



DEPARTMENT OF HEALTH & HUMAN SERVICES

**TRIBAL CCDF GUIDE TO**  
*Financial Management,  
Grants Administration,  
and Program Accountability*

**Administration for Children and Families  
Child Care Bureau • Office of Family Assistance**

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## Introduction

Tribal managers and staff working with Federal grants must be fully knowledgeable of all applicable Federal requirements and skilled in applying these requirements to the daily operation of their programs, whether starting a new program or striving to maintain a quality program which meets the intent of the enacting legislation. It is the responsibility of both the tribal fiscal and program managers to identify the regulations and other requirements that apply to the programs they administer.

This Guide focuses on the fiscal administration and accountability issues related to the tribal Child Care and Development Fund (CCDF) program, including basic financial management and grants management principles. Footnotes in each section point to sources of additional information, including guidance documents disseminated by the Child Care Bureau and specific sections of the Federal regulations that govern the CCDF program. **Tribal CCDF administrators and fiscal managers should always consult the regulations and current CCDF guidance for the most comprehensive and up-to-date information on the management of a tribal CCDF program.**

By adhering to applicable regulations and working towards increased operating efficiencies, Tribes have the opportunity to provide enhanced child care services that promote both school readiness for Indian children and economic self-sufficiency for Indian families.

# 1. Child Care and Development Fund (CCDF) Basics

## CCDF OVERVIEW

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) repealed the child care programs under Title IV-A of the Social Security Act and required that all Federal child care funds be consolidated under a single set of eligibility requirements and be spent in accordance with the provisions of the amended Child Care and Development Block Grant program. As a result of the passage of PRWORA, there are two distinct Federal child care funding sources for Tribes: the **Discretionary Fund** (authorized by the Child Care and Development Block Grant Act of 1990, as amended by PRWORA) and the **Mandatory Fund** (authorized under Section 418 of Title IV-A of the Social Security Act, as amended by PRWORA and the Deficit Reduction Act of 2005). The Administration for Children and Families (ACF) named the combined funds the **Child Care and Development Fund (CCDF)**.

CCDF is a key resource to increase the availability, affordability, and quality of child care services nationwide. With these funds, tribal CCDF administrators work to ensure that the children and families in tribal communities have child care services that best meet their needs. CCDF funds can be used to support low-income families in obtaining child care services so they may work, attend training, or participate in educational activities. CCDF dollars can also be used to support activities designed to provide comprehensive consumer education, increase parental choice, and otherwise improve the quality and availability of child care services.

At the Federal level, CCDF is administered by the Child Care Bureau (CCB), Office of Family Assistance (OFA), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS). The Child Care Bureau Regional Program Managers, located in each ACF Regional Office, are integral partners with tribal CCDF grantees in the administration of the CCDF funds. The CCB Regional Program Managers, their staffs, and their regional fiscal colleagues work with tribal grantees as the primary Federal points of contact for CCDF administration.

In order to be eligible to apply for CCDF funds, Tribes must be Federally recognized and the tribal population must include at least 50 children under age 13 living on or near the reservation or service area (the reservation requirement does not apply to Tribes in Alaska, California, and Oklahoma). A Tribe with fewer than 50 children under age 13 may participate in a **consortium** of eligible Tribes.<sup>1</sup> Tribal grantees must designate a **Lead Agency**<sup>2</sup> to apply for funding and be accountable for administering the CCDF program. Within the broad framework of Federal regulations governing the CCDF program, the Tribal Lead Agency has considerable flexibility in administering and implementing the child care program, determining the use of the funds, and identifying spending priorities based on unique and specific needs of the Indian children and families in the tribal community.

To receive CCDF funds, Tribes must submit a CCDF Tribal Plan Preprint every two years (biennial Plan)<sup>3</sup> and a funding application every year. In years that Plans are not submitted (even-numbered calendar years are non-Plan years), the Tribal Lead Agency applies for funding by submitting a self-certified **Child Count** Declaration showing the number of “Indian children” (as defined by the Tribe) under age 13 who reside on or near the tribally-defined “reservation or CCDF service area.” For the years in which the Tribal Lead Agency submits the biennial CCDF plan, the Plan itself serves as the application and includes the Child Count Declaration. The Child Count Declaration is used by ACF to calculate the amount of the grant award.

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<sup>1</sup> Final Rule: Grantee Eligibility: 45 CFR 98.80.

<sup>2</sup> Final Rule: Lead Agency Responsibilities: 45 CFR 98.10.

<sup>3</sup> NOTE: Tribes that elect to consolidate their CCDF funds under P.L. 102-477 are permitted to submit abbreviated applications and plans for CCDF funding which are incorporated into the comprehensive, multi-year 102-477 plan. For more information on P.L. 102-477, go to page 15.

## TRIBAL ALLOTMENTS<sup>4</sup>

As noted above, tribal CCDF is comprised of Federal Discretionary and Mandatory Funds. Both the Discretionary and Mandatory Funds are 100 percent Federal funds and no match is required to receive these funds.<sup>5</sup> The Secretary reserves up to two percent of the total Discretionary and Mandatory Funds available each fiscal year for grants to Indian Tribes and tribal organizations. These funds are allocated to Tribes, tribal organizations, and tribal consortia as follows:

- ***Tribal Discretionary Funds*** include an established per-child amount based on the self-certified child count. Discretionary allocations also include a ***base amount*** set by the Secretary (\$20,000 for Tribes with at least 50 Indian children under age 13; tribal consortia members with fewer than 50 Indian children receive a pro-rated amount). The base amount provides an important source of funds that can be used for any costs that are consistent with CCDF program parameters. The base amount can provide an opportunity to develop the infrastructure and capacity of the Tribe to operate a child care program and can be used for administrative costs, direct child care services to children, non-direct services, or quality/availability activities.

Tribal Discretionary Funds also include ***targeted funds*** which must be used specifically for school-age services—such as before- and after-school programs—and/or child care resource and referral services, such as those that provide consumer education to help families know about the availability of the CCDF program and how to find child care services to meet the needs of their children. The amount of these targeted funds is based on a \$500 amount per Tribe plus a per-child amount.

- ***Tribal Mandatory Funds*** are allocated to Indian Tribes and tribal organizations (with the exception of grantees in Alaska) solely on a per-child basis using the self-certified child count. In Alaska, only the 13 entities defined by the Alaska Native Claims Settlement Act (ANCSA) (the Metlakatla Indian Community of the Annette Islands Reserve and the 12 Alaska Native Regional Nonprofit Corporations<sup>6</sup>) may receive Mandatory Fund allocations.

While Discretionary and Mandatory expenditures must be separately tracked for reporting purposes, funds from both funding streams can be expended for the same purposes, as described on pages 8-13.

Tribal CCDF funds are available to Tribal Lead Agencies each year soon after October 1, which is the beginning of the Federal Fiscal Year (FY or FFY). Notices of grant awards, including the annual allocations for Discretionary and Mandatory funds, are sent to the Tribal Chairperson by the Office of Mandatory Grants.<sup>7,8</sup> By accepting the grant award, the Tribe agrees to comply with the terms and conditions that accompany the grant award letter. Failure to comply with these terms and conditions may result in the loss of Federal funds and may be considered grounds for suspension or termination of the grant.<sup>9</sup>

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<sup>4</sup> Final Rule: Allotments From the Discretionary Fund (45 CFR 98.61) and Allotments From the Mandatory Fund (45 CFR 98.62) and Preamble

<sup>5</sup> Note: Unlike Tribes and Territories, States do receive some CCDF funds that require a match.

<sup>6</sup> Arctic Slope Native Association; Kawerak, Inc; Maniilaq Association; Association of Village Council Presidents; Tanana Chiefs Conference; Cook Inlet Tribal Council; Bristol Bay Native Association; Aleutian and Pribilof Islands Association; Chugachmiut; Tlingit and Haida Central Council; Kodiak Area Native Association; and Copper River Native Association

<sup>7</sup> If the Congressional appropriations process has not been completed by October 1, grantees will receive partial grant awards at the beginning of the fiscal year. Additional grant awards will then be sent once appropriations legislation has passed.

<sup>8</sup> Grantees operating their CCDF programs under a P.L. 102-477 consolidation plan receive their funding through the Department of the Interior and, therefore, will not receive a Notice of Grant Award from the Department of Health & Human Services.

<sup>9</sup> For more information, please see **PENALTIES AND DISALLOWANCES** on page 27.



**SAMPLE GRANT AWARD FOR DISCRETIONARY AND MANDATORY FUNDING**

**DEPARTMENT OF HEALTH & HUMAN SERVICES**

**ADMINISTRATION FOR CHILDREN AND FAMILIES**  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

October 6, 20XX

Grantee  
Address  
Address

Re: Notice of Grant Award – FY 20XX

Dear Grantee:

This grant award represents the annual allocation to the Tribe for fiscal year 20XX for the Child Care Development Fund. Mandatory funds are subject to the requirement of Section 418 of Title IV-A of the Social Security Act as amended by Title VI of the Personal Responsibility and work Opportunity Reconciliation Act (PRWORA) OF 1996, P. L. 104-193, effective October 1, 1996 (CFDA #93.576). Discretionary funds are subject to the requirements of the Child Care and Development Block Grant Act of 1990 as amended by the Title VI of PRWORA OF 1996, P.L. 104-193 (CFDA #93.575).

<b>Appropriation</b>	<b>CAN</b>	<b>Allotment</b>	<b>This Action</b>	<b>Cumulative</b>
75-X-1550	20XXG999006	150,000		150,000
75-X-1515	20XXG999002	139,200		139,000
20XXG999002	Discretionary			
20XXG999006	Mandatory			

EIN: 1-23-0034561  
Document Number: G-0XWZMTCCDF

This award is subject to the requirements listed in the enclosed terms and conditions.<sup>1</sup> This award is subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). For the full text of the award term, go to: [http://www.acf.hhs.gov/grants/award\\_term.html](http://www.acf.hhs.gov/grants/award_term.html). The use of Federal funds from this award constitutes the Tribe's acceptance of these terms and conditions.

Funds included in this award will be made available through the DHHS Payment Management System (PMS). Questions pertaining to payments should be directed to DHHS Division of Payment Management, Post Office Box 6021, Rockville, MD 20852, telephone: 1-877-614-5533. Please refer any other questions about this grant to the ACF Regional Office.

Sincerely,

Joseph M. Lonergan  
Director, Office of Mandatory Grants

<sup>1</sup>/FY 20XX Terms and Conditions are attached.

CCDF program funds (with the exception of tribal programs administered through P.L. 102-477) are accessed through the HHS Division of Payment Management's Smartlink Payment Management System. The Payment Management System accomplishes all grant payment-related activities for HHS from the time of award throughout the life of the grant. By accepting CCDF funds, Tribal Lead Agencies agree to comply with the requirements of the Smartlink System.

Federal grant funds are "drawn down" (wired into an agency's bank account) as needed. With this flexibility comes the responsibility to ensure only the amount needed is drawn. Tribal fiscal departments should have procedures in place to be sure Federal cash is managed appropriately.<sup>10</sup>

In accordance with P.L. 101-510, grant funds must be drawn down from the Payment Management System within 5 years from the end of the fiscal year in which the funds were awarded (i.e., FY 2009 funds must be drawn down no later than 9/30/2014) except where an authorizing statute allows for draw down until funds are expended. In the absence of a statutory exception, requests for adjustments or revisions to the Payment Management System account will not be honored once the five year limit has passed. While funds must be drawn down from the Payment Management System within five years, the funds must actually be obligated and liquidated prior to that time, as explained in the **OBLIGATION AND LIQUIDATION PERIODS** section on page 6.

### American Recovery and Reinvestment Act of 2009 (ARRA) Funds

In Fiscal Year 2009, Congress appropriated an additional \$2 billion in supplemental CCDF Discretionary funds through the American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5). In accordance with Section 6590(a) of the CCDBG Act, two percent of the amount appropriated is allotted to Tribal Lead Agencies.

The purpose of the ARRA is to:

- Preserve and create jobs and promote economic recovery;
- Assist those most impacted by the recession;
- Provide investments needed to increase economic efficiency by spurring technological advances in science and health;
- Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and
- Stabilize State and local governments, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

This funding provides Tribal Lead Agencies with an opportunity to expand CCDF assistance by serving additional children and families, and to adopt policies that are supportive of families hurt by the economic situation. For example, Tribal Lead Agencies could expand eligibility and serve families while parents are looking for jobs, serve new families by increasing income eligibility, and make systematic improvements in early care and education programs, including provider rate increases and investments in professional development. ARRA funding also provides an opportunity to improve the overall quality of care and the health and well-being of children.

These supplemental funds are in addition to the FY 2009 CCDF Discretionary Fund appropriation amount provided through the regular appropriation process. The ARRA funds are subject to all existing requirements for Discretionary CCDF funds including the same obligation and liquidation requirements for FY 2009 funds (i.e., funds must be obligated by September 30, 2010 and liquidated by September 30, 2011).

ARRA funds awarded to Tribal Lead Agencies were based on the FY 2009 allocation formula for the CCDF Discretionary fund. It is important to note that ARRA funds are one-time funds included in the FY 2009 grant award. It is also important to note that these funds were issued in a separate Notice of Grant Award and with separate Terms and Conditions.

The ARRA required that Discretionary CCDF funds made available under the law **must be used to supplement, not supplant** tribal general revenue funds for child care assistance to low-income families. In addition, tribal grantees are required to track and report separately on expenditures from funds made available through ARRA (See section on **REQUIRED FINANCIAL REPORTING** on pages 22-23).

<sup>10</sup>For more information, please see **CASH MANAGEMENT** on page 24.

## OBLIGATION AND LIQUIDATION PERIODS<sup>11</sup>

CCDF grantees have two fiscal years to **obligate**, and an additional year to **liquidate**, the funds awarded each fiscal year (the obligation and liquidation timeframes begin on October 1, regardless of when award letters are issued). Therefore, CCDF funds may be available for use in more than one fiscal year.

Generally speaking, an obligation is an action that commits the funds, such as a legally-binding agreement (e.g., purchase order, contract, or subgrant) between two parties for purchase of services, supplies or equipment. Liquidation generally means the payment of funds to a third party as a result of an obligation. More specifically, determination of whether funds have been obligated and liquidated will be based on applicable tribal, State or local law. If there is no applicable tribal, State or local law, then the following definitions<sup>12</sup> apply:

- **Obligations** means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.
- **Liquidations** (or expenditures) means charges made to the project or program, whether reported on a cash or accrual basis. For reports prepared on a cash basis, liquidations are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, liquidations are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the new increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.<sup>13</sup>

When submitting financial reports, the grantee must be able to provide information related to the **unobligated balance of Federal funds** and the **unliquidated balance**. The unobligated balance is defined as the portion of the funds awarded by ACF that has not been obligated by the grantee, and is determined by deducting the cumulative obligations from the cumulative funds awarded. The unliquidated obligations are those obligations which have not yet been paid.

Depending on applicable law, obligations may include subgrants or contracts that require the payment of funds to a third party (e.g., subgrantee or contractor). However, the following are not considered third party grantees or contractors: (1) a local office of the Lead Agency; (2) another entity at the same level of government as the Lead Agency; or (3) a local office of another entity at the same level of government as the Lead Agency. Therefore, subgrants or contracts with these other tribal entities are not considered obligations for CCDF purposes.

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<sup>11</sup> Final Rule: Availability of Funds (*Obligation period/liquidation periods*): 45 CFR 98.60 and Preamble

<sup>12</sup> Defined at 45 CFR 92.3; note that, in 45 CFR 92.3, “liquidations” are called “outlays”

<sup>13</sup> See [http://www.acf.hhs.gov/programs/ccb/law/tribal\\_topic.htm](http://www.acf.hhs.gov/programs/ccb/law/tribal_topic.htm) for Program Instruction on CCDF Financial Reporting Form for Indian Tribes

Funds for CCDF services provided through a child care certificate or voucher (as defined on page 8) will be considered obligated when a written certificate/voucher is issued to a family that indicates: (1) the amount of funds that will be paid to a child care provider or family, and (2) the specific length of time covered by the certificate/voucher, which is limited to the date established for redetermination of the family’s eligibility, but shall be no later than the end of the liquidation period.

## REALLOTTED FUNDS<sup>14</sup>

In some circumstances, a Tribal Lead Agency may find that it will not be able to obligate all of a given fiscal year’s CCDF funds within the obligation period. CCDF regulations state that “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.”

A Tribe must notify ACF by letter at least six months prior to the end of the obligation period (by April 1 of the second year of the three-year grant period) if the Tribe will be unable to obligate all of its Discretionary allotment within the appropriate obligation period. ACF will then issue a negative grant award to the Tribe based on the amount of Discretionary funds submitted in the letter and these funds may be reallotted to other eligible grantees.

Any CCDF funds that are not obligated within two years, and that are not reported to ACF by the Tribe within the required timeframe, will revert to the Federal Treasury. If a Tribe does not submit a reallotment letter by the April 1st deadline, a determination will be made that the Tribe does not have funds available for reallotment.

If the total amount available for reallotment from all tribal grantees is \$25,000 or more, funds will be reallotted to other eligible and interested tribal grantees in proportion to their original allotments. However, 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 tribal grantee’s reallotment amount is less than \$500, no reallotment award will be issued to that Tribe.

Reallotted funds must meet the same programmatic and financial requirements as funds made available to Tribes in their initial allotments. That is, any reallotted funds received must still be obligated and liquidated in their original allotment obligation and liquidation timeframes.

CCDF OBLIGATION AND LIQUIDATION TIMEFRAMES		
CCDF FUNDING STREAM	OBLIGATION TIMEFRAME	LIQUIDATION TIMEFRAME
Tribal Discretionary	By the end of 2nd FY	By the end of 3rd FY
Tribal Mandatory*	By the end of 2nd FY	By the end of 3rd FY
Tribal Construction	N/A	By the end of 3rd FY
Reallotted Tribal Discretionary*	Follow obligation and liquidation timeframes of FY in which the reallotted funds were initially awarded	
* Please note that Tribal Mandatory Funds are not subject to reallotment		

<sup>14</sup> Final Rule: Reallotment and Redistribution: 45 CFR 98.64 and Preamble

## USE OF CHILD CARE AND DEVELOPMENT FUNDS

### 1. Direct Services<sup>15</sup>

The majority of CCDF funding is spent on *direct services*—child care services provided directly to eligible children by eligible child care providers. Tribal CCDF programs may use one or more of the following approaches to provide eligible families with direct child care assistance:

- Families may obtain a subsidy (in the form of a *certificate* or a *voucher*, as explained below) that they can use to purchase child care from the eligible provider of their choice;
- The Tribe may operate a child care facility; and/or
- The Tribe may contract with eligible providers to have child care slots available to families who participate in the Tribe’s child care assistance program.

Tribal Lead Agencies receiving allocations equal to or greater than \$500,000 for a fiscal year are considered *non-exempt* grantees and **must** offer a certificate program that allows parents to choose from the full range of child care categories defined in the CCDF regulations (center-based care, group home care, family home care, and in-home care). *Exempt* Tribal Lead Agencies, those receiving annual CCDF allocations of less than \$500,000, are not required to offer a certificate program but may choose to do so. An exempt grantee may also choose to offer subsidies through a voucher program, which operates like a certificate program, but offers parents choices from fewer than four categories of care. Both exempt and non-exempt Tribes may choose to offer parents the option of using a contracted provider or a tribal child care center, but parents in non-exempt programs must always have the option of receiving a certificate.

Eligible child care providers are paid for the provision of direct services based on *payment rates* (also called “reimbursement rates”) set by the Tribal Lead Agency. These rates are set at levels that reflect the local child care market (based on a *market rate survey*), as well as the budget and program priorities of the tribal CCDF program. The payment rate is composed of two parts: one is the subsidy amount that the Lead Agency pays and the other is the family’s portion of the child care fee, which is called a family co-payment (also called the “co-pay” or “family fee”). With the exception of families under the poverty level and, on a case-by-case basis, families whose children are receiving, or are in need of receiving, protective services<sup>16</sup>, all CCDF families are required to pay a co-payment. Sliding fee scales, which define varying parent co-payments based, at a minimum, on family size and income, are used to help ensure that the parent fee is affordable.

### 2. Activities to Improve the Quality of Child Care<sup>17</sup>

As previously noted, CCDF funds can be used to support activities designed to improve the quality and availability of child care. These activities may include, but are not limited to:

- resource and referral programs;
- grants or loans to providers to assist in meeting standards;
- monitoring of compliance with licensing and regulatory requirements;
- training and technical assistance;
- compensation for child care providers;
- comprehensive consumer education; and
- other quality activities consistent with the purposes and requirements of the CCDF.

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<sup>15</sup> Final Rule: Child Care Services: 45 CFR 98.50 and Preamble

<sup>16</sup> Final Rule: Sliding Fee Scales: 45 CFR 98.42(c) and Final Rule: A child’s eligibility for child care services: 45CFR 98.20(a)(3)(ii).

<sup>17</sup> Final Rule: Activities to improve the quality of child care: 45 CFR 98.51 and Preamble

While exempt grantees (those Tribes receiving less than \$500,000) are strongly encouraged to spend CCDF funds on quality activities, non-exempt Tribes (those Tribes receiving \$500,000 or more) are required to spend not less than four percent of their annual allocation (the total of Tribal Mandatory and Discretionary funds, excluding the Discretionary base amount) on quality activities. Quality expenditures are cumulative over the 3-year liquidation period of each fiscal year's grant and the 4% minimum for quality applies to total funds expended, rather than to the total funds that are allocated. (See sample budgets #2 and #4 on pages 11-12; note that these examples assume that the full annual allocation is expended)

### 3. Administrative Costs<sup>18</sup>

Tribal CCDF, like many other Federal grant programs, limits the amount of *administrative costs* that can be charged. Of the combined CCDF Mandatory and Discretionary funds allocated in a given fiscal year, not more than 15% may be expended on administrative costs. The 15% cap is calculated based on the cumulative **expenditures** over the 3-year grant liquidation period, not on the original amount allocated. For example, if a grantee is allocated \$300,000 in a fiscal year but only \$100,000 of that amount is expended within the 3-year liquidation period, the administrative cap would be applied to the \$100,000 expended. **The Discretionary base amount is not subject to the administrative limitation and is excluded from the calculation.** (See sample budgets #1 - #4 on pages 11-12; note that these examples assume that the full annual allocation is expended).

Administrative costs include the organization-wide management functions of accounting, budgeting, coordination, direction, and planning, as well as the management of payroll, personnel, property, and purchasing. Such costs can be for either personnel or non-personnel functions. Administrative costs include:

- ♦ Salaries of staff performing administrative functions;
- ♦ Planning, developing, and designing the CCDF program;
- ♦ Plan and application preparation;
- ♦ Developing agreements with administering agencies in order to carry out program activities;
- ♦ Monitoring program activities for compliance;
- ♦ Preparing reports and other documents related to the program for submission;
- ♦ Providing the public with information about the program including conduct of the public hearings;
- ♦ Maintaining complaints;
- ♦ Coordinating CCDF services with other Federal, State, and local child care, early childhood development programs and before- and after-school care programs;
- ♦ Audit resolution and monitoring findings;
- ♦ Program evaluation;
- ♦ Personnel management;
- ♦ Travel, equipment rental, supplies, etc. for administrative staff and/or functions; and
- ♦ Indirect costs.

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<sup>18</sup> Final Rule: Requirements for Tribal Programs: 45 CFR 98.83 and Preamble  
Administrative Costs: 45 CFR 98.52 and Preamble

*Indirect costs* are administrative costs that cannot be easily charged to a specific program. Among other things, these generally include: the cost of accounting services, personnel services, and general administration of the organization. Indirect costs are identified as an allowable administrative expense for tribal CCDF programs.

**Regardless of a Tribe's negotiated indirect cost rate, CCDF administrative costs cannot exceed the 15 percent cost limitation.**

#### 4. Non-Direct Services<sup>19</sup>

*Non-direct services* are child care program costs that are not direct services to families, that are not quality or construction expenditures, and that are not considered administrative costs under the CCDF regulations.<sup>20</sup> As outlined in the Preamble to the CCDF Regulations, the following activities should **not** be categorized as administrative costs and are considered by CCDF as non-direct services:

- ♦ Preparing eligibility determinations and redeterminations;
- ♦ Establishing and operating a certificate program;
- ♦ Preparation and participation in judicial hearings;
- ♦ Child care placement
- ♦ Recruitment, licensing, inspection of child care providers;
- ♦ Reviews & supervision of placements;
- ♦ Rate setting;
- ♦ Resource and referral services;
- ♦ Training of child care staff; and
- ♦ Establishment and maintenance of computerized child care information systems.

Remember that non-direct services are not the same as indirect costs, which, as noted above, are administrative costs that cannot be easily allocated to a specific program.

#### 5. Construction or Major Renovation of Child Care Facilities

A Tribal Lead Agency may request and receive approval to use CCDF funds for a new or ongoing construction or major renovation project. However, CCDF funds cannot actually be expended for construction or major renovation costs until ACF approval is granted. Upon receiving ACF approval, a Tribal Lead Agency may spend either Tribal Mandatory Funds or Discretionary Funds (or both) for construction or major renovation. Tribes receiving CCDF funds are required to follow ACF's application and fiscal procedures for construction or major renovation projects.<sup>21</sup> Any CCDF funds used for construction or major renovation must come from the Tribal Lead Agency's CCDF allocation; a Tribal Lead Agency will not receive any additional CCDF funds for construction or renovation. Use of CCDF funds for construction or major renovation cannot result in a decrease in the level of child care services compared to the preceding fiscal year.

<sup>19</sup> Final Rule: Non-direct services: Preamble (Federal Register, Vol 63, page 39962)

<sup>20</sup> See the definition of administrative costs at 45 CFR 98.52.

<sup>21</sup> Program Instruction CCDF-ACF-PI-2007-03, CCDF Construction and Renovation Procedures for Tribal Lead Agencies, dated May 9, 2007. This Program Instruction is available under the "Construction and Renovation" section of the Child Care Bureau's website at [http://www.acf.hhs.gov/programs/ccb/law/tribal\\_topic.htm](http://www.acf.hhs.gov/programs/ccb/law/tribal_topic.htm)

**BUDGET EXAMPLE #1  
EXEMPT TRIBE**

**PER CHILD AMOUNT CALCULATION**

\$200,000	Total Grant (Mandatory and Discretionary, incl. Base Amt.)
-\$20,000	Discretionary Base Amount
<hr/>	
\$180,000	Per Child Amount

**ADMINISTRATIVE CAP  
CALCULATION**

\$180,000	Per Child Amount
x15%	Administrative cap
<hr/>	
\$27,000	Maximum CCDF funds that can be expended on Administrative costs

**REMAINDER OF CCDF FUNDS AFTER ADMINISTRATIVE CAP IS DEDUCTED**

\$200,000	Total Grant (Mandatory and Discretionary, incl. Base Amt.)
-\$27,000	Maximum CCDF funds that can be expended on Administrative costs
<hr/>	
\$173,000	Remaining CCDF funds including the Discretionary Base Amount (\$20,000)* to be used on direct services, non-direct services and quality activities.

*\*The Discretionary Base Amount (\$20,000) can also be used for administrative costs.*

**BUDGET EXAMPLE #2  
NON-EXEMPT TRIBE**

**PER CHILD AMOUNT CALCULATION**

\$520,000	Total Grant (Mandatory and Discretionary, incl. Base Amt.)
-\$20,000	Discretionary Base Amount
<hr/>	
\$500,000	Per Child Amount

**ADMINISTRATIVE CAP  
CALCULATION**

\$500,000	Per Child Amount
x15%	Administrative Cap
<hr/>	
\$75,000	Maximum CCDF funds that can be expended on Administrative costs

**MINIMUM QUALITY  
EXPENDITURES CALCULATION**

\$500,000	Per Child Amount
x4%	Quality Minimum Expenditure
<hr/>	
\$20,000	Minimum CCDF funds that must be spent on Quality activities

**REMAINDER OF CCDF FUNDS AFTER ADMINISTRATIVE CAP AND QUALITY EXPENDITURES ARE DEDUCTED**

\$520,000	Total Grant (Mandatory and Discretionary, incl. Base Amt.)
-\$75,000	Maximum CCDF funds that can be expended on Administrative costs
<hr/>	
\$445,000	
-\$20,000	Minimum Quality Expenditure
<hr/>	
\$425,000	Remaining CCDF funds including the Discretionary Base Amount (\$20,000)* to be used on direct services, non-direct services and quality activities.

*\*The Discretionary Base Amount (\$20,000) can also be used for administrative costs.*

**BUDGET EXAMPLE #3  
EXEMPT TRIBE (WITH  
CONSTRUCTION)**

**PER CHILD AMOUNT CALCULATION**

\$200,000	Total Grant (Mandatory and Discretionary, incl. Base Amt.)
-\$20,000	Discretionary Base Amount
<hr/>	
\$180,000	Per Child Amount

**ADMINISTRATIVE CAP  
CALCULATION**

\$180,000	Per Child Amount
x15%	Administrative cap
<hr/>	
\$27,000	Maximum CCDF funds that can be expended on Administrative costs

**CONSTRUCTION SET-ASIDE**

\$200,000	Total Grant (Mandatory and Discretionary, incl. Base Amt.)
-\$60,000	Construction Set-aside
<hr/>	
\$140,000	Adjusted grant after Construction Set-aside

**REMAINDER OF CCDF FUNDS  
AFTER CONSTRUCTION SET-  
ASIDE AND ADMINISTRATIVE  
CAP ARE DEDUCTED**

\$140,000	Adjusted grant after Construction Set-aside
-\$27,000	Maximum CCDF funds that can be expended on Administrative costs
<hr/>	
\$113,000	Remaining CCDF funds including the Discretionary Base Amount (\$20,000)* to be used on direct services, non-direct services and quality activities.

*\*The Discretionary Base Amount (\$20,000) can also be used for administrative costs.*

**BUDGET EXAMPLE #4  
NON-EXEMPT TRIBE (WITH  
CONSTRUCTION)**

**PER CHILD AMOUNT CALCULATION**

\$520,000	Total Grant (Mandatory and Discretionary, incl. Base Amt.)
-\$20,000	Discretionary Base Amount
<hr/>	
\$500,000	Per Child Amount

**ADMINISTRATIVE CAP  
CALCULATION**

\$500,000	Per Child Amount
x15%	Administrative Cap
<hr/>	
\$75,000	Maximum CCDF funds that can be expended on Administrative costs

**MINIMUM QUALITY  
EXPENDITURES CALCULATION**

\$500,000	Per Child Amount
x4%	Quality Minimum Expenditure
<hr/>	
\$20,000	Minimum CCDF funds that must be spent on Quality activities

**CONSTRUCTION SET-ASIDE**

\$520,000	Total Grant (Mandatory and Discretionary, incl. Base Amt.)
-\$200,000	Construction Set-aside
<hr/>	
\$320,000	Adjusted grant after Construction Set-aside

**REMAINDER OF CCDF FUNDS AFTER  
ADMINISTRATIVE CAP AND QUALITY  
EXPENDITURES ARE DEDUCTED**

\$320,000	Adjusted grant after Construction Set-aside
-\$75,000	Maximum CCDF funds that can be expended on Administrative costs
<hr/>	
\$245,000	
-\$20,000	Minimum Quality Expenditure
<hr/>	
\$225,000	Remaining CCDF funds including the Discretionary Base Amount (\$20,000)* to be used on direct services, non-direct services and quality activities.

*\*The Discretionary Base Amount (\$20,000) can also be used for administrative costs.*

ACF will transfer CCDF funds to be used for construction and major renovation to a separate grant award with a separate grant document number. ACF will send an award letter to notify the Tribal Lead Agency of this transfer. Funds in this separate grant award can only be used for construction or renovation activities (unless ACF authorizes the Tribe to use the funds for other CCDF activities).

Tribal Lead Agencies must liquidate CCDF funds for construction or major renovation by the end of the second fiscal year following the fiscal year for which the grant is awarded. This gives the Tribal Lead Agencies up to three years to liquidate funds approved for use on construction or major renovation. There is no obligation period for CCDF funds approved for the use of construction or major renovation. The liquidation timeframe for construction/renovation begins with the date that the funds are originally awarded—not the date that the funds are transferred to the separate grant award for construction or renovation.

Amounts used for construction and major renovation are not considered administrative costs for purposes of the 15 percent administrative cost limit at 45 CFR 98.83(g). Also, for non-exempt Tribal Lead Agencies (e.g. those Tribes receiving CCDF grants equal to or greater than \$500,000), construction and renovation costs cannot be counted as quality expenditures for purposes of the four percent minimum quality expenditure requirement.<sup>22</sup> (See sample budgets #3 and #4 on page 12)

## RESTRICTIONS ON THE USE OF CCDF FUNDS<sup>23</sup>

For students enrolled in grades 1 through 12, CCDF funds may not be expended for *tuition*, including any service provided during the regular school day, any service for which the student would receive academic credit towards graduation, or any instructional services that supplant or duplicate the academic program of any public or private school.

CCDF funds provided under grants or contracts to providers (i.e., slots for direct services) may not be expended for any *sectarian purpose or activity*, including religious worship or instruction. Therefore, organizations receiving direct grants or contracts from a tribal CCDF program must take steps to separate, in time or location, their inherently religious activities from the services funded under this program. However, assistance provided to parents through certificates or vouchers may be expended for sectarian purposes or activities, including sectarian worship or instruction, when provided as part of the regular child care services for which the family has been determined eligible. For example, a parent can use a CCDF certificate or voucher to pay for child care services provided in a church facility, even when part of the child care program includes worship or religious instruction. The reason for this distinction is that use of a certificate/voucher is an agreement between the parent and the provider whereas a contract or grant is an agreement between the CCDF program and the provider (and use of CCDF funds in the form of contracts and grants in this manner is restricted by law).

CCDF funds also may not be used as part of the *non-Federal share or match* for any other Federal grant programs.

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<sup>22</sup> Tribes that have consolidated child care with employment and training programs under P.L. 102-477 should also review the specific construction/renovation references under the **PROGRAM ADMINISTRATION OPTION: INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992, AS AMENDED (P.L. 102-477)** section on page 15.

<sup>23</sup> Final Rule: Restriction on use of funds: 45 CFR 98.54 and Preamble

## PROGRAM INCOME

Program income is any revenue generated by a grant-funded program or activity. Program income includes fees collected for grant-funded services performed and rent payments for real or personal property acquired with grant funds. Program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc., and resulting interest earned on any of these.

If a Tribal Lead Agency opts to collect family co-payments rather than having families pay their providers directly, the Tribe should treat the fees as program income and reinvest them in the program, as provided by 45 CFR 98.60(g). If the Tribe receives the fees during the obligation period for the fiscal year for which the CCDF funds were appropriated, so long as the fees are obligated within the same period, the fees can be used **in addition** to the funds ACF has awarded for activities specified in the Tribe's approved Plan. If the fees are received after the obligation period, the fees must be returned to ACF or reported to the Agency for an award offset or deduction.

If a Tribal Lead Agency operates a tribally-owned child care facility with CCDF funds and the facility and operating costs are paid solely with CCDF funds, any parent co-payments collected should be treated as above. If facility or operating costs are partially paid from non-CCDF sources (e.g., the Department of Housing and Urban Development), the treatment depends on the particular cost-sharing circumstances. Since it is possible that most or little of the income could be CCDF program income, a case-by-case determination is necessary.<sup>24</sup> If CCDF program income is found to exist, the disposition options are the same as for other parent co-pays received.

Construction regulations<sup>25</sup> state that programs constructing or renovating facilities with CCDF funds are subject to program income regulations found at 45 CFR Part 92.25. So, if a Tribe builds a building with CCDF funds and, during down time, rents space to another tribal program, any proceeds received would be considered program income.

## RECIPIENT/SUB-RECIPIENT/VENDOR STATUS

Tribes are required to determine recipient type when sub-granting or contracting using Federal funds. Recipient type includes sub-grantees/sub-recipients, vendors, and contractors.

OMB Circular A-133 establishes the standards for determining the difference between a **sub-grantee** and a **vendor**, based on the substance of the relationship with the Tribe, rather than the form of the agreement. Federal awards expended as a sub-grantee recipient (or “subrecipient”) are subject to audit under OMB Circular A-133. In contrast, a vendor recipient supplies either goods or services and is not subject to OMB Circular A-133.

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<sup>24</sup> See question 18 in ACYF-PIQ-99-01, February 24, 1999

<sup>25</sup> Final Rule: Construction and renovation of child care facilities: 45 CFR 98.84 and Preamble

A recipient is considered a *sub-grantee/sub-recipient* and is subject to OMB Circular A-133 if it meets the following conditions:

- Determines who is eligible for the program;
- Is subject to performance measurement by the Federal agency;
- Is responsible for programmatic decision making;
- Must adhere to applicable Federal program compliance requirements;
- Uses Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

In contrast, a recipient is considered a *vendor* and is not subject to OMB Circular A-133 if it meets the following conditions:

- Provides the goods and services within normal business operations;
- Provides similar goods/services to many different purchasers;
- Operates in a competitive environment;
- Provides goods or services that are ancillary to the operation of the Federal program; and,
- Is not subject to compliance requirements of the Federal program.

Tribes are required to advise sub-grantees/sub-recipients of requirements imposed on them by Federal laws, regulations, and the provisions of grant agreements or contracts, as well as any supplemental requirements imposed by the Tribe. These include grant administrative requirements and cost principles according to recipient type. For example, nonprofit sub-recipients are subject to those at OMB Circular A-21; and commercial organization vendors or subcontractors are subject to the cost principles under 48 CFR Part 31. Sub-recipients and sub-grantees are also subject to the provisions of OMB Circular A-133.

Tribes must ensure that sub-recipients and sub-grantees expending \$500,000 or more in Federal awards during the sub-recipient/sub-grantee's fiscal year have an audit in compliance with the requirements of OMB Circular A-133.

### **PROGRAM ADMINISTRATION OPTION: THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992, AS AMENDED (P.L. 102-477)**

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 in Indian communities; and
- Serve tribally determined goals consistent with the policies of self-determination and self-governance.

Public Law 102-477 permits tribal governments to consolidate a number of Federal programs to integrate their federally-funded employment, training, and related services programs into a single, coordinated comprehensive program. Eligible applicants may include CCDF in their P.L. 102-477 consolidated program and plan. The U.S. Department of the Interior (DOI), Office of Energy and Economic Development, Division of Workforce Development, serves as the Lead Agency for all P.L. 102-477 plans. **Tribes that consolidate their CCDF funds under a P.L. 102-477 plan are still required to operate comprehensive CCDF programs** and, by applying for CCDF funds, agree 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.<sup>26</sup>

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

Tribes with approved plans under P. L. 102-477 must request and receive ACF approval prior to spending CCDF funds on construction or major renovation. ACF will notify the U.S. Department of Interior upon approving a P.L. 102-477 grantee's construction or renovation application. The Tribe cannot use CCDF funds for construction or renovation until the Department of Interior notifies the Tribe that the scope of work for its P.L. 102-477 grant/compact has been modified to include the approved construction or renovation project (please note that P.L. 102-477 grantees will not receive a separate grant award notice).

**Consolidation under P.L. 102-477 does not relieve the grantee of its responsibilities for meeting program reporting requirements and for fiscal accountability.** Tribes that consolidate CCDF under P.L. 102-477 will be audited based on the 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).

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<sup>26</sup> See [http://www.acf.hhs.gov/programs/ccb/law/tribal\\_topic.htm](http://www.acf.hhs.gov/programs/ccb/law/tribal_topic.htm) for the most current Program Instruction on Application and Plan Requirements to Consolidate CCDF Under a 102-477 Indian Employment, Training and Related Services Plan.

## 2. *Applicable Regulations, OMB Circulars, and Certifications*

While legislation and enacting regulations are program specific, there are also regulations and Office of Management and Budget (OMB) Circulars which are cross-cutting and apply to many Federal programs. These requirements address program administration such as financial management. There are also “assurances” which define standards for operation, such as the Drug-Free Workplace, which apply uniformly. Statements of agreement to abide by these assurances are included in the tribal CCDF Plan.

### CODE OF FEDERAL REGULATIONS, TITLE 45

The *Code of Federal Regulations (CFR)* is a systematic collection of the rules published in the Federal Register by the executive departments and agencies of the Federal government. The CFR is divided into 50 Titles that represent broad areas subject to Federal regulation. A portion of these are devoted to common regulations that apply across several different Departments of the government. Other Titles contain only the regulations of a single Department, such as Title 7, Agriculture. Title 25, entitled Indians, includes regulations related to programs funded through the Bureau of Indian Affairs (BIA), U.S. Department of the Interior.

Each title is divided into chapters, which usually bear the name of the issuing agency. Each chapter is further subdivided into parts that cover specific regulatory areas. Large parts may be subdivided into subparts. All parts are organized in sections, and most citations in the CFR are provided at the section level.

HHS regulations pertaining to Human Services are contained in Title 45, Public Welfare. Regulations specifically related to the operation of a tribal CCDF program are found at 45 CFR Part 98, Child Care and Development Fund, and Part 99, Procedure for Hearings for the Child Care and Development Fund. Part 98, Subpart I, specifies the extent to which general regulatory requirements apply to Tribes. In accordance with Section 98.80(a), Tribes shall be subject to all regulatory requirements in Parts 98 and 99, unless otherwise indicated. Subpart I also lists general regulatory requirements that apply to Tribes and identifies requirements that do not apply to Tribes. Financial Management issues that apply to Tribes are addressed in Subpart G – Financial Management, and Data Reporting issues that apply to Tribes are addressed in Subpart H – Program Reporting Requirements. Part 99 outlines the procedures for CCDF hearings, including Subpart B – Notice of hearing or opportunity for hearing, Subpart C – Hearing Procedures, and Subpart D – Posthearing Procedures, Decisions.

NOTE: Although the regulations outlined under Part 92, *Uniform Administrative Requirements for Grants and Cooperation Agreements to State and Local Governments including Indian Tribal Governments*, do not apply to tribal CCDF programs, as noted in Part 98.84(d), Tribes that have ACF approval to use CCDF funds for construction are required to comply with certain requirements set forth in Part 92 including 45 CFR parts 92.22, 92.25, 92.31(a)-(c), 92.36 and any other requirements established by ACF Program Instructions.

## OFFICE OF MANAGEMENT AND BUDGET (OMB) CIRCULARS

On behalf of the executive branch of the Federal government, OMB leads the development of government-wide policy to assure that grants are managed properly and that Federal dollars are spent in accordance with applicable laws and regulations. The outcome of this process is the issuance by OMB of instructions or information to Federal grant-making agencies. These issuances are referred to as OMB Circulars. Although a number of OMB Circulars have addressed grants management issues, tribal CCDF programs are only required to follow OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, including the Compliance Supplement which contains CCDF-specific requirements. However, tribal CCDF programs using CCDF dollars for an ACF-approved project for the construction and/or major renovation of child care facilities are also required to follow the cost principles outlined in OMB Circular A-87, Cost Principles for State and Local and Indian Tribal Governments.<sup>27</sup>

## POLICIES

Legislation and regulations represent the first two levels of rulemaking. The third level of rulemaking is referred to as policy. Policies are developed to guide the implementation of a regulation.

Generally, new policies are developed and existing policies are updated in response to changes in the body of knowledge concerning “best practice,” or because of frequent misinterpretation of the meaning of a regulatory requirement. Policies are generally issued in the form of an Information Memorandum (IM), Program Instruction (PI), Policy Announcement (PA), or Policy Interpretation Question (PIQ).

## ASSURANCES AND CERTIFICATIONS

When a grantee accepts Federal funding, they are asked to certify (or assure) that they will adhere to certain cross-cutting requirements. The PRWORA amendments made a number of changes to the assurances and certifications under the CCDBG Act of 1990. The applicable Assurances and Certifications for tribal CCDF programs are outlined in 45 CFR 98.15(a) and (b). These include, but are not limited to:

- Certification regarding debarment (includes definitions for use with the certification of debarment);
- HHS certification regarding drug-free workplace requirements;
- Certification of compliance with the Pro-Child Act of 1994; and
- Assurance of compliance with Title VI of the Civil Rights Act of 1964.

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<sup>27</sup> Note: OMB relocated Circular A-87 to 2 CFR 225.

### *3. Financial and Grants Management Principles*

#### **FINANCIAL SYSTEMS**

Federal grantees should have in place effective and efficient financial management systems that provide for accurate, current, and complete disclosure of financial information while providing for oversight and protection of Federal funds in a timely manner.

A financial management system is comprised of accounting records (checkbooks, journals, ledgers, etc.) and a series of written processes and procedures assigned to tribal staff and/or outside professionals. These systems ensure that financial data and economic transactions are properly entered into the accounting records and that financial reports necessary for management are prepared accurately and in a timely fashion.

All agencies have common requirements to fulfill when administering Federal programs. For example:

- ◆ Contract and compliance requirements must be fulfilled.
- ◆ Grant and contract funds must be expended appropriately.
- ◆ Accounting records must be maintained.
- ◆ Assets must be safeguarded.
- ◆ Internal control systems must be adequate.
- ◆ Internal policies and procedures must be developed and implemented.
- ◆ Costs must be allocated to the correct program based upon a cost allocation plan in cases where costs are shared by programs.
- ◆ Grantees must have an annual audit.

Often, tribal agencies are administering numerous grants and contracts, each with differing requirements. Coordination and communication between program and fiscal staff is critical to ensuring successful program operations, including reporting of activities and expenditures.

#### **ACCOUNTING SYSTEMS**

The tribal fiscal department is responsible for the accounting records. Initial set-up of the chart of accounts (i.e., the list of all accounts used by the Tribe in the general ledger) should be based on communication with CCDF program managers and, if necessary, the grantee agency's auditor or other financial consultant to determine necessary information to be tracked. It also should be based upon the terms and conditions and regulations applicable to the program. For example, tribal CCDF programs must track and limit administrative cost and must track expenditures of certain targeted funds (as described on page 3) that may be spent in multiple cost categories. Correct categorization of the chart of accounts will help meet these requirements. In addition, since CCDF funds can be obligated and liquidated over a three-year period, accounting systems should be able to track different fiscal year allocations over multiple expenditure years.

The end products of the accounting process are the financial statements that summarize all financial transactions of the Tribe for a designated period. Because each Tribe faces different financial issues and has different resources to bring to financial functions, each Tribe will choose a different set of regular financial reports to prepare and analyze.

It is critical that the financial statements meet the needs of the “end users,” the individuals who will use the reports to support their decision-making. For example, financial statements prepared for the Tribal Council may not contain the same level of detail, or be formatted the same way, as those produced for program managers. The CCDF program staff may need detailed budget-to-actual reports to help them ensure that sufficient funds will be available throughout the fiscal year to support ongoing program operations. Other reports that may be produced include the balance sheet (showing the agency’s assets and liabilities) and the cash flow statement (which provides an analysis of cash available for operations).

Federal regulations<sup>28</sup> require fiscal control and accounting procedures that are sufficient to permit the preparation of reports required by the Secretary and the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the provisions of the law or regulations.<sup>29</sup>

## PROGRAM BUDGETS

A budget is a plan that identifies the various sources and amounts of a program’s income and expenses. Having a comprehensive budget in place can be a key factor to successful program operations because a realistic budget acts as the road map that guides the program throughout the year. A comprehensive program budget helps to record, in monetary terms, what the realistic goals or objectives of the program are for the coming year(s) and provides a tool to monitor the program’s financial activities throughout the fiscal year.

The budget should be a dollars-and-cents expression of how, and to what degree, the CCDF program will serve the child care needs of the children in the community. A typical CCDF budget might include cost categories like the following:

- ◆ Direct services (whether child care services are provided in a tribally-operated center, through certificates/vouchers or grants, or a combination of these);
- ◆ Salaries and fringe benefits;
- ◆ Staff training;
- ◆ Equipment;
- ◆ Supplies;
- ◆ Travel;
- ◆ Printing and postage;
- ◆ Other quality expenditures; and
- ◆ Other administrative costs (including indirect costs).

In addition to its annual CCDF grant, a tribal CCDF program may include other income sources such as parent co-payments and tribal contributions.

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<sup>28</sup> Final Rule: Fiscal requirements: 45 CFR 98.67(c)

<sup>29</sup> Final Rule: Fiscal requirements: 45 CFR 98.67

Expenses for a tribally-operated center might also include items such as facility maintenance and repair; utilities; food; and curriculum materials. A tribally-operated center's other income sources might also include State CCDF subsidies, USDA Child and Adult Care Food Program, and child care fees from private-pay families.

Effective budget planning entails examining past performance and determining the future direction of the program, in both programmatic and financial terms. Therefore, the connection between the budget and program activities requires intentional and ongoing coordination efforts between the program and fiscal departments. This ensures that program activities are carried out within the framework of available financial resources.

Successfully putting a budget in motion requires that tribal CCDF program and fiscal staff develop and follow processes for:

1. Informing and educating other staff and tribal leaders about resource allocations and cost constraints;
2. Routinely reviewing budgetary concerns; and
3. Jointly engaging in budget monitoring and cost containment efforts.

## **COORDINATION BETWEEN CCDF PROGRAM AND FISCAL STAFF**

Often when the issue of budgets and expenditures arise within a program, the response is to “let the experts handle it”; in other words, let the fiscal staff take all of the responsibility. Fiscal staff are “experts” in regards to costing and accounting procedures. But fiscal staff do not always have an in-depth knowledge of the ins-and-outs of program implementation. In this respect, program staff are the “experts,” and should be equally responsible for ensuring that the program operates within its resources. The combination of fiscal and program knowledge will produce an expert approach to the financial management of the program.

Coordination and communication between CCDF program staff and fiscal staff is a key factor in ensuring successful program operations. Coordination ensures that:

- Fiscal staff get the information they need to track CCDF funds as required by regulations;
- Program staff get the information they need to make informed budgetary decisions; and
- The Tribe expends funds appropriately and submits timely reports, which can reduce adverse audit findings and the potential for sanctions, penalties, or negative grant awards.

Keeping the lines of communication open between program and fiscal staff can be accomplished through routine budget reviews where both can share concerns about the program's progress in resource allocation and expenditure. CCDF program and fiscal staff should also coordinate when completing required financial reports (e.g., ACF-696T) and in the development of the biennial CCDF Plan.

Regardless of when or how often budget reviews are conducted and reports developed, it is critical that program and fiscal staff take time to reflect on what worked and what didn't regarding allocation and expenditure of the program's financial resources. Reviews need to occur at various times during the budget period to allow for adjustments and modifications. Waiting until the end of the budget period to review costs leaves the program open to potential budget overruns or under-spending, as well as possible lack of resources for critical program activities.

## REQUIRED FINANCIAL REPORTING<sup>30</sup>

In accordance with 45 CFR 98.65, tribal CCDF programs must submit the ACF-696T financial reporting form annually within 90 days after the end of the Federal Fiscal Year (i.e., no later than December 29). This report details how the CCDF funds have been expended over the prior twelve month period. Cost categories included on the report include:

- Child care services;
- Child care administration;
- Non direct services;
- Quality activities; and
- Construction/renovation expenditures.

While Tribes and States operate under approved two-year plans, CCDF funds are awarded annually, and they must be accounted for by Federal fiscal year on the ACF-696T form. The grantee must also report the unobligated balance and the unliquidated obligations. **One report is submitted for each grant year**, thus, the grantee may be responsible for submitting as many as three separate financial reports yearly.

Tribal Lead Agencies have the option of submitting the form ACF-696T either electronically through Online Data Collection (OLDC) or manually by mailing hard copies. Tribes are encouraged to use OLDC since it reduces paperwork, allows for quicker processing, automatically completes required calculations, and checks for potential errors. The ACF-696T form and instructions are distributed annually to tribal grantees in a Child Care Bureau Program Instruction (PI).

Failure to submit reports (financial, program, or other required reports) on time may be the basis for withholding financial payments, and/or suspending or terminating the grant.

A negative award will recoup unobligated and/or unliquidated funds reported on the final ACF-696T report. Compliance with Discretionary earmarks, minimum quality expenditures, and administration cap requirements will be verified at the end of the grant period or when the “final” ACF-696T is submitted. A negative award will recoup funds which were not spent in accordance with the Federal requirements.<sup>31</sup>

Tribes are responsible for reviewing, on a quarterly basis, the drawdowns made for CCDF and submitting the Federal Cash Transactions Report (PSC 272). Cumulative annual PSC 272 reports should be reconciled with the ACF-696T at the end of the fiscal year to ensure that liquidated funds have been drawn down.

NOTE: CCDF tribal grantees with an approved P.L. 102-477 plan will receive their CCDF funding through the DOI. Therefore, financial reporting of CCDF funds awarded under a P.L. 102-477 consolidated plan will be made to the DOI. CCB recommends that CCDF programs operating under P.L. 102-477 send the CCB copies of their financial reports.

<sup>30</sup> See [http://www.acf.hhs.gov/programs/ccb/law/tribal\\_topic.htm](http://www.acf.hhs.gov/programs/ccb/law/tribal_topic.htm) for Program Instruction on CCDF Financial Reporting Form for Indian Tribes

<sup>31</sup> Administration for Children and Families, Office of Family Assistance, Child Care Development Fund, *Terms and Conditions, Fiscal Year 2008*

## Reporting Requirements for American Recovery and Reinvestment Act of 2009 (ARRA) Funds

Since tribal grantees are required to track and report separately on expenditures from funds made available through the American Recovery and Reinvestment Act of 2009 (ARRA), additional reporting categories will be added to the ACF-696T for reporting Fiscal Year 2009 ARRA fund expenditures. At the time this Guide was printed (August 2009), the proposed changes included additional columns to report ARRA expenditures for each of the regular ACF-696T cost categories, as well as an additional line for recording the estimated number of child service months funded with ARRA expenditures on direct services. A final version of the revised ACF-696T form should be available no later than December 2009. In addition to the expenditure reporting required on the ACF-696T, government-wide reporting is required by Section 1512 of the ARRA. Tribal grantees will be required to report the following detailed information on a quarterly basis:

- Total amount of funds received; and, of that, the amount spent on projects and activities;
- A description, completion status, and estimate of jobs created or retained for ARRA funded projects and activities;
- Details on sub-awards and other payments.

Additional guidance will be issued by the Child Care Bureau to further explain the specific reporting requirements related to Section 1512 and how these requirements relate to the CCDF program. Tribal CCDF grantees should contact their Child Care Bureau Regional Office for updated information.

## ALLOWABLE COST DETERMINATION

Determinations of cost allowability are based on principles found in OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments. While CCDF Programs **are not required to follow OMB Circular A-87** (except when a program has received ACF approval for construction or major renovation of a child care facility), this Circular is a good reference document containing “best practices” information related to cost principles.

Attachment B of OMB Circular A-87 lists numerous “Selected Items of Cost.” A cost is not necessarily unallowable just because it is not listed in these circulars. If a specific cost is not listed, the cost must meet the “necessary and reasonable” principle before being charged to the program. Costs that are listed as unallowable under certain paragraphs cannot be shifted to another category to make them allowable. For example, all forms of fundraising and lobbying costs are unallowable and are noted as such in the cost principles.

Costs must meet certain criteria to be allowable. The costs must be reasonable, necessary, and conform to limitations set forth in legislation, regulation, or circulars. They must be consistent with the grantee’s policies and procedures, such as the Tribe’s procurement policies. Grantees are required to determine and adequately document costs in accordance with Generally Accepted Accounting Principles (GAAP). Failure to follow these principles may result in an inappropriate use of Federal funds; as the result of an audit finding or questioned cost, the grantee may have to repay (with non-Federal dollars) the inappropriately used funds or incur a financial penalty.

In addition to being reasonable and necessary, costs must also be “allocable” to a program to be allowable. Costs can be allocated in one of three ways. They can be directly charged, proportionately charged, or be an indirect cost. A **direct cost** is a cost which is incurred specifically for one program, such as the salary of a program manager. A **proportionately allocated cost** is one which benefits more than one program. An example of a proportionately allocated cost is the salary for an administrative assistant who works for two programs. This salary cost could, for example, be allocated based on the number of hours worked for each program. Additionally, a written cost allocation plan is required for costs which are allocated proportionately between programs. The plan must include the items of cost, the basis for allocation, and the funding source information to which the cost will be allocated. **Indirect** costs, as described on page 10, typically benefit all programs in an agency or tribal government equally and are therefore difficult to individually allocate to a particular program. These costs are charged to an indirect cost pool and allocated to the programs using an indirect cost rate. This rate is determined during the Tribe’s indirect cost negotiation process and is approved by the cognizant Federal agency, which, for all American Indian tribal governments, is the Department of the Interior. As stated on page 9, indirect costs are considered an administrative cost and would be included in the calculation of the 15% administrative cap.

## CASH MANAGEMENT<sup>32</sup>

Tribes should have in place procedures to safeguard Federal funds which address minimizing the amount of time that cash is held, use of interest-bearing accounts, cash secured in insured accounts (e.g., FDIC), the ability to identify what cash goes with what funding source, etc. Although tribal CCDF programs are not covered by the requirements outlined at 31 CFR Part 205, which implements the Cash Management Improvement Act, or 45 CFR 92.20(b)(7), which requires procedures for advance funding, it is expected that tribal CCDF programs would draw down funds only as necessary in order to demonstrate prudent administration of fiscal funds.

## INTERNAL CONTROLS

Internal controls are systems established by a tribal government that are designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations;
- Control of assets and records of the organization to protect against loss, theft, or misuse;
- Compliance with applicable laws and regulations;
- Appropriate oversight by the tribal government;
- Adherence to the policies and procedures of the Tribal Lead Agency and the tribal government; and
- Reliability of financial reporting.

That is, internal controls are the Tribe’s system of checks and balances that help minimize or eliminate programmatic or financial risks and help protect the Tribe, and the programs it operates, from fraud, theft, errors, improper payments, and other inappropriate uses of funds. Internal controls also help to ensure that financial information is accurate and reliable, which is critical for making sound programmatic and other decisions.

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<sup>32</sup> Final Rule: Availability of Funds: 45 CFR 98.60 and Preamble

## IMPROPER CHILD CARE PAYMENTS

An *improper payment* (or “erroneous payment”) is any payment that should not have been made, or that was made in an incorrect amount (overpayment or underpayment), under statutory, contractual, administrative, or other legally applicable requirement. Improper payments include any payment that was made to an ineligible recipient or for an ineligible service, as well as any inappropriate denials of payment or service, duplicate payments, payments for services not received, and payments that do not account for credit for applicable discounts.

In 2002, Congress passed the Improper Payments Act (Public Law 107-300) “to provide for estimates and reports of improper payments by Federal agencies” in order to improve accountability in administering Federal tax dollars and to reduce wasteful spending. Under the Act, Federal departments and agencies are required to identify programs that are susceptible to significant improper payments and to take actions to document and reduce the amount of improper payments. HHS has taken significant steps to safeguard Federal funds, including the implementation of a multi-faceted fiscal integrity program that requires HHS agencies and their grantees to assess and analyze the causes of improper payments, implement internal controls to prevent improper payments from occurring, and identify and recover improper payments when they occur.

In response to the Improper Payment Information Act, and related OMB guidance, the Child Care Bureau initiated the Measuring Improper Payments in the Child Care Program project. The goal of the project is to document best practices to help States, Territories, and Tribes identify, measure, and prevent errors in the administration of child care funds. More information about the project can be found on the CCB website.<sup>33</sup>

As a recipient of Federal funds, tribal CCDF grantees shall ensure that adequate internal controls are in place and functioning in order to minimize improper payments. The strengthening of internal controls can reduce the rate of errors related to improper payments and can improve the overall efficiency of the CCDF program, which can improve services to parents and providers. Tribal CCDF fiscal and program staff can play an important role in this effort by:

- ◆ Ensuring that all program and fiscal management policies and procedures are adequately documented and fully enforced;
- ◆ Reviewing the annual A-133 audit report, in particular the auditors’ statement on internal controls;
- ◆ Resolving any A-133 audit findings with ACF in a timely manner and making any changes necessary to strengthen internal control systems;
- ◆ Ensuring that adequate documentation exists for all transactions, including eligibility determinations; and
- ◆ Ensuring that budget expenditures are consistent with the approved biennial CCDF Plan and all applicable regulations, OMB circulars, and Federal and tribal policies.

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<sup>33</sup> See the Appendix for the website address of the *Measuring Improper Payments in the Child Care Program* project.

## RECOVERY OF IMPROPER CHILD CARE PAYMENTS

Improper payments may not be charged to the CCDF program. Any payments not made in accordance with the law, regulation, or approved CCDF Plan will be disallowed pursuant to 45 CFR 98.66.

Tribal Lead Agencies are required to recover child care payments that are a result of fraud committed by child care providers or parents. CCDF regulations require that these recoveries be made from the party(ies) responsible for committing the fraud.<sup>34</sup> Should a Tribe choose not to pursue fraudulent payments (for example, because to do so may not be cost-effective), the amount of that fraudulent payment may not be charged to the CCDF.<sup>35</sup>

## AUDITS<sup>36</sup>

All agencies, including tribal governments, that expend more than \$500,000 in Federal cash are required to have an audit completed for each fiscal year of funding. The audit is referred to as a “Single Audit,” as the auditor will review all programs. The OMB Circular A-133 and the OMB Circular A-133 Compliance Supplement help the auditors in fulfilling their responsibilities and define compliance issues for each program. The audit, which is completed by an independent auditor, will help to determine whether:

- The Tribe’s financial statements are accurate;
- The Tribe is complying with the terms and conditions of the grant;
- Appropriate financial and administrative procedures and controls have been installed and are operating effectively; and
- The Tribe is complying with laws, regulations, and the provisions of contracts or grant agreements.

A financial audit is a process for testing the accuracy and completeness of information presented in an organization’s financial statements as well as evaluating the financial systems used to gather this information. This testing process enables an independent certified public accountant (CPA) to issue what is referred to as “an opinion” on how accurately the Tribe’s financial statements represent its financial position and whether they comply with Generally Accepted Accounting Principles (GAAP).

The audit team also will develop an opinion regarding the internal control structure of the Tribe. The team may test program data to ensure compliance with regulations. During the audit, the auditor may determine that there are “disallowed costs” or costs which were not appropriate under the terms of the grant. For example, fundraising costs are specifically unallowable and may not be paid with Federal funds. Significant findings will be written up in the audit report. Audit findings are sent to the funding agency and disallowance of Federal funds or a financial penalty(ies) may result.

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<sup>34</sup> 45 CFR 98.60(i)

<sup>35</sup> Final Rule: Availability of Funds: Preamble 98.60

<sup>36</sup> Final Rule: Audits and financial reporting: 45 CFR 98.65 and Preamble

CCDF Program Administrators should be involved in the audit of their program and in the audit resolution process.

OMB Circular A-133 states that the auditor(s) will:

- Perform an audit of the financial statement(s) for the Federal program in accordance with Generally Accepted Government Auditing Standards (GAGAS) (A-133.235(b)(3)(i));
- Perform procedures to determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on the Federal program consistent with the requirements for a major program (A-133.235(b)(3)(iii)); and
- Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding in accordance with the requirements (A-133.235(b)(3)(iv)).

## **PENALTIES AND DISALLOWANCES<sup>37</sup>**

Tribal CCDF grantees are subject to disallowances, penalties, and sanctions outlined at 45 CFR 98.92 based on the results of the annual A-133 audit, or a finding that the grantee failed to comply with the regulation, the law, or the Plan. The following penalties can be applied when it has been determined that the Tribal Lead Agency has failed to substantially comply with provisions of the law, regulations, or their CCDF Plan:

1. Disallowance of improperly expended funds;
2. An amount equal to or less than the improperly expended funds will be deducted from the administrative portion of the allotment for the following fiscal year; or
3. A combination of the above options.

In addition to the above options, the following sanctions may also be imposed:

1. Disqualification of the Tribal Lead Agency from receiving further funding under CCDF; or
2. A penalty of not more than four percent of the funds allotted under the Discretionary Funds for a Fiscal Year will be withheld if it is determined that the Tribal Lead Agency failed to implement a provision of the law, regulations, or the Plan.

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<sup>37</sup> Final Rule: Penalties and sanctions: 45 CFR 98.92 and Preamble

## RECORD-KEEPING AND RECORD RETENTION

Grantee financial records, supporting documents, statistical records, and all other records pertaining to the grant award must be retained for a period of at least three years from the date of submission of the final annual financial report (45 CFR 98.90). Exceptions to this are:

- If any litigation, claim, financial management review, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- Records for real property and equipment acquired with Federal grant funds must be retained for three years beyond the date of final disposition (i.e., the date the equipment or property was sold or otherwise disposed).

Federal awarding agencies have the right of timely and unrestricted access to any of the grantee's books, documents, papers, or other records that are pertinent to the grant award in order to make audits, reviews, examinations, excerpts, transcripts, and/or copies of such documents. This right of access exists as long as the records are retained.

Reminder: The regulations at 45 CFR Part 92 does not apply to CCDF Programs. 45 CFR 98.67(a) requires that CCDF grantees shall expend and account for CCDF funds in accordance with their own laws and procedures for expending and accounting for their own funds. While tribal CCDF programs are not required to follow Part 92, or OMB Circular A-87, both are good reference documents for tribal CCDF programs.





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