

§ 98.84 Construction and renovation of child care facilities. Link to an amendment published at 89 FR 80071, Oct. 2, 2024.

(a) Upon requesting and receiving approval from the Secretary, Tribal Lead Agencies may use amounts provided under §§ 98.61(c) and 98.62(b) to make payments for construction or major renovation of child care facilities (including paying the cost of amortizing the principal and paying interest on loans).

(b) To be approved by the Secretary, a request shall be made in accordance with uniform procedures established by program instruction and, in addition, shall demonstrate that:

(1) Adequate facilities are not otherwise available to enable the Tribal Lead Agency to carry out child care programs;

(2) The lack of such facilities will inhibit the operation of child care programs in the future; and

(3) The use of funds for construction or major renovation will not result in a decrease in the level of child care services provided by the Tribal Lead Agency as compared to the level of services provided by the Tribal Lead Agency in the preceding fiscal year. The Secretary shall waive this requirement if:

(i) The Secretary determines that the decrease in the level of child care services provided by the Indian tribe or tribal organization is temporary; and

(ii) The Indian tribe or tribal organization submits to the Secretary a plan that demonstrates that after the date on which the construction or renovation is completed:

(A) The level of direct child care services will increase; or

(B) The quality of child care services will improve.

(c)(1) Tribal Lead Agency may use CCDF funds for reasonable and necessary planning costs associated with assessing the need for construction or renovation or for preparing a request, in accordance with the uniform procedures established by program instruction, to spend CCDF funds on construction or major renovation.

(2) A Tribal Lead Agency may only use CCDF funds to pay for the costs of an architect, engineer, or other consultant for a project that is subsequently approved by the Secretary. If the project later fails to gain the Secretary's approval, the Tribal Lead Agency must pay for the architectural, engineering or consultant costs using non-CCDF funds.

(d) Tribal Lead Agencies that receive approval from the Secretary to use CCDF funds for construction or major renovation shall comply with the following:

(1) Federal share requirements and use of property requirements at 45 CFR 75.318;

(2) Transfer and disposition of property requirements at 45 CFR 75.318(c);

- (3) Title requirements at 45 CFR 75.318(a);
- (4) Cost principles and allowable cost requirements at subpart E of this part;
- (5) Program income requirements at 45 CFR 75.307;
- (6) Procurement procedures at 45 CFR 92.36; 75.326 through 75.335; and
- (7) Any additional requirements established by program instruction, including requirements concerning:
 - (i) The recording of a Notice of Federal Interest in the property;
 - (ii) Rights and responsibilities in the event of a grantee's default on a mortgage;
 - (iii) Insurance and maintenance;
 - (iv) Submission of plans, specifications, inspection reports, and other legal documents; and
 - (v) Modular units.
- (e) In lieu of obligation and liquidation requirements at § 98.60(e), Tribal Lead Agencies shall obligate CCDF funds used for construction or major renovation by the end of the second fiscal year following the fiscal year for which the grant is awarded. Tribal construction and major renovation funds must be liquidated at the end of the second succeeding fiscal year following this obligation deadline. Any Tribal construction and major renovation funds that remain unliquidated by the end of this period will revert to the Federal government.
- (f) Tribal Lead Agencies may expend funds, without requesting approval pursuant to paragraph (a) of this section, for minor renovation.
- (g) A new tribal grantee (i.e., one that did not receive CCDF funds the preceding fiscal year) may spend no more than an amount equivalent to its Tribal Mandatory allocation on construction and renovation. A new tribal grantee must spend an amount equivalent to its Discretionary allocation on activities other than construction or renovation (i.e., direct services, quality activities, or administrative costs).
- (h) A construction or renovation project that requires and receives approval by the Secretary must include as part of the construction and renovation costs:
 - (1) planning costs as allowed at § 98.84(c);
 - (2) labor, materials and services necessary for the functioning of the facility; and
 - (3) initial equipment for the facility. Equipment means items which are tangible, nonexpendable personal property having a useful life of more than five years.

[63 FR 39981, July 24, 1998, as amended at 81 FR 3020, Jan. 20, 2016; 81 FR 67594, Sept. 30, 2016; 89 FR 15417, Mar. 1, 2024]