Public Hearing Requirements for the Tribal Child Care and Development Plan Frequently Asked Questions

FY 2023-2025 Tribal CCDF Plan Preprint

Background

In order to receive Child Care and Development Fund (CCDF) funding, Tribal Lead Agencies must develop and submit a Tribal CCDF Plan to the Administration for Children and Families (ACF) Office of Child Care (OCC) every three years.¹ The completed CCDF Plan 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.

The CCDF Plan developed by Tribal Lead Agencies is the primary mechanism that the ACF uses to determine Tribal Lead Agency compliance with the requirements of the law and final rule.

The next CCDF Plan cycle will cover fiscal years (FY) 2023-2025. OCC issued a Program Instruction to provide guidance.

As part of the development of the Tribal CCDF Plan, Tribal Lead Agencies are required to conduct a public hearing to provide those interested with an opportunity to comment on the provision of child care services under the CCDF Plan.

The Tribal Lead Agency must conduct at least one public hearing prior to the submission of the Tribal CCDF Plan. However, the public hearings cannot be held before January 1, 2022. The Tribal Lead Agency must provide a notice of the hearing throughout the Tribe’s service area. This notice must be provided no later than 20 days prior to the date of the hearing. Tribal Lead Agencies must make the contents of the Plan available to the public in advance of the hearing.²

Although the submission of the FY 2023–2025 Tribal CCDF Plan has been extended until January 31, 2023, Tribal Lead Agencies were required to submit a triennial child count declaration by July 1, 2022, and their request to participate in the voluntary Tribal Early Learning Initiative (TELI) by July 1, 2022. Both are part of the overall Tribal CCDF Plan submission process. The submission for the Plan and both Appendices will be through the Child Care Automated Reporting System (CARS). Tribal Lead Agencies are required to submit child count declaration data by July 1, 2022 to process the formula for the FY 2023-2025 CCDF Tribal awards.

Note: Tribes may choose to consolidate their CCDF program into an approved Public Law (Pub. L.) 102-477 Consolidated Plan. Pub. L. 102-477 Plans are submitted to the Department of the Interior (DOI) and may operate on a different timeline than the triennial CCDF.

¹ Child Care and Development Fund, 45 C.F.R. § 98.81 (2016).
Frequently Asked Questions

1. **Are all Tribes required to have a public hearing on their CCDF Plan?**

Yes. The CCDF Final Rule requires that all Tribes, including Tribes that have consolidated their CCDF program into an approved Pub. L. 102-477 Plan, 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.³

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. Community members, 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 community members to review the CCDF Plan and provide input.⁴ However, as further detailed 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 CCDF Plan are available throughout the service area.⁵ Tribal consortia can choose to hold multiple public hearings if they determine that this is the best way to reach their community. Question 8 offers additional strategies for Tribal Lead Agencies to ensure that the public hearing is accessible and to consider factors, such as location.

Additionally, when Tribal consortia submit their CCDF Plan, they are required to submit an individual child count declaration and documentation from each participating Tribe or community that authorizes the consortium to receive CCDF funds on behalf of that Tribe or community.⁶ During the development of the CCDF Plan, individual Tribes within the consortium have opportunities to provide input, be involved in the public hearing planning process, and to coordinate regarding outreach to community members.

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. The upcoming FY 2023–2025 Tribal CCDF Plan becomes effective on May 1, 2023, so Tribal Lead Agencies must hold the hearing after January 1, 2022. 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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⁴ Child Care and Development Fund, 45 C.F.R. § 98.14(c) (2016).


⁶ Child Care and Development Fund, 45 C.F.R. § 98.80(c) (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.\(^7\)

For example, the notice for the public hearing was published in the Tribe’s newspaper, flyers hung up in the Tribal community and announced on Tribal radio on September 14, 2022. The public hearing meeting was held on October 6, 2022, in the Tribal community room at 6:00 pm. This example meets the 20-day requirement as September 14 is 22 days prior to October 6.

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 community partners about the hearing, including newsletters, social media, Tribal news outlets, Tribal websites, community bulletin boards, public radio, and any other strategies that a grantee 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.\(^8\)

Tribal Lead Agencies must make the plan available to community members 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. Each section of the plan must be complete prior to the public hearing. Tribal CCDF grantees 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 grantee considers appropriate.

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

When planning for a public hearing, there are various factors to consider to maximize participation and opportunity for public input. Tribal Lead Agencies have significant flexibility, so 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 public 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 Tribal 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 the public hearing be held virtually?

Yes. Tribal Lead Agencies have the flexibility to host their public hearings virtually. The Tribal Lead Agency could plan for virtual participation (for example, through a phone line or web conference) or for community members who are unable to attend the public hearing to submit their comments regarding the CCDF Plan in other ways. The link to the meeting,

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\(^7\) Child Care and Development Fund, 45 C.F.R. § 98.14(c)(1) (2016).

\(^8\) Child Care and Development Fund, 45 C.F.R. § 98.14(c)(3) (2016).
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agenda, and CCDF Plan information used for the discussion could be emailed out to potential participants in the invitation to the meeting.

10. Can members of the public provide input on the Tribal 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 Tribal 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.

11. 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 alternative avenues described in question 8. It is important to analyze all sources of input and update the CCDF Plan as needed to ensure 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 grantee should have a process for responding, or not responding, to those who submitted comments through the public hearing process.

Note: Tribal Lead Agencies with medium or large allocation sizes are required to make the final CCDF Plan available to the public. Possible strategies include providing a website link, having a copy of the Plan available in the CCDF office, and posting the final copy on community bulletin boards, Tribal offices, Tribal social media, or in Tribal newsletters.

Tribal Lead Agencies with small allocation sizes are not required to make the final CCDF Plan or any subsequent Plans available to the public. If applicable, they have the flexibility to describe the final CCDF Plan or any subsequent Plans.

12. 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. However, all CCDF Plan amendments must be submitted to the OCC regional office for approval and must be made available to the public if the Tribal Lead Agencies have a medium or large allocation size.

Possible strategies for making CCDF Plan amendments available to the public include providing a website link, having a copy of the CCDF Plan and subsequent amendment log available in the CCDF office, and posting the amended CCDF Plan on community bulletin boards, Tribal offices, Tribal social media, or in Tribal newsletters.

13. 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, public hearings, program evaluation, 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

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9 Child Care and Development Fund, 45 C.F.R. § 98.14(d) (2016).
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♦ Providing local officials and the public with information about the program, including conducting public hearings
♦ Preparing the CCDF Plan\(^{10}\)

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

\(^{10}\) Child Care and Development Fund, 45 C.F.R. § 98.54(a)(1) (2016).