

# Public Hearing Requirements for the Tribal Child Care and Development Fund Plan

## Background

In order to receive the Child Care and Development Fund (CCDF) funding, Tribes must develop and submit a Tribal CCDF Plan to the Administration for Children and Families (ACF) Office of Child Care (OCC) **every 3 years.**<sup>1</sup>

The completed CCDF Plan serves as each Tribe's application for CCDF funds by providing a description of its child care program and services available to eligible families. The CCDF Plan contains specific assurances and certifications regarding the Tribe's CCDF program, as required by the Child Care and Development Block Grant Act of 2014 and the regulations in the 2016 CCDF Final Rule. The Tribal CCDF Plan is the application Tribes use to apply for their block grant funding by providing a description of, and assurances about, the Tribal Lead Agency's CCDF program and services for children, families and communities. The Plan also presents an opportunity for Tribes to list the many activities and services they are providing to meet the needs of low-income children and families.

The CCDF Plan process operates on a triennial cycle, with Plans due every 3 years. Tribes are currently within the fiscal year (FY) 2017–2019 CCDF Plan cycle, which is effective through September 30, 2019. In 2019, Tribes will submit new CCDF Plans for the FY 2020–2022 cycle that becomes effective October 1, 2019. **FY 2020–2022 Tribal CCDF Plans are due on September 6, 2019. As part of the CCDF Plan process, Tribes must submit a triennial child count declaration by July 1, 2019.**

**Note:** Tribes with an approved Public Law (P.L.) 102-477 Plan receive their CCDF funding through the Department of the Interior (DOI). All program and financial reporting for CCDF funds awarded under a P.L. 102-477 consolidated plan is made to the DOI. P.L. 102-477 Plans are submitted to the DOI and operate on a different timeline than the triennial CCDF Plans. For Tribes with current P.L. 102-477 Plans, compliance with the CCDF Final Rule will be determined based on the Tribe's next P.L. 102-477 Plan submission with an effective date of October 1, 2019 or later. Separate guidance will provide instructions on how to submit the next P.L. 102-477 Plans.

### Helpful Terms

- **Child Care and Development Block Grant (CCDBG) Act of 2014, or “CCDF reauthorization”:** The law that reauthorized the CCDF program and introduced legal changes to strengthen the health, safety, and quality of child care and provide more stable child care assistance to families. The CCDBG Act of 2014, along with Section 418 of the Social Security Act, authorizes the CCDF program.
- **Child Care and Development Fund Final Rule:** The CCDF Final Rule, published in 2016 by the Office of Child Care, defines how the Act applies to Tribal Lead Agencies and outlines the federal regulations for implementing the CCDBG Act of 2014 and administering the CCDF program.
- **CCDF Plan Preprint:** The formatted planning document, provided triennially by the Administration for Children and Families' Office of Child Care, that contains all the questions Lead Agencies must answer in order to apply for CCDF funding.
- **CCDF Plan:** The completed CCDF Plan Preprint that serves as each Tribal Lead Agency's application for CCDF funds by providing a description of its child care program and services available to eligible families.

<sup>1</sup> Child Care and Development Fund, 45 C.F.R. § 98.81 (2016).

As part of the development of the CCDF Plan, Tribal Lead Agencies are required to hold a public hearing to provide their communities with an opportunity to comment on the draft CCDF Plan and the proposed provision of child care services as outlined in the draft.<sup>2</sup> This document responds to frequently asked questions about requirements and implementation strategies related to CCDF Plan public hearings.

## Frequently Asked Questions

### 1. Are all Tribal Lead Agencies required to have a public hearing on their CCDF Plan?

Yes. The CCDF Final Rule requires that all Tribal Lead Agencies conduct at least one public hearing to provide the public an opportunity to provide input on the provision of child care under the CCDF Plan.<sup>3</sup>

### 2. What is the purpose of a public hearing on the CCDF Plan?

It is important to solicit feedback from the public on how the Tribal Lead Agency is providing child care services. The public hearing provides an opportunity for interested individuals and organizations from the community to provide formal input on specific items contained in the proposed CCDF Plan. Stakeholders such as Tribal members, Tribal employees, partnering Tribal programs, and Tribal elders can express their support, raise concerns, and offer considerations and ideas regarding the provision of services as outlined in the draft CCDF Plan. Feedback from the public hearing process allows the Tribal Lead Agency to assess program operations and consider whether changes are needed to best meet the needs of the community.

### 3. Do Tribal Lead Agencies that represent a Tribal consortium need to hold hearings with each participating Tribe or community?

No. The CCDF Final Rule only specifies that Tribal Lead Agencies hold at least one public hearing that provides an opportunity for stakeholders to review the CCDF Plan and provide input.<sup>4</sup> However, as discussed in questions 5 through 7, Tribal Lead Agencies must provide adequate notice regarding the hearing across the service area and ensure that the contents of the Plan are available throughout the service area.<sup>5</sup> Tribal consortia can choose to hold multiple public hearings if they determine that this is the best way to reach their stakeholders. Question 8 offers additional strategies for Tribal Lead Agencies to ensure that the public hearing is accessible and takes into account factors such as location.

### 4. When should Tribal Lead Agencies host the public hearing?

The CCDF Final Rule specifies that Tribal Lead Agencies must hold at least one public hearing before submitting the CCDF Plan to ACF, but no earlier than 9 months before the Plan becomes effective.<sup>6</sup> The upcoming FY 2020–2022 Plan becomes effective on October 1, 2019, so Tribal Lead Agencies must hold the hearing after January 1, 2019.

As discussed in the next question, Tribal Lead Agencies are also required to provide adequate notice to the public about the hearing, and should take this into consideration when planning and scheduling.

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<sup>2</sup> Child Care and Development Fund, 45 C.F.R. § 98.14(c) (2016).

<sup>3</sup> Child Care and Development Fund, 45 C.F.R. § 98.14(c) (2016).

<sup>4</sup> Child Care and Development Fund, 45 C.F.R. § 98.14(c) (2016).

<sup>5</sup> Child Care and Development Fund, 45 C.F.R. §§ 98.14(c)(1), 98.14(c)(3) (2016).

<sup>6</sup> Child Care and Development Fund, 45 C.F.R. § 98.14(c)(2) (2016).

### **5. How far in advance should Tribal Lead Agencies give notice of the public hearing?**

The CCDF Final Rule requires that Tribal Lead Agencies provide notice about the public hearing throughout their Tribal service area at least 20 days before the date of the hearing.<sup>7</sup>

### **6. What are some ways that Tribal Lead Agencies can provide notice of the public hearing?**

There are a number of ways that Tribal Lead Agencies can alert the general public and key stakeholders about the hearing, including newsletters, social media, Tribal news outlets, Tribal websites, community bulletin boards, public radio, and any other strategies that a Tribal Lead Agency considers appropriate.

### **7. What other information must be shared before the public hearing?**

In addition to providing notice of the hearing, the CCDF Final Rule requires that Tribal Lead Agencies make the contents of the draft CCDF Plan available throughout the service area in advance of the public hearing.<sup>8</sup>

Tribal Lead Agencies should make the plan available to stakeholders throughout the service area, such as Tribal members, families that participate or may participate in CCDF, community partner representatives, and members of the Tribal community. Tribal Lead Agencies may make the contents of the Plan available through various strategies and formats, such as posting the draft online, sharing it through the CCDF office or other Tribal offices, sending via Tribal email, sharing with local providers and child care resource and referral agencies, using social media, and using any other outreach methods that a Tribal Lead Agency considers appropriate.

### **8. What are important considerations for an effective public hearing?**

When planning for a public hearing, there are various factors to consider in order to maximize participation and opportunity for public input. Tribal Lead Agencies have significant flexibility so that they can plan a public hearing that is accessible and convenient for their communities. When scheduling the public hearing, Tribal Lead Agencies should consider how the location, time of day, and day of the week will influence the ability of individuals and organizations to attend.

Tribal Lead Agencies have hosted hearings in various settings and locations, including Tribal offices, community centers, and during parent meetings. If the location may be a barrier to in-person participation, Tribal Lead Agencies can consider options for virtual participation, such as through a web conference or phone line.

During the public hearing, it is helpful for the Tribal Lead Agency to take the time to provide necessary background on the CCDF Plan, such as summarizing the major Plan changes and the reasoning behind these changes. It is also helpful to guide the discussion by referencing specific section numbers, headings, and page numbers. During the hearing, the Tribal Lead Agency should track each comment, noting areas of support and opposition, as well as suggested changes, additions, and deletions pertaining to specific items.

### **9. Can members of the public provide input on the CCDF Plan if they are not able to attend the public hearing?**

Yes. Tribal Lead Agencies can provide an opportunity for community members who are unable to attend the public hearing to submit their comments regarding the CCDF Plan in other ways. Tribal Lead Agencies can use various methods to gather input, such as through mail, email, written comments submitted anonymously at various Tribal locations, or even through an online form. Tribal Lead Agencies should include a clear deadline for stakeholders to provide their feedback through these mechanisms.

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<sup>7</sup> Child Care and Development Fund, 45 C.F.R. § 98.14(c)(1) (2016).

<sup>8</sup> Child Care and Development Fund, 45 C.F.R. § 98.14(c)(3) (2016).

### 10. What should Tribal Lead Agencies do with the feedback received from a public hearing?

Tribal Lead Agencies should carefully track all feedback collected during the public hearing or submitted through the alternative avenues described in question 9. It is important to analyze all sources of input and update the CCDF Plan as needed, ensuring that public input is reflected in the Plan before final submission.

Tribal Lead Agencies should review all comments and consider how to incorporate the feedback into their Plans. The final CCDF Plan must incorporate any changes to the program that the Tribal Lead Agency chooses to adopt as a result of input received.

Tribal Lead Agencies must have policies and procedures related to the public hearing process. Each Tribal Lead Agency should have a process for responding, or not responding, to those who submitted comments through the public hearing process.

**Note:** Tribal Lead Agencies are required to make the final CCDF Plan available to the public.<sup>9</sup> Possible strategies could include the following: provide a website link; have a copy of the Plan available in the CCDF office; and post the final copy on community bulletin boards, Tribal offices, Tribal social media, or in Tribal newsletters.

### 11. Are public hearings required for Plan amendments?

No. The CCDF Final Rule only requires public hearings before submission of the triennial CCDF Plan. Since CCDF Plan amendments involve changes to otherwise approved Plans, there is no need to conduct public hearings for them.

### 12. Can Tribal Lead Agencies use CCDF funds for costs associated with the public hearing?

Yes. The CCDF Final Rule clarifies that costs associated with planning and implementing the public hearing are considered administrative expenditures. Administrative costs include expenses associated with CCDF administration and implementation. This means that activities such as Plan development and public hearings, and evaluation of program and hearing results, are allowable costs. As listed in the CCDF Final Rule, examples of administrative activities that are relevant to the public hearing process could include the following:

- ◆ Planning, developing, and designing the CCDF program
- ◆ Providing local officials and the public with information about the program, including conducting public hearings
- ◆ Preparing the CCDF Plan<sup>10</sup>

However, Tribal Lead Agencies may not spend more than 15 percent of their CCDF expenditures on administrative activities.<sup>11</sup>

<sup>9</sup> Child Care and Development Fund, 45 C.F.R. § 98.14(d) (2016).

<sup>10</sup> Child Care and Development Fund, 45 C.F.R. § 98.54(a)(1) (2016).

<sup>11</sup> Child Care and Development Fund, 45 C.F.R. § 98.83(i) (2016).

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