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**To:** Tribal Lead Agencies administering child care programs under the Child Care and Development Fund (CCDF).

**Subject:** Procedures for Requests from Tribal Lead Agencies to Use CCDF Funds for Construction or Major Renovation of Child Care Facilities.

**References:** The Child Care and Development Block Grant (CCDBG) Act (42 U.S.C. 9857 *et seq*); 45 C.F.R. Part 98.

**Purpose:** To provide Tribal Lead Agencies instructions on how to request and receive approval from the Administration for Children and Families (ACF) to use CCDF funds for construction or major renovation of child care facilities, and provide guidance on obligating and expending funds, reporting requirements, expectations for ongoing oversight, and other requirements.

**Background:** The CCDBG Act allows Tribal Lead Agencies to use CCDF funds for construction or major renovation of child care facilities. However, a Tribal Lead Agency, including those that have consolidated their CCDF program into an approved Plan under the Indian Employment, Training and Related Services Consolidation Act of 2017, also known as P.L. 102-477, must first request and receive approval from OCC before using CCDF funds for construction or major renovation. The CCDBG Act requires OCC to develop and implement uniform procedures for the solicitation and consideration of such requests. This Program Instruction (PI) sets forth the uniform procedures.

This PI supersedes CCDF-ACF-PI-2023-01 issued June 2, 2023, and was reorganized and content streamlined to improve readability and user-friendliness. This PI removed requirements not specified in statute, regulation, or grants policy, or those requirements that do not directly support OCC's understanding of the project scope.

**Effective Date:** These revised procedures apply to construction and major renovation applications submitted after the date of issuance of this PI.

### Questions

Please direct questions to the Child Care Regional Program Manager (RPM) in the appropriate ACF Regional Office. Tribal Lead Agencies that consolidate their CCDF

programs into an approved P.L. 102-477 Plan should contact their assigned BIA Awarding Official's Technical Representative (AOTR) who can then coordinate with OCC.

Resources

- CCDF Regulations
- Child Care and Development Block Grant Act (2014)

/s/

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Wendy Horman  
Director  
Office of Child Care

**Attachments:**

Procedures for Requests to Use CCDF Funds for Construction or Major Renovation of Child Care Facilities

**Procedures for Requests to Use CCDF Funds for Construction or Major Renovation of Child Care Facilities**

PAPERWORK REDUCTION ACT. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Approved OMB Number: XXXX, expires DATE.

**Procedures for Requests to Use CCDF Funds for Construction or Major Renovation of Child Care Facilities**

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## I. Background and Statutory Authority

Section 658O(c)(6) of the Child Care and Development Block Grant (CCDBG) Act (42 U.S.C. § 9858m(c)(6)) (hereafter referred to as “the CCDBG Act”), allows Tribal Lead Agencies to use Child Care and Development Fund (CCDF) funds for construction or major renovation of child care facilities. All Tribal CCDF Lead Agencies must request and receive approval from the Office of Child Care (OCC) before using CCDF funds for construction or major renovation. The CCDF regulations define the term “major renovation” in 45 CFR § 98.2, and this definition is covered in the next section. A Tribal Lead Agency does not need to request or receive approval to spend CCDF funds on minor renovation as defined in the next section. The term “renovation” as used in this Program Instruction (PI) refers to **major renovation** only.

The CCDBG Act requires OCC to develop and implement uniform procedures for the submission and approval of construction and major renovation requests from Tribal Lead Agencies; this PI describes those procedures.

These procedures apply to all Tribal Lead Agencies except where specific flexibilities for Tribal Lead Agencies with an approved P.L. 102-477 Plan are noted (see Section X: Summary of Procedures Specific to Tribal Lead Agencies that Consolidate their CCDF Program into an Approved P.L. 102-477 Plan).

*Limitations.* CCDF funds may not be used for the purchase or improvement of land or to purchase an existing facility.<sup>1</sup> The facility must be used principally to provide direct child care services to children. If the facility is to be used for any purpose in addition to the operation of the CCDF program, costs must be allocated across any other programs in accordance with applicable cost principles based on projected usage.<sup>2</sup>

The CCDBG Act requires a Tribal Lead Agency to demonstrate in its request that adequate child care facilities are not otherwise available and that the lack of facilities will prevent future program operations. Use of funds for construction or major renovation cannot result in a decrease in the level of child care services compared to the preceding fiscal year. However, OCC can temporarily waive this requirement if the Tribal Lead Agency demonstrates through their application that the decrease in child care services is temporary and that after the construction or major renovation is complete, and the level of child care services will increase or the quality of child care services will improve.

## I. Key Terms

**Construction** means building a child care facility that does not currently exist.<sup>3</sup>

**Equipment** means items that are tangible, nonexpendable personal property having a useful life

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<sup>1</sup> Note that the prohibition on use of CCDF funding for the purchase or improvement of land (Section 658F(b) of the CCDBG Act (42 U.S.C. 9858d(b))) does not apply to the Disaster Supplemental Funds made available through the American Relief Act, 2025 (P.L. 118-158).

<sup>2</sup> 45 CFR § 98.57

<sup>3</sup> 45 CFR § 98.2

of more than five years.<sup>4</sup>

**Major renovation** means any renovation that has a cost equal to or exceeding **\$350,000** in CCDF funds for child care centers and **\$50,000** in CCDF funds for family child care homes, with annual adjustments for inflation posted on the OCC website.<sup>5</sup> A project is considered a major renovation if the CCDF costs of the project are equal or exceed the cost thresholds described above and include:

1. Structural changes to the foundation, roof, floor, exterior or load-bearing walls of a facility, or the extension of a facility to increase its floor area;

**OR**

2. Extensive alteration of a facility such as to significantly change its function and purpose for direct child care services, even if such renovation does not include any structural change; and improve the health, safety, and/or quality of child care. If a Tribal Lead Agency intends to convert an existing construction to a child care facility, the Tribe should consult with their Regional Program Specialist to determine if the renovation will significantly alter the purpose and function of the structure.

**Minor renovation** means any upgrades or repairs that:

1. Cost less than \$350,000 in CCDF funds for child care centers and less than \$50,000 in CCDF funds for family child care homes;

**OR**

2. Are in excess of the cost thresholds in (1) but do not make a structural change to the foundation, roof, floor, exterior or load-bearing walls of a facility, the extension of a facility to increase its floor area, or an alteration that significantly changes the function and purpose of the facility.

**Modular unit** is a portable structure made at another location and moved to a site for use by a Tribal Lead Agency to carry out a CCDF program.<sup>6</sup> It may be classified as either equipment or real property (See Section VII. Real Property Requirements for additional information) depending on whether the unit is intended to be used as equipment or to be fixed to the land in such a way that it becomes a permanent structure (for example, placed on a foundation and permanently connected to utility lines). Modular units intended to be “fixed” rather than “moveable” must be classified as real property. A Tribal Lead Agency may request to use CCDF funds that have been set aside for construction and major renovation to pay for the costs of the construction or major renovation of a modular unit, including the costs of buying, transporting, and installing the unit, if the unit is fixed to the land. See Section XI. Application Requirements for Modular Units for additional information. A modular unit that is moveable (i.e., not fixed permanently to the land) is classified as equipment and may be purchased with CCDF funds that have not been set aside for construction or major renovation.

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<sup>4</sup> 45 CFR §98.84(h)(2)

<sup>5</sup> 45 CFR §98.2

<sup>6</sup> *ibid*

**Mortgage, loan, and deed of trust** for the purposes of this document refers to any agreement or instrument used to finance or secure financing for the construction or major renovation of facilities built with CCDF funds. As a part of the application, a Tribal Lead Agency may request to use CCDF funds for the cost of amortizing the principal and paying interest on loans for construction or major renovation.

*Note:* All financing arrangements require additional OCC review and approval to ensure the federal government’s interest and investment in the property is adequately protected. Please allow for at least 90 calendar days for OCC’s review and approval of any financing arrangements in your construction and renovation project timeline.

**Real property** is defined as land improvements, structures, and attachment, but excludes movable machinery and equipment.

**Renovation** as used in this PI refers to major renovation.

**II. Construction and Major Renovation Planning and Application Process Overview**

The steps for Tribal Lead Agencies to request to use CCDF funds for construction or major renovation are described below. Tribal Lead Agencies should consult with OCC early in the planning process to discuss any proposed plans and maintain close communication with the assigned Regional Program Specialist throughout the construction or major renovation project. Technical assistance is available to Tribal Lead Agencies for all aspects of the construction or major renovation process, from setting aside funding and planning through post-award requirements following completion of the project.

<b>Construction and Major Renovation Process</b>	<b>Timeframe</b>
1. Set-Aside Request Submission and Acceptance	Due July 1 of the federal fiscal year in which the funds are awarded
2. Pre-Planning and Assessing Community Needs	Completed prior to application and used to inform application development
3. Application Development and Submission	Accepted any time – no deadline; apply early enough to have sufficient time to complete project within applicable obligation and liquidation timeframes
4. Project Implementation and Post-Award Actions	Submit annual progress reports on construction or major renovation activities

1. Set-Aside Request Submission and Acceptance

To use CCDF funds for construction or major renovation purposes, a Tribal Lead Agency must submit a request to set aside funds from their CCDF Mandatory or Discretionary grant award for that fiscal year. These requests must specify the amounts requested to be set aside, and submitted to OCC via the Child Care Automated Reporting System (CARS), OCC’s web-based data collection system (reach out to [cars@acf.hhs.gov](mailto:cars@acf.hhs.gov) for assistance).

### *Set-aside Request Timeline*

Set-aside requests must be submitted to OCC by July 1 of the federal fiscal year in which the funds were awarded. For example, set-aside requests for Grant Year (GY) 2027 funding must be submitted by July 1, 2027. Once the federal fiscal year ends, funds for that fiscal year can no longer be transferred to a separate grant award to use for construction or major renovation.

### *Notice of Award (Direct-funded Tribes only)*

Following OCC's review and acceptance of set-aside requests, ACF will transfer CCDF funds for construction and major renovation to a separate account via a Notice of Award. Funds in this separate account can only be used for construction or major renovation activities, unless ACF authorizes the Tribal Lead Agency to use the funds for other CCDF activities upon request and approval to repurpose the funds.

### *Considerations and Limitations*

Tribal Lead Agencies may not request their full CCDF award for construction or major renovation unless they request to waive regular spending requirements in their application as described in Section V. Application Submission Instructions.

A new Tribal Lead Agency (i.e., one that did not receive CCDF funds the preceding fiscal year) may not set aside more than an amount equivalent to its Mandatory allocation on construction and major renovation.

## 2. Pre-Planning and Assessing Community Needs

Before submitting a construction or major renovation application, the Tribal Lead Agency must conduct a community needs assessment to determine the need for construction or major renovation. There is not a required approach or format for the community needs assessment, and Tribal Lead Agencies can consider other existing community needs assessments if already available. The assessment should be designed to determine if there is a need to construct or renovate a child care facility and, if so, how the facility can be developed in a manner that best meets the community's needs. The Tribal Lead Agency should use the information from the pre-planning activities to develop and inform the application (see application requirement 2 below).

### *Planning Costs and Considerations*

Prior to the approval of the construction and major renovation application, a Tribal Lead Agency may use CCDF funds for reasonable and necessary planning costs associated with assessing the need for or preparing an application to spend CCDF funds on construction or major renovation. Such costs could include hiring an architect or engineer to develop plans and specifications or conducting environmental or historical assessments that are required for the application.

If a set aside request has already been accepted for construction and major renovation, these funds can be used to pay for planning or consultant costs. The Tribal Lead Agency may also use funds from its CCDF Mandatory or Discretionary award for planning or consultant costs and may apply a retroactive expenditure adjustment to charge these costs to the separate construction

and major renovation award, however is not required to do so.

When planning for construction or major renovation, the Tribal Lead Agency should carefully consider whether it would have sufficient funds to cover ongoing costs necessary to operate the facility after the construction or major renovation is completed and the impact on the Tribal Lead Agency's ability to meet its child care service obligations.

#### *Restricted Access to Construction or Major Renovation Set-Aside Funding*

As described above, CCDF funds that are set aside for construction or major renovation may be utilized for limited planning activities that aid in the submission of the construction and major renovation application, such as the needs assessment, environmental assessment, or working with a consultant, architect, engineer, or contractor. Tribal Lead Agencies may *not* utilize this set-aside funding on non-planning activities, such as site preparation and ordering materials, until the Tribal Lead Agency has received written approval from OCC on its construction and major renovation application. Due to the limited allowable uses of funding and potential for misuse, ACF will restrict access to all construction and major renovation set-aside funds that are not linked to an approved application or repurpose request. When attempting to withdraw funds for planning costs prior to receiving written approval of the construction and major renovation application or repurpose request, Tribal Lead Agencies may have to provide documentation showing the expenses were related to planning costs to access funding. This process does not apply to Tribal Lead Agencies that consolidate their CCDF programs into an approved P.L. 102-477 Plan.

### 3. Application Development and Submission

There is no specific application submission deadline for Tribal Lead Agencies, but Tribal Lead Agencies are encouraged to submit an application as soon as possible following acceptance of the set-aside request and the completion of the community needs assessment to ensure sufficient time for its review and approval, and completion of the project before the funds reach their liquidation deadline. A Tribal Lead Agency may amend an approved application to add additional funds in future years, if needed.

If a Tribal Lead Agency proposes to construct or renovate more than one facility, it must seek OCC approval for each project even if the projects use identical plans and specifications. A Tribal Lead Agency may use a single application to seek approval for more than one project.

Detailed instructions for what must be included in the Application can be found in Section IV. Application Requirements.

### 4. Project Implementation and Post-Award Actions

Once the Tribal Lead Agency receives written approval of their application, it may begin construction or major renovation activities. The Tribal Lead Agency must submit and receive approval for any material changes in scope, nature, or projected costs of a project through an amendment to the approved application. OCC must approve the amended application before the Tribal Lead Agency can implement the changes. A Tribal Lead Agency cannot utilize funds set aside for construction and major renovation (beyond planning costs) until a full application is

approved.

The Tribal Lead Agency may not spend more CCDF funds on the construction or major renovation project than the amount approved in the application, unless an amendment to an application is submitted to OCC and subsequently approved. Tribal Lead Agencies requesting an amendment to add additional funding to an already approved application may continue carrying out their project after the amendment is submitted, pending formal approval of the amendment. This does not apply to amendments that make changes to a previously approved application that extend beyond the addition of new CCDF funding (i.e., amendments for material changes in scope or nature of the project). The Tribal Lead Agency may use non-CCDF funds for construction or major renovation without completion of an amended application.

If a Tribal Lead Agency determines that funds set aside for construction or major renovation are no longer needed for these purposes, the Tribal Lead Agency must submit a written request to OCC before the end of the third year of the award (the obligation deadline) to repurpose those funds for other allowable CCDF activities (see additional instructions in *VI. Fiscal and Administrative Procedures*).

Tribal Lead Agencies must satisfy several post-award requirements as the project progresses, as applicable based on the nature of the approved project (See Section XII. Post-Award Requirements; and if applicable *Section XI. Application Requirements for Modular Units.*)

### **III. Application Requirements**

To apply for a construction or major renovation project, the Tribal Lead Agency must submit a written application to OCC that contains the following information:

1. Cover letter– A cover letter signed by the Tribal Chairperson or his/her designee with a brief summary of the proposed project, including:
  - a. Point of contact for the project, including address, phone number, and email address
  - b. Brief summary of the proposed project
  - c. Estimated project duration and completion date
  
2. Need for the facility
  - a. An explanation of why existing facilities located within a reasonable distance<sup>7</sup> are not adequate to carry out CCDF activities, including estimates of the number of children who:
    - i. currently receive CCDF services;
    - ii. are currently eligible to receive and are in need of CCDF services but are not being served due to inadequate facilities.<sup>8</sup>
  
  - b. Why the lack of facilities will inhibit the operation of the Tribal Lead Agency's CCDF program in the future, including estimates of the number of children who:

<sup>7</sup> Reasonable distance should be determined by the applicant and reflect local needs and geography.

<sup>8</sup> 45 CFR § 98.84(b)(1)

- i. are projected to receive CCDF services over the next five years (in the absence of this proposed construction/major renovation); and
- ii. are projected to be eligible to receive and in need of CCDF services but will not be served (without this proposed construction/major renovation) due to inadequate facilities, over the next five years.<sup>9</sup>

3. Assurance of maintaining level of child care services

(Tribal Lead Agencies should respond to either item 3a or 3b – not both):

- a. Provide a written assurance that using CCDF 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 compared to the level of services provided in the preceding federal fiscal year<sup>10</sup>

**OR**

- b. Request to waive requirement to maintain level of child care services – If the Tribal Lead Agency is seeking a waiver from the requirement to maintain the level of child care services while using CCDF funds for construction or major renovation, submit the following information as part of the application
  - i. A written assurance stating that “*the decrease in the level of child care services provided by the Tribal Lead Agency is temporary.*”
    - a. Describe:
      - 1. the previous fiscal year’s level of child care services
      - 2. the projected decrease in the level of child care services during the construction/major renovation period, and
      - 3. how long the projected decrease will last. Include descriptive information about both the number of children served and the amount of funds spent on child care services.
    - b. Explain how the child care services will improve after the completion of the construction or major renovation. The explanation must include a plan that shows that the level of services will increase or that the quality of services will improve.<sup>11</sup>

*Note:* The Tribal Lead Agency may define level of services in terms of the number of children served and/or the amount of funds spent on direct child care services.

4. Assurances of meeting quality expenditure and child care direct service requirements

(Tribal Lead Agencies should respond to either item 4a or 4b – not both):

- a. Provide assurances that the Tribal Lead Agency will meet quality expenditure<sup>12</sup> and/or child care direct service requirements<sup>13</sup> while constructing or completing a

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<sup>9</sup> 45 CFR § 98.84(b)(2)

<sup>10</sup> 45 CFR § 98.84(b)(3)

<sup>11</sup> 45 CFR § 98.84(b)(3)

<sup>12</sup> 45 CFR § 98.83(g)

<sup>13</sup> 45 CFR § 98.50(f)

major renovation project;

**OR**

- b. Request to waive the quality expenditure and/or child care direct service requirements – If the Tribal Lead Agency is seeking a waiver from the quality expenditures and/or child care direct service requirements in order to spend a sizable portion or their entire CCDF allocation on construction or major renovation, submit the following information as part of the application:
    - i. A statement requesting a temporary waiver of the requirement to spend a portion of their allocation on activities to improve the quality of child care services,<sup>14</sup> activities to improve the quality of child care for infants and toddlers (if applicable), and/or the requirement to fund direct services (if applicable).<sup>15</sup>
    - ii. Describe the anticipated impact on services and quality activities as a result of this temporary waiver, including the estimated duration of any service interruptions.
5. Construction or major renovation description and specifications
- a. Describe the proposed facility, including:
    - i. information on the size and type of structure
    - ii. the number and ages of children the facility will serve
    - iii. the site of the proposed facility and why the location is appropriate in relation to the Tribal Lead Agency's service area and the community needs assessment.
  - b. Provide the plans and specifications (either draft or final) for the proposed facility, including architectural designs. Plans must include:
    - i. floor plans showing the overall dimensions of the building and the location, size, and purpose of its components (e.g., rooms, hallways);
    - ii. for major renovation, a single-line drawing(s) of the existing space and proposed alterations; and
    - iii. a description of the existing or proposed utility systems for the facility.
  - c. Describe the intended uses of the facility proposed to be constructed, or on which major renovations are proposed. If the facility is to be used for other purposes in addition to the operation of the child care program, state what portion of the facility is to be used for such other purposes.
  - d. Complete only if requesting major renovation: Describe and identify the current condition of the facility, as well as the proposed renovations.
6. Safe, healthy, and developmentally appropriate learning space

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<sup>14</sup> 45 CFR § 98.83(g)

<sup>15</sup> 45 CFR §98.50(f)

- a. Describe the aspects of the facility and physical premises that will ensure children’s health and safety and take children’s ages into consideration.

7. Environmental assessment

- a. Include an assessment of the impact of the proposed construction or major renovation on the quality of the human environment, in accordance with the National Environmental Policy Act (NEPA) of 1969.

*Note.* No action related to real property meets the “categorical exclusion” criteria outlined under NEPA; therefore, the NEPA requirements, including the environmental assessments and reports continue to apply. More information on the NEPA and requirements related to construction and major renovation is included in the HHS General Administration Manual, Part 30.

8. Project schedule and oversight

- a. Provide a proposed schedule or timeline for each major step or activity required to complete the construction or major renovation project. This schedule may be estimated and organized by project activity. Provide written assurance that the Tribal Lead Agency will provide and maintain competent and adequate oversight and inspection during all phases of the construction or major renovation project at the work site to ensure that the completed work conforms to the approved plans and specifications.

9. Project budget

- a. Provide an estimate of the total cost of the proposed construction or major renovation. The estimate must provide a breakdown by major cost category, including:
  - i. demolition and removal;
  - ii. site work;
  - iii. general construction/major renovation;
  - iv. plumbing; heating, ventilation and air conditioning;
  - v. electrical;
  - vi. equipment;
  - vii. architectural and engineering fees.

The cost estimate must include:

- i. Estimated one-time costs, including:
  1. planning costs
  2. labor, materials and services necessary to prepare for facility operations
  3. initial equipment for the facility
  4. professional fees
  5. moving expenses

## 6. cost of site preparation

- b. Documentation to support the cost estimate, such as a written estimate prepared by a licensed architect or engineer.
- c. An estimate of ongoing costs such as staffing costs, supplies, insurance premiums, maintenance costs, property taxes, and any other operating costs for the facility or the child care program.

*Note:* A Tribal Lead Agency may not use the separate construction/major renovation grant award to pay for ongoing operating costs. The construction/major renovation grant award must only be used for one-time construction and major renovation costs or principal and interest payments if the project is financed through a loan. However, other funds from the Tribe's CCDF Mandatory or Discretionary grant award may be used for allowable operating costs.

- d. For Tribal Lead Agencies receiving a large CCDF allocation (any program that received \$1 million or more in CCDF funding in FY2016) – Provide an assurance that the Tribal Lead Agency has adequate resources and will continue to operate a child care certificate program during and following the completion of the project.
- e. For modular units, provide a cost comparison of the life of the modular unit compared to the construction of a more permanent structure, such as a brick-and-mortar building (see Section XI: Application Requirements for Modular Units for more information).

## 10. Funding sources

- a. A statement of the amount of construction or major renovation costs that will be paid with CCDF funds listed separately by the federal fiscal year in which the CCDF funds became (or become) available.
- b. Documentation of all other sources and uses of non-CCDF funds for the construction or major renovation, including any restrictions or conditions imposed by other funding sources. The documentation must include a cost allocation plan for any facility that is utilized for programs or purposes other than child care.

## 11. Loan terms

- a. If applicable, describe the terms of any proposed or existing loan(s) related to the construction or major renovation of the facility and the repayment plans (detailing unconventional terms, if any). Any loan, mortgage agreement, deed of trust, or any other instrument used to finance the construction or major renovation must include certain requirements as outlined in Section VII: Real Property Requirements, specifically the section on Financing Arrangements.

## 12. Statement and documentation of land and facility ownership

- a. Land ownership: Provide a statement of who owns the land on which the facility is or will be located. If the Tribal Lead Agency proposes to construct or renovate a facility located on land that it does not own, describe and provide a copy of the easement, right of way, or land lease that allows the Tribal Lead Agency undisturbed use and possession of the facility for the purpose of operating a CCDF program.

*Note:* The land lease or other similar interest in the underlying land must be long enough for the Tribe to receive the full value of the CCDF funded improvements, meaning the term of the lease or other arrangement should in most cases at least equal to the estimated useful life of the facility.

- b. Facility ownership (major renovation requests only): Include a statement indicating whether the Tribal Lead Agency owns the facility to be renovated. If the Tribal Lead Agency does not own the facility, provide:
  - i. A copy of written permission from the owner allowing the proposed major renovation and acknowledging federal interest in the property
  - ii. A statement and documentation of the length of the lease for the facility; the lease must:
    1. demonstrate that the Tribal Lead Agency has access to the facility for a reasonable period of time, taking into consideration the amount of CCDF funds used to renovate the facility; and
    2. include required information related to the federal interest (see *Federal Interest Involving Construction or Major Renovation of Leased Property*).

### 13. Written assurances of compliance with applicable requirements

- a. Provide written assurances that the facility will be constructed or renovated in compliance with:
  - i. All applicable building code and licensing requirements to ensure the health and safety of the children and child care staff;
  - ii. The National Historical Preservation Act (technical assistance is available if additional information is needed.)
  - iii. The access requirements of the Americans with Disabilities Act, if applicable;
  - iv. Section 504 of the Rehabilitation Act of 1973, as amended;
  - v. The Flood Disaster Protection Act of 1973, if applicable; and,
  - vi. The Earthquake Hazards Reduction Act of 1977, if applicable.

### 14. Real property and fiscal reports

- a. Tribal Lead Agencies must submit required real property and fiscal reports, as described in *Section VII: Real Property Requirements* below. The following two reports must be submitted as part of the application.
  - i. SF-429 Real Property Status Report (Cover Page)
  - ii. SF-429-B Real Property Status Report (Request to Acquire, Improve or

Furnish)

All Real Property Reporting Status Forms (SF-429 forms) must be submitted electronically through GrantSolutions Online Data Collection System (OLDC).

#### **IV. Application Submission Instructions**

The Tribal Lead Agency must address the completed application to the Director of the Office of Child Care and send via email to the OCC Regional Program Manager for the region where their Tribal Lead Agency is located:

Director  
Office of Child Care  
Administration for Children and Families

Contact information for the OCC Regional Program Manager can be found on OCC's website. Please work with your Regional Office on an on-going basis in the development of the construction application. This will expedite the approval process.

Tribal Lead Agencies that consolidate their CCDF program into an approved P.L. 102-477 Plan must address the completed application to the Director of the Office of Child Care and send via email to the Office of Child Care at OCCTribal@acf.hhs.gov and send a copy to their assigned Bureau of Indian Affairs (BIA) Awarding Official's Technical Representative (AOTR).

#### Application Review and Approval

OCC will review all applications for completeness and adherence to the federal regulations and application requirements described in this PI, and contact the Tribal Lead Agency for any additional information if an application is incomplete. The amount of time required for the review process varies depending on how thoroughly the application addresses all necessary requirements, and other factors. Once the application is complete, OCC will provide written approval to proceed with the project.

#### **V. Fiscal and Administrative Requirements**

***Administrative Costs and Spending Requirements*** - Amounts used for construction and major renovation, including planning and consultant costs, are not considered administrative costs. Unless requesting to waive the CCDF spending requirements (see Section IV. Application Requirements, item #4), Tribal Lead Agencies must meet all applicable CCDF quality,<sup>16</sup> infant and toddler quality,<sup>17</sup> and direct services spending requirements.<sup>18</sup> Construction and major renovation costs cannot be counted as quality or direct service expenditures.

***Allowable Costs*** - Reasonable fees and costs associated with and necessary to the construction or

<sup>16</sup> The quality spending requirement applies to all Tribal Lead Agencies. 45 CFR §98.83(g)

<sup>17</sup> The infant/toddler quality spending requirement applies to Tribal Lead Agencies receiving a medium or large CCDF allocation only. 45 CFR §98.83(g)

<sup>18</sup> The direct services spending requirement applies to Tribal Lead Agencies receiving a medium or large CCDF allocation only. 45 CFR § 98.50(f)

major renovation of a facility are allowable costs for CCDF funds, but require prior, written approval from ACF.

**Audits** - Any federal Single Audit of a Tribal Lead Agency that has constructed or renovated a facility with CCDF funds in whole or in part must include an audit of any mortgage or encumbrance on the facility.

**Davis-Bacon Act** - The U.S. Department of Labor has found no basis for application of the Davis-Bacon prevailing wage rates to construction and major renovation projects funded by CCDF.<sup>19</sup> The CCDBG Act does not impose Davis-Bacon requirements. However, Davis-Bacon requirements may still apply if a project is partly funded by another program that is subject to the Davis-Bacon Act, such as the Head Start program. In such circumstances, the Tribal Lead Agency should contact the other program with any questions regarding the applicability of Davis-Bacon.

**Financial Reporting** - Tribal Lead Agencies must annually report funds expended for construction or major renovation on the Financial Reporting Form for Tribal Child Care and Development Fund (CCDF) Lead Agencies (ACF 696-T) separately from other CCDF funds.

**Income** - Income from the sale of equipment or real property constructed in whole or in part with CCDF funds is subject to the provisions of 2 CFR § 200.307 governing such income.

**Obligation and Liquidation Deadlines** - Tribal Lead Agencies must obligate CCDF funds used for construction or major renovation by the end of the third federal fiscal year (FY) of the award; Tribal construction and major renovation funds must be liquidated at the end of the fifth federal fiscal year of the award.<sup>20</sup> The federal fiscal year begins October 1 and ends the following September 30; for example, funds awarded in FY 2027, which begins on October 1, 2026, and ends September 30, 2027, must be obligated by September 30, 2029 and liquidated by September 30, 2031. The obligation and liquidation periods begin with the federal fiscal year in which funds are originally awarded.

**Procurement Procedures** - All facility construction and major renovation transactions must comply with the procurement procedures in 2 CFR § 200.317 - 200.327, and must be conducted in a manner to provide, to the maximum extent practicable, full and open competition.

**Records** - The Tribal Lead Agency must retain all records pertinent to the construction or major renovation of a facility for a period equal to the Tribal Lead Agency's use of the facility plus three years, or for three years after the Tribal Lead Agency makes final payment and all pending matters (including any ongoing audits, claims, or litigation) are completed or closed, whichever is later.

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<sup>19</sup> Davis-Bacon Act applies to contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of facilities. Contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

<sup>20</sup> 45 CFR §98.84(e)

***Use of Construction/Major Renovation Funds for Other CCDF Activities (Request to repurpose funds)*** - If funds previously set-aside for construction or major renovation are no longer needed for this purpose, the Tribal Lead Agency must submit a written request to OCC to repurpose those funds to be utilized for other allowable CCDF expenses. The request must:

1. Specify the amount of funds to be repurposed
2. Be signed by the Tribal Chairperson or his/her designated representative who has the authority to act on their behalf.

The Tribal Lead Agency must receive written approval of the request to repurpose construction or major renovation funds from ACF **before** funds may be used for other allowable CCDF activities.

## **VI. Real Property Requirements**

### Real Property Reporting/Standard Forms

*Application.* Tribal Lead Agencies must submit two forms as part of the application to use CCDF funds for construction or major renovation:

1. Real Property Status Report (SF-429 Cover Page)
2. Real Property Status Report Attachment B (SF-429B) Request to Acquire, Improve or Furnish—Submission of this form, with supporting documentation, is the official starting point for any prior approval request to purchase, construct, and/or major renovation project for real property.

*Annual.* Tribal Lead Agencies must submit a Real Property Status Report Attachment A (SF-429A) form each year once funds have been set aside to provide a status of real property constructed or subject to major renovations paid for in whole or in part with federal CCDF funds. The SF-429-A is due annually on December 29.

*Disposition of Property.* Please refer to the ACF Real Property Disposition Guidance when real property constructed with CCDF funds is no longer needed for its original purpose or has outlasted its useful life.

All Real Property Reporting Status Forms (SF-429 forms) must be submitted electronically in the GrantSolutions Online Data Collection System (OLDC).

## **VII. Federal Interest**

The federal government has an interest in property that has undergone major renovation or is constructed with CCDF funds. Federal interest places restrictions on the use and disposition of the property in accordance with 2 CFR § 200.311. Facilities constructed or renovated with CCDF funds may not be mortgaged, used as collateral, sold or otherwise transferred to another party without the prior written permission of ACF.

### Notice of Federal Interest

At the commencement of construction or major renovation of a facility with CCDF funds, the Tribal Lead Agency must record a Notice of Federal Interest in the official property records for the jurisdiction in which the facility is located.

A Notice of Federal Interest is not required for a facility on Tribal lands held in trust by the U.S. Government; however, there is still a federal interest in any facility that has undergone major renovations or is constructed with CCDF funds. The Notice of Federal Interest must be submitted to ACF within ten working days of the beginning of the construction or major renovation.

#### *Federal Interest Involving Construction or Major Renovation of Leased Property*

The owner of the property (“lessor”) must include in the lease (or agree to amend the lease to include) language providing for the following:

1. The Tribal Lead Agency has full use of and access to the leased property during the term of the lease.
2. The lessor shall inform ACF of any default by the recipient under the lease, and provide ACF a minimum of 60 days from the date of receipt of the lessor’s notice of default to attempt to eliminate the default and or/determine appropriate next steps.
3. The establishment of a Notice of Federal Interest of the leased property.

#### *Notice of Federal Interest Requirements for Leased Facilities*

In the case of a leased facility undergoing major renovations, the Notice of Federal Interest must include a copy of the executed lease and all amendments. In the case of a facility to be constructed on land not owned by the Lead Agency, the Notice of Federal Interest must be the land lease or other document protecting the federal interest. In the event that filing of a lease is prohibited by law, the Lead Agency must file an affidavit signed by the representatives of the Lead Agency and the lessor stating that the lease includes terms which protect the right of the Lead Agency to occupy the facility for the term of the lease. The federal government assumes no liability for projects constructed or renovated with CCDF funds.

#### Calculating Federal Share

When CCDF funds have been used to contribute to financial equity in a property, the calculation of the federal share is determined by dividing the total amount of federal funds contributed to the construction and/or major renovation of the property divided by the total cost of acquiring and improving the property (i.e., the federal contribution plus any non-federal contribution). This percentage is then multiplied by the current fair market value of the property to determine the federal share, which must be returned to the federal government in either of the first two options set forth by 2 CFR § 200.311(d).

#### *Calculating Federal Share – Loans*

When CCDF funds have been used to pay the principal or interest on a loan used to construct and/or renovate real property, the calculation is the same as above, except that federal funds used to pay principal and interest on the loan must also be included in the numerator and all principal and interest payments plus the remaining principal balance on the loan must also be included in the denominator.

### Financing Arrangements and Rights and Responsibilities in the Event of a Mortgage or Loan Default

The Tribal Lead Agency must request and receive ACF approval before proceeding on a mortgage, loan, or other financing arrangement related to a construction or major renovation project with CCDF funds. Note that financing arrangements with or without subordination require comprehensive review by ACF. Tribal Lead Agencies should submit any proposed financing arrangements to ACF as soon as possible to allow for sufficient time for review.

Any assignment of the facility and mortgage or loan repayment responsibilities by ACF to any party, other than ACF, will be made to an agency financially capable of assuming the mortgage or loan, and will be subject to prior approval of the mortgagee/lender or creditor.

Any loan or mortgage agreement, including a deed of trust, or any other instrument used to finance the construction or major renovation secured by the property (or security agreement in the case of a modular unit which is proposed to be purchased under a chattel mortgage) must require the lender, in the case of default by the Tribal Lead Agency, to notify ACF at least 30 days before initiating foreclosure action on the property. This 30-day period will allow time for ACF to determine the preferred course of action.

The agreement must provide that ACF has the right to cure the default, and that the lender must accept the payment of money or performance of any other obligation by ACF, or its designee, for the Tribal Lead Agency, as if such payment of money or performance had been made by the Tribal Lead Agency.

The Tribal Lead Agency must immediately notify OCC in writing of a default of any description on the part of the Tribal Lead Agency under a real property or chattel loan, deed of trust, or mortgage obtained in connection with a facility constructed or renovated with CCDF funds. In the event ACF (or its designee) chooses not to cure a default, the procedures for calculating the federal share of the property, as determined by 2 CFR § 200.311, apply.

### **VIII. Insurance and Maintenance Requirements**

The Tribal Lead Agency must obtain insurance coverage for the facility constructed or renovated with CCDF funds. The coverage must begin when the construction or major renovation project is complete, or earlier if desired by the Tribal Lead Agency. A facility that has undergone major renovation or is constructed with CCDF funds must be supported by:

- (1) A title insurance policy that insures the fee interest in the facility for an amount not less than the full appraised value of the facility, and which contains an endorsement identifying ACF as a loss payee to be reimbursed if the title fails (except title insurance is not required for a facility on tribal lands held in trust by the U.S. government); and
- (2) A physical destruction insurance policy, including flood insurance where appropriate, which insures the full-appraised value of the facility from risk of partial and total physical destruction.

The title and physical destruction insurance policies must be maintained by the Tribal Lead Agency for the useful life the property.

The Tribal Lead Agency must submit copies of such insurance policies to OCC within five working days of completion of the construction or major renovation of the facility. If the Tribal Lead Agency has not received the policies in time to submit copies at the time of completion of the project, it must submit documentation to demonstrate that it has obtained the appropriate insurance policies, and it must submit copies of these policies within five working days of their receipt. The insurance policies must contain a requirement for the insurance company to notify OCC of any changes in the policy or coverage. In the event of a payout under an insurance policy, the Tribal Lead Agency may be required to remit the federal share of the proceeds to ACF.

#### **IX. Summary of Procedures Specific to Tribal Lead Agencies that Consolidate their CCDF Program into an Approved P.L. 102-477 Plan**

The procedures outlined in this PI apply to all Tribal Lead Agencies, including those that have consolidated their CCDF programs into an approved P.L. 102-477 Plan, with the following exceptions:

***Federal Award.*** Tribal Lead Agencies with their CCDF programs consolidated into an approved P.L. 102-477 Plan will not have construction or major renovation funds transferred to a separate CCDF award. ACF will provide written notification to the Tribe and BIA with details of the approved set-aside request for the funds transferred to BIA.

***Cost Allocation.*** Tribal Lead Agencies that consolidate their CCDF programs into an approved P.L. 102-477 Plan and engage in construction or major renovation of facilities that are shared with other programs *may* be required to cost allocate. P.L. 102-477 grantees are not required to cost allocate CCDF with other programs that are included in their approved P.L. 102-477 Plan.

However, if the other program(s) is *not* included in the Tribal Lead Agency's approved P.L. 102-477 Plan, the Tribal Lead Agency *must* cost allocate with the other program(s) that will be utilizing the facility.

***Obligation and liquidation deadlines.*** Tribal Lead Agencies with an approved P.L. 102-477 Plan are not subject to CCDF obligation and liquidation deadlines for any funds transferred to the BIA.

***Financial Reporting.*** Tribal Lead Agencies that consolidate their CCDF programs into an approved P.L. 102-477 Plan are not required to submit the Financial Reporting Form for Tribal Child Care and Development Fund (CCDF) Lead Agencies (ACF 696T), except in cases where the Tribal Lead Agency is utilizing CCDF funds awarded prior to their integration of CCDF into a P.L. 102-477 Plan that have not been transferred to the BIA.

Tribal Lead Agencies that consolidate their CCDF programs into an approved P.L. 102-477 Plan are required to submit the Real Property Status Reports (SF-429) as described in *Section VII*

*Real Property Requirements* section above. ACF will work with BIA and Tribal Lead Agencies to determine submission processes.

#### **X. Application Requirements for Modular Units**

The following requirements apply to applications for Tribal Lead Agencies proposing to use CCDF funds for construction or major renovation of modular units classified as real property:

- a. In the cost estimate, if a Tribal Lead Agency is requesting funds for modular units classified as real property, it must also provide a cost comparison of the life of the modular unit compared to the construction of a more permanent structure, such as a brick-and-mortar building.
- b. An application for the installation of a modular unit must include a statement describing the procedures that will be used by the Tribal Lead Agency to purchase the modular unit. This statement must include a copy of the specifications for the unit that is proposed to be purchased and an assurance that the Tribal Lead Agency will comply with procurement procedures in 2 CFR §§ 200.317 - 200.327, including the assurance that all transactions will be conducted in a manner to provide, to the maximum extent practical, open and free competition.
- c. The Tribal Lead Agency must have the modular unit inspected to assess the soundness and safety of the unit and its installation. The unit must be inspected by a licensed engineer or architect, unless the use of another inspector is justified by the Tribal Lead Agency and approved by ACF. The Tribal Lead Agency must submit to OCC the inspection report within 30 calendar days of the modular unit's installation.
- d. All reasonable costs necessary for the installation of a modular unit which has been approved by OCC are payable with CCDF funds. Such costs include, but are not limited to, payments for public utility hook-ups, site surveys and soil investigations.
- e. A modular unit that has been approved for construction or major renovation in one location may not be moved to another location without prior written permission from OCC.
- f. Modular units that are constructed or renovated with CCDF funds or which are affixed to land that is not owned by the Tribal Lead Agency must have visibly posted the following notice:
  - i. *"On (date of approval), the Administration for Children and Families (ACF) approved a request for (Name of Tribal Lead Agency) to use its Child Care and Development Fund allocation for the acquisition of this modular unit. The use of federal funds incorporated conditions which included restrictions on the use and disposition of this property and provided for a continuing federal interest in the property. Specifically, the property may not be used for any purpose other than the purpose for which the facility was funded, without the prior express written approval of the responsible ACF official or sold or transferred to another party without the prior written permission of the responsible ACF official. These*

*conditions are in accordance with the statutory provisions set forth in 42 United States Code, Section 9858m(c)(6); the applicable regulatory provisions set forth in 45 CFR Part 98 and 2 CFR Part 200; and the Department of Health and Human Services policy."*

## **XI. Post-Award Requirements**

The authorization to use funds for construction or major renovation is subject to supplemental terms and conditions and post-award requirements described in OCC's approval notice and in the sections below.

Statement by Licensed Engineer or Architect. Prior to the start of construction or major renovation (but after OCC application approval), the Tribal Lead Agency must submit to OCC a statement by a licensed engineer or architect indicating that:

1. the overall estimated cost of the proposed construction/major renovation and the cost of its individual elements are within the range for similar projects in the same community; and
2. the facility will be structurally sound if constructed or renovated in accordance with the proposed design. The statement may be made by any engineer or architect, in the public or private sector, who is qualified to judge the structural soundness of the facility.

Annual Reporting. Tribal Lead Agencies must submit two annual reports.

- The Real Property Status Report SF-429A (General Reporting) provides a status of real property constructed or subject to major renovations paid for in whole or in part with federal CCDF funds. The SF-429-A is due annually on or before December 29.
- ACF-696T Form - Financial Reporting Form for Tribal CCDF Lead Agencies and specify construction or renovation-related expenses. The ACF-696T is due on or before December 29 documenting obligation and liquidation of funding occurring in the preceding federal fiscal year.

Final Contract. The Tribal Lead Agency must submit a copy of the final contract to construct or renovate the facility to OCC within ten working days of its execution. The total price of any contract must be fixed, and the contract must include a provision stating that the price may not be increased after the contract is entered into except for reasons that are beyond the builder's control and unforeseeable at the time into which the contract was entered.

Final Inspection Report. Upon completion of the construction or major renovation, the Tribal Lead Agency must submit a final inspection report that demonstrates the structural soundness and safety of the facility (if the facility is a modular unit see Section XI: Application Requirements for Modular Units for additional instructions). The report must be submitted to OCC within 30 calendar days of the substantial completion of the construction or major renovation.