 plan, the Tribal Chair must submit a letter to the 102-477 Lead Agency at the U.S. Department of Interior (with a copy to the Child Care Bureau). The letter must indicate that the Tribe has decided to withdraw its CCDF funds from its existing 102-477 plan, and it must specify the Tribe's approved 102-477 plan period. Please note that the withdrawal will become effective no sooner than the beginning of the following fiscal year. In order to directly receive CCDF funding outside of 102-477 in fiscal year 2011, a Tribe must submit the required letter from the Tribal Chair (described above), as well as a completed CCDF tribal plan preprint, no later than July 1, 2010 (see: <http://www.acf.hhs.gov/programs/ccb/law/guidance/archives/pi2009-04/pi2009-04.htm>). If approved, the new CCDF plan will cover a one-year period of October 1, 2010 to September 30, 2011 (consistent with the current plan period for all CCDF tribal plans which extends through September 30, 2011). CCDF will remain as part of the Tribe's approved 102-477 plan until October 1, 2011.

**Audits:**

As indicated at 45 CFR 98.65, each CCDF Lead Agency is subject to audit requirements in accordance with Office of Management and Budget (OMB) Circular A-133 and the Single Audit Act Amendments of 1996. Tribes that consolidate CCDF under P.L. 102-477 will be audited based on requirements in the A-133 Compliance Supplement for the Child Care and Development Block Grant (CFDA 93.575) and Child Care Mandatory and Matching Funds of the Child Care and Development Fund (CFDA 93.596).

**Paperwork  
Reduction Act:**

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The information collection required under this Program Instruction is approved under OMB Number 0970-0198, which expires September 30, 2011.

**Inquiries:**

Questions related to the CCDF program should be directed to the appropriate ACF Regional Office (Attachment A). For questions about completing a consolidated 102-477 plan, please contact Jody Garrison at (202) 208-2685 at the U.S. Department of the Interior, Office of Indian Energy and Economic Development.

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Ann Barbagallo  
Acting Director  
Office of Family Assistance

Attachments:

- A - ACF Regional Child Care Program Managers List
- B - FY 2011 Estimated Tribal Allocation Table
- C - Child Count Declaration
- D - List of Assurances and Certifications
- E - CCDF Statutory and Regulatory Requirements That Will Not Be Waived