

HOW THE NEW CHILD CARE AND DEVELOPMENT (CCDF) PROPOSED RULE WOULD IMPACT TRIBES

Background

The Child Care and Development Block Grant (CCDBG) Act Reauthorization provided opportunities to offer flexibility to Tribes in certain areas where there are unique needs. To best identify how the Act should apply to Tribes, the Office of Child Care (OCC) conducted a series of tribal consultations to solicit tribal input. The Notice of Proposed Rulemaking (NPRM) addresses the extent to which certain provisions should apply to Tribal CCDF grantees. They are intended to increase tribal flexibility, while balancing the CCDF dual goals of promoting families' financial stability and fostering healthy child development.

OCC will work with Tribes as they work to implement the proposed rule and will continue to seek comments from Tribes. Below is an overview of how the NPRM will affect Tribal CCDF programs. The following overview is intended to provide a summary of key points. For complete context and understanding, we encourage everyone to read the entire NPRM, published in the Federal Register

New/Revised Provisions for All Tribal CCDF Lead Agencies

The proposed rule focuses on the importance of ensuring the health and safety of children in child care and promoting quality to support child development. Therefore, all Tribal Lead Agencies would be subject to:

Protecting the health and safety of children in child care: We propose that all Tribes providing direct services be required to meet the health and safety requirements in the NPRM, including, but not limited to requirements around a list of health and safety topics; health and safety training; setting group size limits and ratios; and compliance with child abuse reporting requirements. We also look forward to consulting with Tribes in the development of new culturally-appropriate minimum health and safety standards.

Tribal Lead Agencies would also be subject to the annual monitoring and comprehensive background check requirements. We have proposed some additional flexibility for a Tribal Lead Agency to submit in its Plan an alternative monitoring strategy or an alternative approach to conducting full background checks on other individuals residing in a family child care home.

Enhancing the quality of child care: The proposed rule would require all Tribes to spend a percentage of their total CCDF expenditures on quality improvement activities as outlined in the law. The law requires Lead Agencies to spend increasing minimum amounts on quality activities, reaching nine percent in 2020. In addition, Lead Agencies must spend at least three percent on quality activities to support infants and toddlers.

There are a wide range of quality improvement activities that Tribes have the flexibility to implement, including training for child care providers, small grants to improve health and safety, or investing in curricula that incorporates native language. OCC plans to provide technical assistance to help Tribes determine which current activities may count towards meeting the quality requirements, as well as identify new opportunities to invest in the quality of the program.

Additional Tribal Lead Agency Flexibility

Tiered Requirements: In the NPRM, we propose that Tribes shall be subject to the other CCDF requirements based on the size of their CCDF allocation. CCDF Tribal allocations vary from less than \$25,000 to over \$12 million. We recognize that Tribes receiving smaller CCDF grants may not have sufficient resources or infrastructure to effectively operate a program that complies with all CCDF

requirements. Therefore, we are proposing three categories of CCDF Tribal grants: large allocations, medium allocations, and small allocations. Each category is paired with different levels of CCDF requirements, with those Tribes receiving the largest allocations expected to meet most CCDF requirements. Tribes receiving smaller allocations are exempt from specific provisions in order to account for the size of the grant awards.

Large Allocations (over \$1,000,000) 18 Tribes in FY 2015	Medium Allocations (\$1,000,000 to \$250,000) 79 Tribes in FY 2015	Small Allocations (under \$250,000) 162 Tribes in FY 2015
<ul style="list-style-type: none"> • Subject to the majority of CCDF requirements • Exempt from some requirements, including: consumer education website, use of grants or contracts, the requirement to have licensing for child care services, and market rate survey or alternative methodology (but still required to have rates that support quality) • Subject to the monitoring requirements, but allowed the flexibility to propose an alternative monitoring methodology in their Plan • Subject to the background check requirement to check other adults in a family child care home, but allowed to request an exemption in their Plan 	<ul style="list-style-type: none"> • Allowed the same exemptions as the large allocation category • Exempt from operating a certificate program 	<ul style="list-style-type: none"> • Exempt from the majority of CCDF requirements, including those exemptions for large and medium allocation categories • Must spend their funds in alignment with CCDF goals and purposes • Only subject to: <ul style="list-style-type: none"> • If providing direct services: the health and safety requirements, the monitoring requirements, and the background check requirements; • Quality spending requirements; • The 15% administrative cost cap; • Fiscal, audit, and reporting requirements; and • Any other requirement defined by the Secretary. • Submit an abbreviated Plan

Tribal Child Eligibility: Tribal Lead Agencies that receive large or medium allocations would have the flexibility to consider any Indian child in the Tribe’s service area to be eligible to receive CCDF funds, regardless of the family’s income, work, or training status, as long as their Tribal Median Income is below 85% of State Median Income. We believe that this flexibility allows Tribes to create opportunities to align CCDF programs with other Tribal early childhood programs, including Tribal home visiting, Early Head Start, and Head Start.

Additional New/Revised Provisions for Tribes with Large and Medium Allocations

With some exceptions, Tribal Lead Agencies with large and medium CCDF allocations are generally subject to the other new and revised provisions in this proposed rule including, but not limited to:

Helping parents make informed consumer choices and access information to support child development: Tribes with large and medium allocations would be required to meet many of the requirements in the NPRM related to consumer education, including, but not limited to dissemination of information to parents, providers, and the general public on child care services and other assistance programs; making available provider-specific monitoring reports/results in a consumer-friendly and easily accessible format; and making a provider-specific consumer education statement that includes a summary of the Tribe’s health and safety policies available to CCDF families.

Provide equal access to stable, high quality child care for low-income children: Tribal Lead Agencies with large and medium allocations would be required to meet the requirements in the NPRM that protect and lengthen eligibility periods so families have more time to become financially stable. This includes, but is not limited to: establishing minimum twelve month eligibility periods; establishing a graduated phaseout for families who, at redetermination, exceed initial Tribal income thresholds; offering a minimum of three months of continued assistance if choosing to terminate assistance for a family's non-temporary cessation in job, training, or education; and building the supply and quality of care for priority and vulnerable populations.

Tribal Exemptions for All Tribal Lead Agencies

We are proposing a number of exemptions for all Tribal Lead Agencies, including, but not limited to:

Exemption from Consumer Education Website: We propose to exempt all Tribes from the requirement for a consumer education website due to the administrative cost of building a website, as well as the lack of reliable high-speed internet in some Tribal areas.

Exemption from Market Rate Survey or Alternative Methodology: In the proposed rule, all Tribes would be exempt from conducting a market rate survey or alternative methodology and all of the related requirements. Many Tribal communities are located in rural, isolated areas and conducting a market rate survey or alternative methodology is difficult. However, Tribes receiving large or medium allocations would still be required to have payment rates that support quality.

Tribal Exemptions for Tribal Lead Agencies with Medium and Small Allocations

Certificate Programs: We propose that Tribes receiving CCDF allocations of \$1 million or less (medium and small allocations – a total of 241 Tribes) be exempt from operating a certificate program, and therefore, not be required to offer the full range of child care services. Under the current requirements, any Tribe receiving less than \$500,000 is exempt from operating a certificate program. We believe raising this threshold to gives these Tribes more flexibility in how they spend their CCDF funds.

Tribal Exemptions for Tribal Lead Agencies with Small Allocations

Tribal Lead Agencies Receiving Small Allocations: OCC believes that the Tribes receiving the smallest CCDF allocations should not be subject to the same requirements as the Tribes receiving larger grant awards. OCC is proposing to exempt Tribes receiving small allocations (less than \$250,000 – 162 Tribes) from the majority of the CCDF requirements to give these Tribes more flexibility in how they spend their CCDF funds and to focus these funds on health and safety and quality spending. We believe that this proposal allows Tribes with small allocations the flexibility to spend their CCDF funds in ways that would most benefit their communities.

P.L. 102-477 Tribes

102-477 Program: Tribes continue to have the option to combine their CCDF funds with other employment and training related Federal grant funds under a plan authorized by the Indian Employment, Training and Related Services Demonstration Act of 1992 (Public Law 102-477). P.L. 102-477 programs are required to follow the CCDF regulations, with the exception of OCC reporting requirements, and are subject to the new and revised provisions in this proposed rule. 102-477 grantees may seek waivers from CCDF requirements.