

# ACF

Administration  
for Children  
and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

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## CHILD CARE AND DEVELOPMENT FUND

### PROGRAM INSTRUCTION

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

**Purpose:** This Program Instruction (PI) transmits the Tribal Plan Preprint (ACF-118-A) (Attachment A) for the Child Care and Development Fund (CCDF) program for the Fiscal Year (FY) 2012-2013 biennium, and provides guidance for completing and submitting the required form. This Plan is required by Section 658E of the CCDBG Act.

**References:** The Child Care and Development Block Grant Act of 1990 (CCDBG), as amended, 42 U.S.C. § 9858 *et seq.*; section 418 of the Social Security Act, 42 U.S.C. § 618; 45 CFR Parts 98 and 99.

**Background:** The CCDF Plan serves as the Tribal Lead Agency's application for CCDF funds by providing a description of the child care program and services available to eligible families. The Plan also provides certain assurances and certifications required by CCDBG statute. The Plan provides information about the overall management of CCDF services, including information regarding income eligibility guidelines, provider payment rates, service priorities, parental rights and responsibilities, program integrity and accountability, and quality improvement activities. The CCDF Plan also presents an opportunity for Tribal Lead Agencies to demonstrate the many activities and services they are providing to meet the needs of low-income children and families.

The attached Tribal Plan format has been revised for the FY 2012-2013 biennium. We strongly recommend that you review the CCDBG Act, and the CCDF regulations as you develop your Tribal Plan for the FY 2012-2013 Plan period. Each Tribal Plan section includes statutory citations or

references to the applicable regulation. We also embedded more definitions, guidance, and explanations into the Plan Preprint itself.

**Tribal Eligibility  
for CCDF  
Funds:**

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 tribal 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;
- Demonstrate it has authorization from each participating Tribe to receive CCDF funds on behalf of the Tribe; and
- Demonstrate that it has the managerial, technical, and administrative staff with the ability to administer funds, manage a CCDF program, and comply with the provisions of the CCDF Act and regulations.

**Membership Changes** – It is the responsibility of a tribal consortium to notify the Administration for Children and Families (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 2012 CCDF funds, or if a current tribal consortium member elects not to receive FY 2012 CCDF funds through that tribal consortium, these changes must be conveyed to ACF in writing by the tribal consortium.

**Tribal Child  
Counts:**

ACF will calculate grant awards based on a self-certified Child Count Declaration for the number of children under age 13 (e.g. up through age 12) 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:

- Tribal Lead Agencies have flexibility in defining “Indian Child,” and may include children from other Tribes, provided that such Tribes are federally recognized, 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.

Tribal Lead Agencies are advised that ACF will not accept Child Count Declarations based on child counts that were conducted prior to July 1 of the previous year. For FY 2012 funding, the child count of children under age 13 must be completed **no later than** June 30, 2011, and **no earlier than** July 1, 2010.

### **Special Instructions for Tribal Consortium**

- Individual Child Counts Required - A tribal consortium must submit an individual Child Count Declaration for each participating Tribe. Each individual Child Count Declaration must be signed by an individual authorized to act for the Tribe. A tribal consortium must also provide a summary section listing the name of each participating Tribe and its individual child count. The Tribal Consortium Lead Agency also must include the total child count for the entire consortium.
- "Special Rule for Indian Tribes in Alaska" - Under Tribal Mandatory Funding, some Alaska Native Regional Nonprofit 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.

Please contact your ACF Regional Office if you have questions or need assistance.

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

Exempt Tribes: Tribal Lead Agencies with CCDF allocations less than \$500,000 are not required to: (1) operate a certificate program that offers parental choice from a full range of providers ( i.e., center-based, group home, family child care, and in-home) unless the Tribe chooses to include such services and associated requirements (see 45 CFR 98.83(f)), and (2)

are not required to spend at least 4 percent on quality activities.

Non-Exempt Tribes: 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 at least 4 percent of the aggregate CCDF funds expended for a fiscal year for quality activities, 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 1 year to meet the CCDF non-exempt requirements. The 1 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 2012-2013 CCDF plan, including Plan sections 3.1 (descriptions of direct child care services), 3.2 (certificate payment system), 5.1-5.2 (activities and goals to improve the quality of child care) and Part 6 the Health and Safety Requirements.

**Funding  
Estimates and  
Allocation  
Formulas**

Grants from Discretionary Funds will include a base amount of \$20,000 plus a per child amount 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 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. Furthermore, the total amount of CCDF funding that will be appropriated for FY 2012 is unknown at this time. However, Tribes and tribal organizations may use the FY 2011 Tribal Allocation Chart (see Attachment B) as a guide. A new applicant should use the base amount plus approximately \$50 per child to estimate its allotment for Discretionary funding, and should use approximately \$90 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: The per child amounts listed above are provided for the purpose of estimating the allotments that will become available beginning October 1, 2011, and may increase or decrease when funding appropriations and updated data become available before the final grant awards are issued.

**Discretionary Targeted Funds:** The FY 2012 allocations may include targeted funds for school-age care and resource and referral activities. This amount must be spent on resource and referral activities and/or school-age care. The amount of targeted funds for resource and referral activities and school-age care is based on \$500 per Tribe plus a per child amount. Further information about the targeted funds will be included on final allocation tables posted on the Office of Child Care website.

Note to Non-Exempt Tribal Lead Agencies: The targeted funds are to be used in addition to the “not less than 4 percent” required to be spent on activities that improve the quality and availability of child care.

**Administrative Costs:** 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 should 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:** In order to use CCDF funds for construction or major renovation projects, all Tribal Lead Agencies are required to follow ACF’s construction and renovation application procedures as requested via a separate Program Instruction. The Program Instruction can be found at: <http://www.acf.hhs.gov/programs/ccb/law/index.htm>. If a Tribal Lead Agency constructs or renovates more than one facility, it must seek ACF approval for each project (even if the projects use identical plans and specifications). Early in the planning process, Tribal Lead Agencies are advised to contact their appropriate ACF Regional Office (see Attachment C).

**Local Market Rate Survey:** ACF has clarified certain provisions of the CCDF regulation regarding local market rate surveys to address: 1) the conditions under which a Tribal Lead Agency may provide alternative documentation in lieu of conducting or using a market rate survey; 2) conditions under which a Tribal Lead Agency may base its payment rates on the State market rate survey rather than conducting its own survey; 3) State/Tribal coordination around market rate surveys; and 4) local market rate survey completion deadlines. For additional information, see Program Instruction CCDF-ACF- PI-2009-02, which is available on the Office of Child Care’s website at: <http://www.acf.hhs.gov/programs/ccb/law/index.htm>.

**Family Co-Payments:** Under section 3.7 of the Tribal Plan, each Tribal Lead Agency must describe and attach a sliding fee scale that provides for cost sharing by families and is based on income and family size. A Tribal Lead Agency may waive contributions from families whose incomes are at or below the

poverty level for a family of the same size.

Note: A Tribal Lead Agency 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.

**Health and  
Safety  
Requirements:**

By submitting a Tribal Plan, a Tribal Lead Agency is certifying there are in effect, under tribal, local, or State law, requirements designed to protect the health and safety of children. These requirements are applicable to child care providers that provide services for which assistance is made available under the CCDF. To ensure that children are being cared for in healthy and safe child care facilities, Tribal Lead Agencies are encouraged to partner with local health agencies, including the Indian Health Service (IHS), that conduct environmental health surveys, and reflect these partnerships in sections 2 and 6 of the Tribal Plan, as appropriate.

In 2000, after consultation with Tribes, tribal organizations, and tribal child care programs, the Child Care Bureau issued *Minimum Tribal Child Care Standards* as voluntary guidelines that represent the baseline from which all programs should operate to ensure that children are cared for in healthy and safe environments and that their basic needs are being met. These voluntary guidelines express minimum standards for health and safety in child care and are not intended to supersede any existing Federal, State, tribal, or local laws or regulations. An updated (May 2008) copy of this resource document is available on the Office of Child Care's website at: <http://www.acf.hhs.gov/programs/ccb/ta/pubs/ms/ms1.htm>.

**Obligation and  
Liquidation  
Periods**

Tribal Lead Agencies must obligate FY 2012 Tribal Mandatory and Discretionary Funds by September 30, 2013, and liquidate all funds by September 30, 2014.

Note that FY 2012 CCDF funds approved by ACF for construction and major renovation must be obligated and liquidated by September 30, 2014. The liquidation time frame begins with the date that funds are originally awarded, not the date that funds are transferred to the separate grant award for construction and major renovation. There is no separate obligation period for construction and major renovation funds.

**Deadlines and  
Effective Dates:**

Tribal Plans must be submitted for ACF review by July 1, 2011, for the FY 2012-2013 biennium (October 1, 2011-September 30, 2013). When approved by ACF, the Tribal Plans are effective on October 1, 2011.

**Electronic  
Format:**

The Tribal Plan is available in word processing format from the ACF Regional Offices. Lead Agencies are encouraged to use the electronic form when submitting their Plan. If you would like a copy of the Tribal Plan in an electronic format, or to submit the Tribal Plan electronically, contact

your ACF Regional Office. If submitting a Tribal Plan electronically, a Tribal Lead Agency should: (1) "write protect" the Tribal Plan, and (2) submit a letter signed by the authorized Lead Agency official or authorized designee to the appropriate Regional Office confirming that on a specific date the Tribal Plan was submitted for review and approval. A copy of the Tribal Plan is also available on the Office of Child Care's website at: [http://www.acf.hhs.gov/programs/occ/law/guidance/current/pi2011-01/tribal\\_plan\\_2012.htm](http://www.acf.hhs.gov/programs/occ/law/guidance/current/pi2011-01/tribal_plan_2012.htm).

**Plan  
Amendments:**

Any substantive change to the CCDF program requires an amendment to the approved Tribal Plan (45 CFR 98.18(b)). Tribal Lead Agencies should enter amendment information on the Amendment Log located in Appendix 3 of the Plan Preprint and submit the Log and amendment to your 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, unless a written agreement to extend that period has been secured (45 CFR 98.18(b)). ACF Program Instruction CCDF-ACF-PI-2009-01 provides additional clarification regarding CCDF Plan amendments. This Program Instruction is available on the Office of Child Care's website at: <http://www.acf.hhs.gov/programs/ccb/law/guidance/current/pi2009-01/pi2009-01.htm>.

**Submitting the  
Tribal Plan:**

Tribes are required to submit a complete Tribal Plan for the FY 2012-2013 biennium. The Plan Preprint will be effective for a 2-year period beginning October 1, 2011, through September 30, 2013.

Submit copies of the Tribal Plan as follows:

**One (1) copy to:**  
ACF Regional Office  
Attn: Child Care Program  
Manager  
(see Attachment C)

**One (1) copy to:**  
Tribal Technical Assistance Center  
(TriTAC)  
c/o Native American Management  
Services  
re: CCDF 2012-2013 Tribal Plans  
12110 Sunset Hills Road, Suite 450  
Reston, VA 20190

Note: TriTAC is only serving as a receipt point for Tribal Plans. ACF will conduct the review and approval of FY 2012-2013 CCDF Tribal Plans. All other correspondence with the Office of Child Care should be addressed to: 370 L'Enfant Promenade, S.W., 5<sup>th</sup> Floor East, Washington, D.C. 20447.

**Public Law 102-** The "Indian Employment, Training and Related Services Demonstration

**477 Option:** Act of 1992” (Pub. L. 102-477) permits tribal governments to consolidate several federally funded employment, training, and related services programs into a single, coordinated, comprehensive plan. CCDF is one of the programs that may be consolidated under Pub. L. 102-477. This Program Instruction (i.e., for the Tribal Plan) does not apply to those Tribes and tribal organizations that consolidate CCDF funds under Pub. L. 102-477. A separate Program Instruction containing the 102-477 application and plan requirements is available on the Office of Child Care’s website at: <http://www.acf.hhs.gov/programs/ccb/law/index.htm>.

**Reporting Requirements:** By the end of December each year, Tribal Lead Agencies are required to report CCDF aggregate program data on the ACF-700 report form, and CCDF financial expenditures on the ACF-696T report. Separate Program Instructions are issued each year providing information on the ACF-700 and ACF-696T reporting requirements. These Program Instructions are available on the Office of Child Care’s website at: <http://www.acf.hhs.gov/programs/ccb/law/index.htm>.

**Audits:** Tribal Lead Agencies must follow the audit requirements established by OMB Circular A-133 “Audits of States, Local Governments and Non-Profit Organizations,” pursuant to the Single Audit Act Amendments of 1996.

**Technical Assistance Trainings:** During April and May 2011, the Office of Child Care sponsored the *Tribal Plan Trainings* in ACF Regional Office cities to provide Tribal Lead Agency Administrators with a thorough review of the Tribal CCDF plan sections, including requirements for: coordination, family eligibility, payment rates/family co-payments, parental choice, and health and safety. For additional information about the regional *Tribal Plan Trainings* or for questions in completing the Tribal CCDF plan, please contact your Regional Office.

**Inquiries:** Direct all inquiries to the ACF Regional Offices.

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Shannon L. Rudisill  
Director  
Office of Child Care

Attachments:

Attachment A – Tribal Plan Preprint

Attachment B – Tribal Allocation Chart

Attachment C – ACF Regional Child Care Program Managers List