

ACF

Administration
for Children
and Families

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

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To: Tribal Lead Agencies administering the Child Care and Development Fund (CCDF) program, as amended, and other interested parties.

Subject: Guidance on the Child Care and Development Block Grant (CCDBG) Act of 2014 Relevant to Tribes

References: The CCDBG Act of 2014 (Pub. L. 113-186); The CCDBG Act of 1990, 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; 63 FR 39936-39998

Background: On November 19, 2014, President Barack Obama signed the Child Care and Development Block Grant (CCDBG) Act of 2014 into law. The law reauthorizes the Child Care and Development Fund (CCDF) program and makes expansive changes to the CCDF program. The changes are focused on improving the health and safety of children in child care, making the program more family-friendly by streamlining eligibility policies, ensuring parents and the general public have transparent information about the child care choices available to them, and improving the overall quality of early learning and afterschool programs. Attachment A provides a plain language summary of the statutory changes made by the new law.

Impact for Tribes:

This new law provides a much-needed comprehensive update to the CCDF program. The changes emphasize the dual goals of promoting families' economic stability by making child care more affordable, and fostering healthy child development and school success by improving the quality of child care. While many of the new provisions clearly apply to states and territories, these provisions do not explicitly apply to tribes. Therefore, the Office of Child Care (OCC) will issue regulations and policy guidance on whether or how these provisions ought to apply to tribes. Prior to issuing regulation, OCC will consult with tribal Leaders and program administrators.

Tribal-Specific

Provisions: Within the new law, there are a number of provisions that specifically address tribes:

Tribal Funding: Under the new law, tribes will receive not less than 2 percent of the Discretionary CCDF funding. The Secretary may only reserve an amount greater than 2 percent for tribes if two conditions are met:

- The amount appropriated is greater than the amount appropriated in FY 2014, and
- The amount allotted to states is not less than the amount allotted in FY 2014. (Section 658O(a)(2)).

NOTE: Tribal CCDF funding is comprised of two funding sources: 1) Discretionary Funds, which are provided under the CCDBG Act, as amended; and 2) Tribal Mandatory Funds provided under Section 418 of the Social Security Act. Reauthorization of the CCDBG Act allows for a potential increase in the Tribal Discretionary funds, but it does not affect the Tribal Mandatory funds. Tribes may only be awarded up to 2 percent of the Mandatory Funds, per the Social Security Act.

Recognizing the needs of tribal communities, OCC increased the Tribal CCDF Discretionary set-aside from 2 percent to 2.5 percent for FY 2015, which increased the total tribal CCDF Funding from \$107 million to \$119 million. The increase gives tribes access to an additional \$12 million.

As part of the upcoming consultations (see below), OCC will seek tribal input on the funding level for future years. OCC encourages tribes to use the increased funding on activities included in reauthorization, such as health and safety, continuity of care, and consumer education.

Minimum Child Care Standards: As under the previous statute, in lieu of any licensing and regulatory requirements under state or local law, the Secretary, in consultation with Tribes, is required to develop minimum child care standards. The new law describes that these standards must appropriately reflect tribes' needs and available resources and must include:

- Standards requiring a publicly available application,
- Health and safety standards, and
- Standards requiring a reservation of funds for activities to improve the quality of child care services. (See Section 658O(c)(2)(D)).

Construction: As under the previous statute, tribes may not use CCDF funds for construction or renovation if it will result in a decrease in the level of child care services. However, the new law allows for a waiver of this clause if:

- The decrease in the level of child care services is temporary, and
- The tribe submits a plan to ACF that demonstrates that after the construction or renovation is completed the level of child care services will increase or the quality of child care services will improve. (See Section 658O(c)(6)(C)).

Provisions That Impact

Tribes: In addition, the new law includes several provisions that impact tribes:

Plan Development: At the option of the tribe, State Lead Agencies must collaborate and coordinate with the tribes in a timely manner in the development of the State Plan. (See Section 658D(b)(1)(E)).

Professional Development: State Lead Agencies must have training and professional development in place designed to enable child care providers to promote the social, emotional, physical, and cognitive development of children and to improve the knowledge and skills of the child care workforce. This training and professional development must also be accessible to CCDF child care providers supported through Indian tribes or tribal organizations. The training and professional development should also, to the extent practicable, be appropriate for Native American children. (See Section 658E(c)(2)(G)(ii)).

Coordination of Services: State Lead Agencies must describe in their Plans how they coordinate services with a number of different groups, including tribal early childhood programs, in order to expand accessibility and continuity of care and to assist children to receive full-day services. (See Section 658E(c)(2)(O)(i)).

Increasing Supply: State Lead Agencies must demonstrate how they are encouraging partnerships among other entities, including tribes and tribal organizations, to leverage existing service delivery systems for child care and development services and to increase the supply and quality of child care services. (See Section 658E(c)(2)(P)).

Consultation: OCC is committed to consulting with tribes and tribal leadership to the extent practicable and permitted by law, prior to promulgating any regulation that has tribal implications. Starting in early 2015, OCC began a series of formal consultations, conducted in accordance with ACF's Tribal Consultation Policy¹, with tribal leaders to determine how the provisions in the new law apply to tribes and tribal organizations. In addition to a listening session in February, OCC is planning three conference calls and an in-person consultation session with tribal leaders and tribal CCDF Administrators to discuss the impact of reauthorization on tribes. Tribes and tribal organizations have been informed of these consultations and conference calls through letters to tribal leaders. As OCC

¹ http://www.acf.hhs.gov/sites/default/files/ana/acf_tcp_final.pdf

finalizes these sessions, more information will be posted to the Reauthorization page of the OCC website at: <http://www.acf.hhs.gov/programs/occ>.

Existing Plans

Remain

Effective:

Pending the issuance of new CCDF regulations and guidance for tribes, the provisions of prior law and regulations are still in place, and tribes will remain subject to their existing approved CCDF Plans.

Tribal Plan

Extension:

This Program Instruction serves to notify tribes that OCC will be extending the approved FY 2014-2015 Tribal Plans for one year. In March 2014, OCC notified tribal leaders and tribal CCDF Administrators of our proposal for an alternative submission cycle for CCDF Tribal Plans. Under the previous plan cycle, states, territories, and tribes all submitted Plans to OCC at the same time. OCC proposed to “stagger” the Plan submission cycle beginning in July 2015 so that Tribal Plans would be submitted on a different schedule than State/Territorial Plans. The feedback on this proposal was positive. Given the comments and the priority placed on tribal consultation, OCC decided to adopt the alternative submission cycle for tribes.

The new law extends the Plan period from two years to three years. OCC will extend the current Tribal Plans for one year, which means that tribes will submit new 3-year Plans for the FY 2017-2019 on July 1, 2016, with an effective date of October 1, 2016. The new submission cycle will have no impact on the tribal funding allocations. Tribes will continue to submit their annual child count for funding in July 2015 in order to receive funding for FY 2016 funding, which is consistent with current regulations regarding child counts. If tribes wish to change their policies before the beginning of the FY 2017-2019 Plan cycle, they may submit Plan amendments to their current approved CCDF Plans.

102-477

Tribes:

Tribes that have consolidated their CCDF funds under the Indian Employment, Training, and Related Services Demonstration Act (Pub. L. 102-477) will continue to be subject to their existing 102-477 Plans. The 102-477 program allows tribes to streamline a number of tribal services funded through the Department of the Interior, the Department of Labor, and the Department of Health and Human Services. Because the 102-477 Plan incorporates other Federal programs alongside of CCDF, OCC will not be extending these Plans. Tribes participating in the 102-477 program will continue to follow regular timelines. All tribes, including those under a 102-477 Plan, will continue to submit their annual child count by the July 1 deadline to receive funding for the upcoming fiscal years.

Questions: Please direct inquiries to the Child Care Program Manager in the appropriate ACF Regional Office or email inquiries to:
ccdf.reauthorization@acf.hhs.gov

_____/s/_____
Rachel Schumacher
Director
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Attachments:

A – Summary of the Child Care and Development Block Grant Act of 2014