

§ 98.83 Requirements for tribal programs.

(a) The grantee shall designate an agency, department, or unit to act as the Tribal Lead Agency to administer the CCDF program.

(b) With the exception of Alaska, California, and Oklahoma, programs and activities for the benefit of Indian children shall be carried out on or near an Indian reservation.

(c) In the case of a tribal grantee that is a consortium:

(1) A brief description of the direct child care services funded by CCDF for each of their participating Tribes shall be provided by the consortium in their three-year CCDF Plan; and

(2) Variations in CCDF programs or requirements and in child care licensing, regulatory and health and safety requirements shall be specified in written agreements between the consortium and the Tribe.

(3) If a Tribe elects to participate in a consortium arrangement to receive one part of the CCDF (*e.g.*, Discretionary Funds), it may not join another consortium or apply as a direct grantee to receive the other part of the CCDF (*e.g.*, Tribal Mandatory Funds).

(4) If a Tribe relinquishes its membership in a consortium at any time during the fiscal year, CCDF funds awarded on behalf of the member Tribe will remain with the tribal consortium to provide direct child care services to other consortium members for that fiscal year.

(d)(1) Tribal Lead Agencies shall not be subject to:

(i) The requirements to use grants or contracts to build supply for certain populations at § 98.30(b);

(ii) The requirement to produce a consumer education website at § 98.33(a). Tribal Lead Agencies still must collect and disseminate the provider-specific consumer education information described at § 98.33(a) through (d), but may do so using methods other than a website;

(iii) The requirement to have licensing applicable to child care services at § 98.40;

(iv) The requirement for a training and professional development framework at § 98.44(a);

(v) The market rate survey or alternative methodology described at § 98.45(b)(2) and the related requirements at § 98.45(c), (d), (e), and (f);

(vi) The requirement for a sliding fee scale at § 98.45(l);

(vii) The requirement to have provider payment practices that reflect generally accepted payment practices at § 98.45(m);

(viii) The requirement that Lead Agencies shall give priority for services to children of families with very low family income at § 98.46(a)(1);

(ix) The requirement that Lead Agencies shall prioritize increasing access to high-quality child care in areas with significant concentrations of poverty and unemployment at § 98.46(b);

(x) The requirements to use grants or contracts at § 98.50(a)(3);

(xi) The requirements about Mandatory and Matching Funds at § 98.50(e);

(xii) The requirement to complete the quality progress report at § 98.53(g);

(xiii) The requirement that Lead Agencies shall expend no more than five percent from each year's allotment on administrative costs at § 98.54(a); and

(xiv) The Matching fund requirements at §§ 98.55 and 98.63.

(2) Tribal Lead Agencies with large, medium, and small allocations shall be subject to the provision at § 98.42(b)(2) to require inspections of child care providers and facilities, unless a Tribal Lead Agency describes an alternative monitoring approach in its Plan and provides adequate justification for the approach.

(3) Tribal Lead Agencies with large, medium, and small allocations shall be subject to the requirement at § 98.43 to conduct comprehensive criminal background checks, unless the Tribal Lead Agency describes an alternative background check approach in its Plan and provides adequate justification for the approach.

(e) Tribal Lead Agencies with medium and small allocations shall not be subject to the requirement for certificates at § 98.30(a) and (d).

(f) Tribal Lead Agencies with small allocations must spend their CCDF funds in alignment with the goals and purposes described in § 98.1. These Tribes shall have flexibility in how they spend their CCDF funds and shall be subject to the following requirements:

(1) The health and safety requirements described in § 98.41;

(2) The monitoring requirements at §§ 98.42 and 98.83(d)(2); and

(3) The background checks requirements described in §§ 98.43 and 98.83(d)(3);

(4) The requirements to spend funds on activities to improve the quality of child care described in §§ 98.83(g) and 98.53;

(5) The use of funds requirements at § 98.56 and cost allocation requirement at § 98.57;

(6) The financial management requirements at subpart G of this part that are applicable to Tribes;

(7) The reporting requirements at subpart H of this part that are applicable to Tribes;

(8) The eligibility definitions at § 98.81(b)(2);

(9) The 15 percent limitation on administrative activities at § 98.83(i);

(10) The monitoring, non-compliance, and complaint provisions at subpart J of this part; and

(11) Any other requirement established by the Secretary.

(g) Of the aggregate amount of funds expended (*i.e.*, Discretionary and Mandatory Funds):

(1) For Tribal Lead Agencies with large, medium, and small allocations, no less than nine percent shall be used for activities designed to improve the quality of child care services and increase parental options for, and access to, high-quality child care as described at § 98.53; and

(2) For Tribal Lead Agencies with large and medium allocations, no less than three percent shall be used to carry out activities at § 98.53(a)(4) as such activities relate to the quality of care for infants and toddlers.

(3) Nothing in this section shall preclude the Tribal Lead Agencies from reserving a larger percentage of funds to carry out activities described in paragraph (g)(1) and (2) of this section.

(h) The base amount of any tribal grant is not subject to the administrative cost limitation at paragraph (i) of this section, the direct services requirement at § 98.50(f)(2), or the quality expenditure requirement at § 98.53(a). The base amount may be expended for any costs consistent with the purposes and requirements of the CCDF.

(i) Not more than 15 percent of the aggregate CCDF funds expended by the Tribal Lead Agency from each fiscal year's (including amounts used for construction and renovation in accordance with § 98.84, but not including the base amount provided under paragraph (h) of this section) shall be expended for administrative activities. Amounts used for construction and major renovation in accordance with § 98.84 are not considered administrative costs.

(j)(1) CCDF funds are available for costs incurred by the Tribal Lead Agency only after the funds are made available by Congress for Federal obligation unless costs are incurred for planning activities related to the submission of an initial CCDF Plan.

(2) Federal obligation of funds for planning costs, pursuant to paragraph (j)(1) of this section, is subject to the actual availability of the appropriation.

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