



# CROW CREEK SIOUX TRIBE

P.O. BOX 50  
FORT THOMPSON, SOUTH DAKOTA 57339  
TEL: (605) 245-2221 – FAX: (605) 245-2470

## **Written Comments on Proposed Information Collection Activity: Adoption and Foster Care Analysis and Reporting System (AFCARS)**

### **Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services, Office of Management and Budget # 0970-0422**

The Crow Creek Sioux Tribe submits the following written comments in response to the proposed information collection activity regarding the Adoption and Foster Care Analysis and Reporting System (AFCARS). As a direct service Tribe, Crow Creek Sioux Tribe experiences firsthand the impacts of federal child welfare policy decisions on our children, families, and future generations. These comments are grounded in the United States' treaty and trust responsibility to Tribal Nations and our inherent sovereign authority to protect our children.

AFCARS is the federal government's primary case-level data system for tracking children in foster care and adoption systems under Titles IV-B and IV-E of the Social Security Act. AFCARS collects critical information on children entering and exiting foster care, placement types, permanency outcomes, and demographic characteristics, including race and Tribal affiliation. As the largest national dataset on child welfare, AFCARS shapes federal policy decisions, funding allocations, and program design across the country. For Tribal Nations, AFCARS is a federal accountability mechanism that determines whether Native children are visible in policy decisions or erased from them.

The importance of AFCARS for Tribal Nations cannot be overstated. Native children continue to be removed from their homes and communities at disproportionately high rates, reflecting both historic and ongoing systemic failures. Nowhere is this more evident than in South Dakota, where Native children account for more than 70 percent of the foster care population for multiple consecutive years, despite representing only a small fraction of the overall child population. In fiscal year 2023, Native children made up approximately 74 percent of children in foster care while representing roughly 13 percent of the child population. This disparity is not incidental; it reflects structural inequities in the child welfare system. Studies further show that Native children in South Dakota face a dramatically higher likelihood of removal, with some estimates

indicating they are several times more likely than white children to enter foster care over the course of childhood.

These data points underscore why AFCARS must be strengthened, not weakened. Without accurate, disaggregated, and Tribal-inclusive data, the overrepresentation of Native children remains obscured, and federal and state systems are not held accountable for outcomes that directly impact Tribal communities. Data determines where resources flow, how policies are shaped, and whether prevention efforts are prioritized. For Tribal Nations, incomplete or inaccurate data results in underinvestment in prevention, insufficient support for Tribal child welfare systems, and continued harm to our families.

The Crow Creek Sioux Tribe strongly emphasizes the importance of the 2024 AFCARS Final Rule (Information Memorandum IM-24-09), which requires state Title IV-E agencies to collect and report data related to the procedural protections of the Indian Child Welfare Act (ICWA). This Final Rule represents a critical and long-overdue correction to federal data systems by requiring the collection of information on whether ICWA applies, whether Tribes were notified, whether placement preferences were followed, and whether active efforts were made to prevent removal. For the first time, the federal government will have the ability to measure ICWA compliance at a national level, rather than relying on anecdotal or inconsistent reporting.

The Crow Creek Sioux Tribe strongly asserts that this Final Rule must be fully upheld and implemented without delay, reduction, or rollback. For decades, there has been no comprehensive federal mechanism to track whether ICWA is being implemented as required by law. This lack of accountability has allowed systemic violations to persist, contributing directly to the overrepresentation of Native children in foster care systems like that of South Dakota. The Final Rule establishes a baseline for federal oversight and creates the conditions necessary to identify noncompliance, inform corrective action, and uphold the federal trust responsibility.

The inclusion of ICWA-related data elements is not merely administrative; it is a matter of protecting the political and cultural integrity of Tribal Nations. ICWA was enacted in response to the widespread and unjustified removal of Native children from their families and communities. Without data to measure compliance, those same harms can continue unchecked. The Final Rule ensures that ICWA is not only recognized in statute but enforced in practice.

Equally important, the Final Rule advances Tribal sovereignty by recognizing the role of Tribal Nations within child welfare systems. Historically, federal and state data systems have excluded or misrepresented Tribal involvement, contributing to policy decisions that fail to reflect Tribal realities. By requiring ICWA-related reporting, the federal government acknowledges Tribal jurisdiction, improves visibility of Tribal children, and creates a pathway for more equitable funding and policy alignment.

However, the Crow Creek Sioux Tribe emphasizes that inclusion in federal data systems must be accompanied by respect for Tribal data sovereignty. Tribal Nations must have access to, ownership of, and authority over data related to their children. Federal data collection efforts must not replicate historical patterns of extraction and control but instead support Tribal self-determination and program development.

In addition, the Crow Creek Sioux Tribe calls for continued investment in Tribal child welfare capacity to ensure meaningful participation in AFCARS reporting and broader Title IV-E systems. Tribal Nations must be resourced to build and sustain data systems, train workforce, and implement culturally grounded prevention and family preservation services. Without these investments, data collection requirements risk placing additional burdens on Tribal systems without corresponding support.

In conclusion, for the Crow Creek Sioux Tribe, AFCARS is a critical tool for ensuring federal accountability to Tribal Nations and for protecting Native children. The data collected through AFCARS has direct implications for whether Native children remain connected to their families, communities, and cultures, and whether the United States fulfills its trust and treaty obligations. The persistent and severe overrepresentation of Native children in systems such as South Dakota's underscores the urgency of this work.

The Crow Creek Sioux Tribe urges the Administration for Children and Families to fully implement and uphold both the proposed information collection and the AFCARS Final Rule in a manner that centers Tribal Nations, enforces ICWA compliance, respects Tribal sovereignty, and prioritizes the protection and well-being of Native children.

Respectfully,

Chairman Peter Lengkeek