

<h1 style="margin: 0;">ACF</h1> <p style="margin: 0;">Administration for Children and Families</p>	U.S. Department of Health and Human Services	
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Child Care and Development Fund

Program Instruction

- To:** Federally Recognized Tribes, Tribal Consortia, and Tribal Lead Agencies administering child care programs under the Child Care and Development Fund (CCDF) program, as amended, and other interested parties.
- Purpose:** This Program Instruction (PI) transmits guidance for using the Tribal CCDF Plan Preprint (Preprint) (ACF-118-A) (*Attachment A*) to complete and submit the Tribal Lead Agency’s CCDF Plan (Plan) for the CCDF program Fiscal Year (FY) 2020-2022 triennial Section 658E of the Child Care and Development Block Grant (CCDBG) Act of 2014 relevant to Tribes.
- References:** The CCDBG Act of 1990 (42 U.S.C. § 9858 et seq.), as amended by the CCDBG Act of 2014 (Pub. L. 113-186); Section 418 of the Social Security Act (42 U.S.C. § 618); and 45 CFR Parts 98 and 99.
- Background:** The Plan serves as the Tribe’s application for CCDF funds by providing a description of its child care program and services available to eligible families. 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 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 CCDBG Act of 2014 made expansive changes to protect the health and safety of children in child care, promote access to the CCDF subsidy for low-income working families, better inform parents and the general public about the child care choices available to them, and invest in the overall quality of early learning and afterschool programs. The final rule published in 2016 supplements the law by explicitly indicating how the new requirements apply to Tribes. The Preprint is a template meant to be used by Tribal CCDF applicants to ensure that their Plans include the requirements necessary to be awarded CCDF funds and has been revised to incorporate the changes made in the law and final rule.

ACF provides substantial flexibility to Tribes in meeting the new requirements. One way ACF builds flexibility is to exempt Tribes from several of the CCDF requirements. Tribes are not subject to the requirements to:

- Maintain or implement early learning and developmental guidelines (45 CFR 98.81(b)(6)(i));
- Have a consumer education website (4 CFR 98.83(d)(1)(i));
- Have licensing requirements applicable to child care services (45 CFR 98.83(d)(1)(ii));
- Have a training and professional development framework (45 CFR 98.83(d)(1)(iii));
- Conduct a market rate survey (45 CFR 98.83(d)(1)(iv));
- Give priority services to children of families with very low family income or in areas with significant concentrations of poverty and unemployment (45 CFR 98.83(d)(1)(v) & (vi));
- Spend at least 70 percent of Mandatory funds on TANF-related families (45 CFR 98.83(d)(1)(vii)); or
- Complete the Quality Progress Report (45 CFR 98.83(d)(1)(viii)).

ACF provides additional flexibility by taking a tiered approach to the CCDF requirements. Tribes are subject to different CCDF requirements depending on their CCDF allocations (45 CFR 98.83(d)-(f)).

- **Tribes with small allocations** (allocations of less than \$250,000) have flexibility in the majority of the CCDF requirements. In particular, Tribes with small allocations are not subject to the requirement to provide direct child care services to children and families. Yet these Tribes are still expected to spend their funds in alignment with CCDF goals and purposes.
- **Tribes with medium allocations** (\$250,000 to \$1 million) are allowed the same flexibilities as Tribes with large allocations and are not required to operate a certificate program.
- **Tribes with large allocations** (over \$1 million) are subject to the majority of CCDF requirements.

Allocation sizes are based on FY 2016 CCDF allocations. Allocation sizes for Tribes that have applied and become grantees since FY 2016 will be determined by their first annual allocation amount.

The Preprint is structured to align with the flexibility Tribes have based on their allocation. Tribes with small allocations must complete Part I and Tribes with medium and large allocations must complete Parts I and II.

Part I (For Tribes with small, medium, and large allocations)

- Define CCDF leadership and coordination with relevant systems
- Establish standards and monitoring processes to ensure the health and safety of child care settings
- Support continuous quality improvement
- Describe direct services as part of abbreviated Plan (for Tribes with small allocations who choose this option)

Part II (For Tribes with medium and large allocations)

- Provide stable child care financial assistance to families
- Ensure equal access to high quality child care
- Promote family engagement through outreach and consumer education

Tribal Eligibility for CCDF Funds:

Pursuant to 45 CFR 98.80, a Tribe is eligible to apply for and 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 had at least 50 children under age 13; and
- Demonstrate it has current authorization from each participating Tribe to receive CCDF funds on behalf of the Tribe.

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 2020 CCDF funds, or if a current Tribal consortium member elects not to receive FY 2020 CCDF funds through that Tribal consortium, these changes must be conveyed to ACF in writing by the Tribal consortium.

Triennial Child Count and Declaration Form:

Child count data were due on July 1, 2019. The triennial child count data shall be collected after July 1, 2018, through June 30, 2019. Guidance is provided in the OCC PI CCDF-ACF-PI-2019-02.

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. A separate application must be submitted for approval in accordance with a different PI, CCDF-ACF-PI-2013-01.

Funding Estimates and Allocation Formulas:

The CCDF is comprised of two funding sources:

- Discretionary Funds – funding provided under the Child Care and Development Block Grant (CCDBG) Act of 2014, as amended. The Discretionary Funds will include a base amount of \$30,000 plus a per child amount for each Tribe or Tribal consortium with a maximum of 50 children.
- Tribal Mandatory Funds – funding provided to eligible Tribes and Tribal organizations under Section 418 of the Social Security Act. Tribal Mandatory Funds are calculated solely on a per child basis and do not include a base amount.

The per child amount for both Discretionary and Tribal Mandatory Funds depends upon the total number of children in all participating Tribes. Therefore, ACF is unable to calculate in advance the exact per child amount until all child counts have been submitted and the FY 2020 budget becomes available.

For planning purposes, current Tribal Lead Agencies should use their funding amounts from the FY 2019 as an estimate. A new Tribe should use the base amount of \$30,000 plus approximately \$415 per child to estimate its allotment for Discretionary Funding, and should use approximately \$85 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 \$30,000, or \$29,400. The per child amount is then multiplied by 49 and added to the \$29,400 base amount.

Important Note: These amounts are provided for the purpose of estimating the FY 2020 allotments that will become available on October 1, 2019. Before final grant awards are issued, allotments may increase or decrease once actual funding appropriations are known and updated data become available.

Quality Expenditures:

All Tribes are subject to a quality set-aside that increases from FY 2016 to FY 2022 and must spend quality funds on at least one of the allowable activities. Tribes with medium and large allocations are subject to an additional infant toddler set aside of 3 percent.

Quality Spending	FY 2020	FY 2021	FY 2022
Quality Set-Aside (All)	8%	8%	9%
Additional Infant-Toddler (Medium and Large)	3%	3%	3%

Administrative Costs:

No more than 15 percent of the aggregate CCDF funds expended from each fiscal 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 not subject to the 15 percent limitation, nor is it included in the calculation of the 15 percent limitation.

Obligation and Liquidation Periods:

Tribal Lead Agencies must obligate FY 2020 Tribal Mandatory and Discretionary Funds by September 30, 2021, and liquidate all funds by September 30, 2022.

Note: Any FY 2020 CCDF funds approved by ACF for construction and major renovation must be obligated and liquidated by September 30, 2022.

- The liquidation period 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.

Submitting the Tribal Plan:

Tribes are required to submit a complete Plan for the FY 2020 – 2022 triennial plan cycle including all appendices and attachments. Email the completed Plan to the appropriate ACF Regional Program Manager (*Attachment B*) on or before the September 6, 2019 deadline.

The email must include the following items:

1. A Cover Letter that acknowledges this is the official submission of the Tribe's FY 2020-2022 CCDF Plan and signed by an official from the Tribe or Tribal Consortium; and
2. The completed FY 2020-2022 Tribal CCDF Plan and all attachments.

The approved Preprint is attached (Attachment A). OCC will release the Preprint as a fillable Adobe Portable Document Format (PDF) version soon. A national webinar will provide detailed instructions on completing and submitting the fillable PDF.

Submission Deadlines and Plan Effective Dates:

The Plan must be submitted no later than September 6, 2019. The FY 2020-2022 Tribal CCDF Plan will be effective for a three year period from October 1, 2019, through September 30, 2022. The Preprint will be available on the OCC website at: <http://www.acf.hhs.gov/programs/occ>.

Plan Amendments:

Any substantive change to the CCDF program requires an amendment to the approved Plan (45 CFR 98.18(b)).

Determining whether a given change is "substantial" (and therefore requires a Plan amendment) requires examination of the specific circumstances as well as

the content of the existing approved Plan. However, substantial changes in a Tribal Lead Agency's Plan generally include instances when the grantee:

- Adds a significant additional program activity;
- Eliminates a significant program activity;
- Changes its basic Plan for the use of funds, including payment rates, eligibility thresholds, family co-payments, or quality initiatives; or
- Changes the Lead Agency responsible for administering the program.

To amend a Plan, Tribal Lead Agencies will enter amendment information on the Amendment Log located in *Appendix 2* of the Plan and submit the Log and amendment to their 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 was 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 PI is available on the OCC website at:

<http://www.acf.hhs.gov/programs/occ/resource/pi-2009-01>

Public Law 102-477 Options:

Tribes that consolidated their CCDF funds under the Indian Employment, Training, and Related Services Demonstration Act (commonly known as Pub. L. 102-477) will continue to be subject to their existing Pub. L. 102-477 Plans. The Pub. L. 102-477 Demonstration 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. Tribes participating in the Pub. L. 102-477 Demonstration will continue to follow regular timelines.

All Tribes, including those under a Pub. L. 102-477 Plan, will have submitted their triennial Child Count Declaration by July 1, 2019. The effective date will be October 1, 2019 to September 30, 2022.

This Program Instruction (i.e., for the Tribal Preprint) does not apply to those Tribes and Tribal organizations that consolidate CCDF funds under Pub. L. 102-477. A separate PI containing the Pub. L. 102-477 application and Plan requirements is forthcoming and will be available at:

<https://www.acf.hhs.gov/occ/resource-library>.

Reporting Requirements:

By the end of December of 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 PIs are available on the OCC website at:

<https://www.acf.hhs.gov/occ/resource-library>.

**Reallotted
Discretionary
funds:**

Tribal Lead Agencies are required to notify ACF by April 1, 2020, if they will be unable to obligate any portion of their FY 2020 CCDF Discretionary Funds allotment by September 30, 2020. In accordance with 45 CFR 98.64(d), any portion of a Tribe's allotment of Discretionary Funds, which is not required to carry out its Plan in the period for which the allotment is made available, shall be reallotted to other Tribal Lead Agencies in proportion to their original allotments.

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

Audits:

Audits must be conducted in accordance with: 2 CFR Part 200 Subpart F and 45 CFR Part 75 Subpart F, Audit Requirements.

**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 June 30, 2022.

Inquiries:

Direct all inquiries to the appropriate ACF Regional Office (*Attachment B*).



Shannon Christian
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Attachments:

A – Tribal Plan Preprint

B – ACF Regional Child Care Program Managers List