

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSISTANCE LISTING 93.489 CHILD CARE DISASTER RELIEF

ASSISTANCE LISTING 93.575 CHILD CARE AND DEVELOPMENT BLOCK GRANT

ASSISTANCE LISTING 93.596 CHILD CARE MANDATORY AND MATCHING FUNDS OF THE CHILD CARE AND DEVELOPMENT FUND

I. PROGRAM OBJECTIVES

The Child Care and Development Fund (CCDF) provides funds to states, territories, and Indian tribes (tribes) to increase the availability, affordability, and quality of child care services. Funds are used to subsidize child care for low-income families when the parents are working or attending training or educational programs, as well as for activities to promote overall child care quality for all children, regardless of subsidy receipt.

II. PROGRAM PROCEDURES

The Office of Child Care (OCC), Administration for Children and Families (ACF), Department of Health and Human Services (HHS), administers the CCDF. The CCDF consists of three distinct funding sources: Discretionary Fund (Assistance Listing 93.575), Mandatory Fund (Assistance Listing 93.596), and Matching Fund (Assistance Listing 93.596). Some states, territories, and tribes are also eligible for Child Care Disaster Relief funds (Assistance Listing 93.489); these funds may be used for any allowable CCDF activity as well as for construction or renovation of child care facilities to support recovery from specified federally declared disasters and emergencies. Additionally, under the Temporary Assistance for Needy Families (TANF) program (Assistance Listing 93.558), a state may transfer TANF funds to CCDF and, if so, the funds transferred in are treated as Discretionary Funds (42 USC 604(d); 45 CFR section 98.54(a)).

To receive funds, a state, territory, or tribe must submit a plan containing specific information and assurances. The plan serves as the application for funding for states, territories, and tribes, and is effective for a three-year period. For states, the current three-year plan covers fiscal year (FY) 2019–2021. For tribes, the current three-year plan covers FY 2020–2022 (see “Source of Governing Requirements” below for more context).

Following ACF approval of the plan, funds are awarded to a Lead Agency based on statutory/regulatory formulas. The Lead Agency is the designated state, territorial or tribal entity that is accountable for administering the CCDF program. State awards are not adjusted by separate direct federal funding of counterpart tribal programs within the state. As long as statutory and regulatory requirements are met (e.g., that the state and territory Lead agencies offer parents certificates for the purchase of child care services), grantees have flexibility in designing programs and offering services. For example, CCDF funds may be used in collaborative efforts with Head Start (Assistance Listing 93.600), including Early Head Start, programs to provide comprehensive child care and development services for children who are eligible for both programs. In fact, the coordination and collaboration between Head Start/Early

Head Start and the CCDF is strongly encouraged by sections 640(g)(1)(D) and (E), 640(h), 641(d)(2)(H)(v), and 642(e)(3) of the Head Start Act in the provision of full working day, full calendar year comprehensive services. In order to implement such collaborative programs, which share, for example, space, equipment, or materials, grantees may layer several funding streams so that seamless services are provided.

Pub. L. No. 102-477

Tribes may operate the CCDF program under a consolidated Pub. L. No. 102-477 project. Pub. L. No. 102-477 refers to the Indian Employment, Training, and Related Services Demonstration Act of 1992, which was amended by the Indian Employment, Training, and Related Services Consolidation Act of 2017 (Pub. L. No. 106-568). The purpose of this initiative is to provide for the integration of employment, training, and related services to improve the effectiveness of those services. Under Pub. L. No. 102-477, funds received from a program must be used and spent in accordance with the applicable rules for that program, subject to any waivers granted by the Secretary of HHS. Tribes participating under a Pub. L. No. 102-477 project submit consolidated plans and reports to the Department of the Interior, which serves as the lead federal agency for Pub. L. No. 102-477. The separate 477 Cluster is applicable for an audit of an Indian tribal government's approved 477 Plan. See IV, "Other Information - Tribal CCDF grantees under a Pub. L. No. 102-477 Project (477)."

Source of Governing Requirements

The Discretionary Fund (Assistance Listing 93.575) is authorized by the CCDBG Act of 1990, as amended (most recently by the CCDBG Act of 2014 (Pub. L. No. 113-186), discussed further below), and codified at 42 USC 9857 et seq. The Mandatory and Matching Funds (Assistance Listing 93.596) are authorized under section 418 of Title IV-A of the Social Security Act as amended and codified at 42 USC 618. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. No. 116-136) and the Consolidated Appropriations Act of 2021 and Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA Act) of 2021 (Pub. L. No. 116-260) both provide supplemental appropriations to prevent, prepare for, and respond to the coronavirus. The American Rescue Plan (ARP) (Pub. L. No. 117-2) provided supplemental funds for child care stabilization to support the child care sector during and after the COVID-19 public health emergency, as well as additional supplemental appropriations that can be used for broader CCDF purposes and are not limited to addressing coronavirus impacts. The Child Care Disaster Relief funds (Assistance Listing 93.489) are appropriated by the Supplemental Appropriations for Disaster Relief Act of 2019 (Pub. L. No. 116-20). The CCDF (i.e., Assistance Listings 93.575, 93.596, and 93.489) is subject to the regulations at 45 CFR parts 98 and 99.

The CCDBG Act of 2014 made a number of substantive changes to program requirements, including provisions related to eligibility of children, consumer education, and health and safety (including monitoring inspections and criminal background checks). For provisions that were effective upon enactment of the CCDBG Act of 2014, states and territories were required to complete implementation based on a reasonable interpretation of the law by September 30, 2016, unless the state or territory submitted and received approval for a temporary extension under a

waiver (**Note:** a copy of any approval letter may be obtained from the state or territory lead agency). Some provisions had later effective dates specified in the law.

On September 30, 2016, HHS published a final rule to update the CCDF regulations at 45 CFR parts 98 and 99 based on the reauthorized Act. States and territory lead agencies had until October 1, 2018, to comply with most provisions of the rule that went beyond the state's/territory's reasonable interpretation of the Act. States and territory lead agencies not in compliance by that deadline were placed on corrective action plans or, for certain background check provisions, received time-limited waiver extensions.

The reauthorized Act did not address how most of its provisions apply to tribal lead agencies, so this was clarified in the final rule. Under the rule, tribal lead agencies are subject to a tiered set of requirements based on the size of their CCDF funding allocation. For the FY 2020–FY 2022 CCDF plan cycle, the allocation size was based on the FY 2016 allocation. Tribes had until the start of the FY 2020–FY 2022 tribal plan period (i.e., October 1, 2019) to comply with the new provisions (with the exception of the quality expenditure requirements that apply to all tribes beginning in FY 2017). Tribes not in compliance by that date may be under corrective action periods.

Since March 2020, many state, territory, and tribal lead agencies requested and received temporary waivers from a variety of CCDF requirements (e.g., background check components, provider inspections, health and safety requirements, and fiscal requirements such as obligation and liquidation deadlines) due to extraordinary circumstances resulting from the impact of coronavirus.

Other than 2 CFR section 200.202 and sections 200.330 through 200.332, as implemented by 45 CFR sections 75.202 and 75.351 through 75.353, CCDF is not subject to the post federal award or cost principles requirements in 2 CFR Part 200, subparts D and E, respectively, or the associated HHS implementing regulations at 45 CFR Part 75.

Availability of Other Program Information

OCC's website (<https://www.acf.hhs.gov/occ>) provides general information on this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors**

are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	Y	N	N	N	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

- a. Funds may be used for child care services in the form of certificates, grants, or contracts (42 USC 9858c(c)(2)(A)).
- b. Funds may be used for activities that improve the quality or availability of child care services, consumer education, and parental choice (42 USC 9858e).
- c. Funds may be used for activities that improve access to child care services, including the use of procedures to permit enrollment of homeless children (after an initial eligibility determination) while required documentation is obtained; training and technical assistance on identifying and serving homeless children and their families; and specific outreach to homeless families (42 USC 9858c(c)(3)(B)(i)).
- d. Funds may be used for any other activity that the Lead Agency deems appropriate to (a) promote parental choice; (b) provide comprehensive consumer education information to help parents and the public make informed choices about child care services and promote involvement by parents and family members in the development of their children in child care settings; (c) deliver high-quality, coordinated early childhood care and education services to maximize parents’ options and support parents trying to achieve independence from public assistance; (d) improve the overall quality of child care services and programs by implementing the health, safety, licensing, training and oversight standards established in the CCDBG Act and in state law and regulations; (e) improve child care and development of participating children; and (f) increase the number and

percentage of low-income children in high-quality child care settings (42 USC 9857 and 9858c(c)(3)(B)).

- e. Improvements or upgrades to a facility which are not specified under the definitions of construction or major renovation (see III.A.2.c(1) below) may be considered minor remodeling and are, therefore, allowed as follows:
 - (1) For other than sectarian organizations, funds may be used for the minor remodeling of child care facilities.
 - (2) For sectarian organizations, funds may be used for the renovation or repair of facilities only to the extent that it is necessary to bring the facility into compliance with the health and safety standards required by 42 USC 9858c(c)(2)(F) (42 USC 9858d(b)).
- f. Supplemental funds appropriated by the CARES Act (Pub. L. No. 116-136) and the CRRSA Act (Pub. L. No. 116-260) may be used for allowable CCDF purposes to prevent, prepare for, and respond to the coronavirus. For example, funds from both of these supplemental appropriations may be used to provide continued payments and assistance to child care providers in the case of decreased enrollment or closures related to coronavirus, and to ensure that they are able to remain open or reopen.
- g. States, territories, and tribes shall use stabilization funds appropriated by the ARP Act (Pub. L. No. 117-2) to make subgrants to child care providers to support the stability of the child care sector during and after the COVID-19 public health emergency. Additional supplemental discretionary funds provided by the ARP Act (other than the stabilization funds) are not limited to addressing coronavirus but can be spent for any allowable CCDF uses.

2. *Activities Unallowed*

- a. No funds may be expended through any grant or contract for child care services for any sectarian purpose or activity, including sectarian worship or instruction (42 USC 9858k(a)).
- b. With regard to services to students enrolled in grades one through twelve, no funds may be used for services provided during the regular school day, for any services for which the students receive academic credit toward graduation, or for any instructional services that supplant or duplicate the academic program of any public or private school (42 USC 9858k(b)).
- c. No funds can be used for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility (42 USC 9858d(b)).

- (1) “Construction” is defined as the erection of a facility that does not currently exist. “Major renovation” is considered permanent improvement and is defined as (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, even if such renovation does not include any structural change (45 CFR section 98.2).
- (2) *Exception:* Tribal lead agencies may use funds for the construction and major renovation of child care facilities with ACF approval (42 USC 9858m c)(6); 45 CFR section 98.
- (3) *Exception:* State, territory, and tribal lead agencies may use Child Care Disaster Relief Funds (Assistance Listing 93.489) for renovating, repairing, or rebuilding child care facilities with ACF approval (Pub. L. No. 116-20).

B. Allowable Costs/Cost Principles

As indicated in Appendix I to the Supplement, “Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200,” grantees (lead agencies) expend and account for CCDF funds in accordance with the laws and procedures they use for expending and accounting for their own funds (45 CFR section 98.67).

E. Eligibility

1. Eligibility for Individuals

Lead agencies must have in place procedures for documenting and verifying eligibility in accordance with the following federal requirements, as well as the specific eligibility requirements selected by each Lead Agency in its approved Plan. A Lead Agency is the designated state, territorial, or tribal entity to which the CCDF grant is awarded and that is accountable for administering the CCDF program.

- a. For state lead agencies and territory lead agencies, and for those tribal Lead agencies with allocations of at least \$250,000, children must be under age 13 (or up to age 19, if incapable of self-care or under court supervision), who reside with a family whose income does not exceed 85 percent of state/territorial/tribal median income for a family of the same size, and reside with a parent (or parents) who is working or attending a job-training or education program; or are in need of, or are receiving, protective services. Lead agencies may choose to provide services during periods of job search. Tribal lead agencies may elect to use state or tribal median income (42 USC 9858n(4); 45 CFR sections 98.20(a) and 98.81(b)). Tribal lead agencies also have the option for categorical eligibility (considering any Indian child within the service area eligible for

services) if the tribe's median income is below 85 percent of the state median income, provided that services go to those with the highest need.

State, territory, and tribal lead agencies may use supplemental funds appropriated by the CARES Act (Pub. L. No. 116-136), the CRRSA Act (Pub. L. No. 116-260), and the ARP Act (Pub. L. No. 117-2) to provide child care assistance to health care sector employees, emergency responders, sanitation workers, and other workers deemed essential during the response to the coronavirus, without regard to the income eligibility requirements. The Lead Agency may define which workers are considered essential in accordance with any relevant state, territorial, and tribal laws or policies.

- b. State lead agencies, territory lead agencies, as well as those tribal lead agencies with allocations of at least \$250,000, must establish minimum 12-month eligibility periods before re-determining eligibility of CCDF families and must consider a child to be eligible between eligibility re-determinations, regardless of (1) changes in income (as long as income does not exceed 85 percent of state/territory/tribal median income); or (2) temporary changes in participation in work, training, or education activities. If a parent experiences a non-temporary loss of job, education, or training that affects eligibility, lead agencies have the option—but are not required—to terminate assistance prior to the next re-determination (i.e., prior to the end of the minimum 12-month eligibility period). However, if a Lead Agency exercises this option, the Lead Agency must provide (prior to terminating the subsidy) a period of continued assistance of at least three months to allow parents to engage in job search, resume work, or attend an education or training program as soon as possible. States and territories must have implemented these eligibility provisions by September 30, 2016, unless the state or territory requested and received approval for a temporary extension under a waiver (42 USC 9858c(c)(2)(N)).
- c. Because a child meeting eligibility requirements at the most recent eligibility determination or re-determination is considered eligible between re-determinations as described in paragraph b. above, any payment for such a child shall not be considered an error or improper payment due to a change in the family's circumstances (45 CFR sections 98.21(a)(4) and 98.68(c)(2)). There is no federal requirement for lead agencies to recoup CCDF overpayments, except in instances of fraud as defined by the Lead Agency (45 CFR section 98.68(b)(2)).
- d. States and territories must have procedures to permit enrollment of homeless children (after an initial eligibility determination) while required documentation is obtained. States and territories must also have a grace period that allows children experiencing homelessness and children in foster care to receive services while providing families a reasonable time

to take any necessary action to comply with immunization and health and safety requirements.

- e. State lead agencies, territory lead agencies, as well as those tribal lead agencies with allocations of \$250,000 or more, must establish a sliding fee scale, based on family size, income, and other appropriate factors, that provides for cost sharing by families that receive CCDF child care services (42 USC 9858c(c)(3)(B)(i); 45 CFR section 98.45(k)). Lead agencies may exempt families meeting criteria established by the Lead Agency from making copayments and must establish a payment rate schedule for child care providers caring for subsidized children (45 CFR section 98.45). State, territory, and tribal lead agencies may use supplemental funds appropriated by the CRRSA Act (Pub. L. No. 116-260) for costs of providing relief from copayments and tuition payments for families and for paying that portion of the child care provider's costs ordinarily paid through family copayments.
- f. State lead agencies, territory lead agencies, as well as those tribal lead agencies with allocations of \$250,000 or more, must, to the extent practicable, implement enrollment and eligibility policies that support the fixed costs of providing child care services by delinking provider reimbursement rates from an eligible child's occasional absences, for example by paying based on a child's enrollment rather than attendance or paying for a specified amount of absences (42 USC 9858c(c)(2)(S), 45 CFR 98.45(1)(2)). Lead agencies are not required to limit authorized child care services strictly based on the work, training, or educational schedule of the parent(s) or the number of hours the parent(s) spend in work, training, or educational activities (45 CFR section 98.21(g)).

2. Eligibility for Group of Individuals or Area of Service Delivery

The award of CCDF funds to a tribe shall not affect the eligibility of any Indian child to receive CCDF services in the state or states in which the tribe is located (42 USC 9858m(c)(5); 45 CFR section 98.80(d)).

3. Eligibility for Subrecipients

States, territories, and tribes shall use stabilization funds appropriated by the ARP Act (Pub. L. No. 117-2) to make subgrants to qualified child care providers to support the stability of the child care sector during and after the COVID-19 public health emergency. To be qualified to receive a subgrant, a provider on the date of application for the subgrant must either be: (1) open and available to provide child care services, or (2) closed due to public health, financial hardship, or other reasons relating to the COVID-19 public health emergency. In addition, the provider must either be eligible to serve children who receive CCDF subsidies, or be licensed, regulated, or registered in the state, territory, or tribe and meet applicable state and local health and safety requirements.

G. Matching, Level of Effort, Earmarking

The matching and MOE requirements apply only to the Matching Fund (Assistance Listing 93.596). The state's matching and MOE expenditures are closely related. For a state to receive the allotted share of the Matching Fund, the state must meet the MOE requirement and obligate the Mandatory Fund by year end (see III.H, "Period of Performance"). The matching and MOE amounts are reported on the CCDF Financial Report (ACF-696) (see III.L., "Reporting – Financial Reporting").

1. Matching

- a. A state is eligible for federal matching funds (limit specified in 42 USC 618 and 45 CFR section 98.63) only for those allowable state expenditures that exceed the state's MOE requirement, provided all of the Mandatory Funds (Assistance Listing 93.596) allocated to the state are also obligated by the end of the fiscal year (45 CFR section 98.53).
- b. State expenditures will be matched at the Federal Medical Assistance Percentage (FMAP) rate for the applicable fiscal year. This percentage varies by state and is available at <http://www.aspe.hhs.gov/health/fmap.htm>. To be eligible an activity must be allowable and be described in the approved state plan (45 CFR section 98.53). The ARP Act (Pub. L. No. 117-2) waived a portion of the required match for FY 2021 and FY 2022.
- c. Private or public donated funds may be counted as state expenditures for this purpose subject to the limitations in 45 CFR section 98.53.
- d. No more than 30 percent of state matching claims may be for pre-kindergarten services (45 CFR section 98.53(h)(3)). The same expenditure may not be used for both MOE and matching purposes (45 CFR sections 98.53(d) and 98.53(h)).

2. Level of Effort

2.1 Level of Effort – Maintenance of Effort

If a state requests Matching Funds (Assistance Listing 93.596), state MOE (nonfederal) funds for child care activities must be expended in the year for which Matching Funds are claimed in an amount that is at least equal to the state's share of expenditures for FY 1994 or 1995 (whichever is greater) under former sections 402(g) and (i) of the Social Security Act (42 USC 618). Private or public donated funds may be counted as state expenditures for this purpose (45 CFR section 98.53).

No more than 20 percent of the MOE requirement may be met with state expenditures for pre-kindergarten services. The same expenditure may not

be used for both MOE and matching purposes (45 CFR sections 98.53(d) and 98.53(h)).

2.2 Level of Effort – *Supplement Not Supplant*

The annual appropriations law for CCDF Discretionary Funds (Assistance Listing 93.575), the CARES Act (Pub. L. No. 116-136), and the CRRSA Act (Pub. L. No. 116-260) all specify that funds shall be used to supplement, not supplant state general revenue funds for child care assistance for low-income families. Funds appropriated by the ARP Act (Pub. L. No. 117-2) shall be used to supplement and not supplant other federal, state, and local public funds expended to provide child care services for eligible individuals.

3. Earmarking

- a. *Administrative Earmark* – A state/territory Lead Agency may not spend on administrative costs more than 5 percent of total CCDF awards expended (i.e., the total of Assistance Listings 93.575, 93.596, and 93.489 with the exception of any Disaster Relief funds spent on construction and renovation) and any state expenditures for which Matching Funds (Assistance Listing 93.596) are claimed (42 USC 9858c(c)(3)(C); Pub. L. No. 116-20; 45 CFR section 98.52).

Tribal lead agencies are allowed 15 percent of the amount expended under Assistance Listings 93.575, 93.596, and 93.489 (with the exception of any Disaster Relief funds spent on construction and renovation) for administrative costs. Tribes with at least 50 children under age 13 are provided a base amount, which may be expended for any purpose consistent with the purpose and requirements of the CCDF. Tribes with fewer than 50 children who are members of a consortium receive a pro rata amount of the base amount in proportion to the number of children under age 13 in relation to 50. The base amount is not included in the amount against which the administrative earmark is calculated. For FY 2017 and later fiscal years, the base amount was \$30,000 (45 CFR sections 98.61(c), 98.83(h), and 98.83(i)).

The administrative costs maximum applies to all CCDF expenditures in the aggregate, including supplemental CCDF funding provided by the CARES Act (Pub. L. No. 116-136), the CRRSA Act (Pub. L. No. 116-260), and the ARP Act (Pub. L. No. 117-2), excluding the stabilization funds provided by ARP.

The following activities are not considered administrative costs (45 CFR section 98.54(b)):

- (1) Eligibility determination and redetermination.

- (2) Preparation and participation in judicial hearings.
- (3) Child care placement.
- (4) Recruitment, licensing, inspection, review, and supervision of child care placements.
- (5) Rate-setting.
- (6) Resource and referral services.
- (7) Training of child care staff.
- (8) Establishment and maintenance of computerized child care information systems.
- (9) Establishment and operation of a certificate program.

Child care stabilization funds provided by the ARP are not subject to the CCDF administrative cost limitation. Rather, a state that receives these funds shall reserve not more than 10 percent to administer subgrants, provide technical assistance and support for applying for and accessing the subgrant opportunity, publicize the availability of the subgrants, carry out activities to increase the supply of child care, and provide technical assistance to help child care providers.

- b. *Quality Earmark* – For FY 2018 and FY 2019, states and territory lead agencies must spend on quality activities, as provided in the state/territorial plan, not less than 8 percent of CCDF funds expended (i.e., the total of Assistance Listings 93.575, 93.596, and 93.489 with the exception of any Disaster Relief funds spent on construction and renovation) and any state expenditures for which Matching Funds (Assistance Listing 93.596) are claimed (45 CFR section 98.53). This amount rises to 9 percent for FY 2020 and succeeding fiscal years. States and territory lead agencies must spend at least an additional 3 percent on quality improvement for infants and toddlers (45 CFR section 98.50(b)).

All tribal lead agencies must spend at least 7 percent on quality activities for FY 2018 and FY 2019, and this amount rises to 8 percent for FY 2020 and FY 2021. Tribal lead agencies with CCDF allocations of \$250,000 and higher must spend at least an additional 3 percent on quality improvement for infants and toddlers starting in FY 2019. The base amount (discussed in paragraph 3.a above, *Administrative Earmark*) is not included in the amount against which the quality earmark is calculated (45 CFR sections 98.53(a), and 98.83(g)).

Quality spending requirements do not apply to supplemental funds provided by the CARES Act (Pub. L. No. 116-136), the CRRSA Act (Pub. L. No. 116-260), and the ARP Act (Pub. L. No. 117-2).

c. *Direct Spending Earmarks*

- (1) From the aggregate amount of Discretionary funds (Assistance Listing 93.575) and Disaster Relief funds (Assistance Listing 93.489) provided for a year (with the exception of Disaster Relief funds used for construction or major renovation), state lead agencies, territory lead agencies, as well as those tribal lead agencies with allocations of at least \$250,000 must reserve funds for administrative costs (described in paragraph 3.a above, *Administrative Earmark*) and the minimum amount required for quality activities (described in paragraph 3.b above, *Quality Spending Earmark*).
- (2) From the remainder, the Lead Agency must use not less than 70 percent to fund direct services. In addition, states and territories must spend not less than 70 percent of the mandatory and federal and state share of Matching funds (Assistance Listing 93.596) to meet the needs of families who: (1) receive TANF assistance; (2) are attempting through work activities to transition off TANF; and (3) are at risk of becoming dependent on TANF (45 CFR section 98.50(e) and (f)).
- (3) Direct spending requirements do not apply to supplemental funds provided by the CARES Act (Pub. L. No. 116-136), the CRRSA Act (Pub. L. No. 116-260) and the ARP Act (Pub. L. No. 117-2).

H. Period of Performance

1. Discretionary Funds (Assistance Listing 93.575) must be obligated by the end of the succeeding fiscal year after award and expended by the end of the third fiscal year after award (42 USC 9858h(c); 45 CFR section 98.60).
2. Mandatory Funds (Assistance Listing 93.596) for states must be obligated by the end of the fiscal year in which they are awarded if the state also requests Matching Funds (Assistance Listing 93.596). If no Matching Funds are requested for the fiscal year, then the Mandatory Funds (Assistance Listing 93.596) are available until liquidated (45 CFR section 98.60(d)).
3. Mandatory Funds (Assistance Listing 93.596) for tribes must be obligated by the end of the succeeding fiscal year after award and liquidated by the end of the third fiscal year after award (45 CFR section 98.60(e)).

4. Matching Funds (Assistance Listing 93.596) must be obligated by the end of the fiscal year in which they are awarded and liquidated by the end of the succeeding fiscal year after award (45 CFR section 98.60(d)).
5. Child Care Disaster Relief Funds (Assistance Listing 93.489) not used for construction or renovation must be obligated by the end of the succeeding fiscal year after award and expended by the end of the third fiscal year after award (Pub. L. No. 116-20).
6. Child Care Disaster Relief Funds (Assistance Listing 93.489) used for construction or renovation must be obligated by the end of the fourth fiscal year after award and expended by the end of the fifth fiscal year after award (Pub. L. No. 116-20).

For example, availability periods for grant year 2021 funds awarded on any date in FY 2021 (October 1, 2020 through September 30, 2021):

If Source of Obligation Is –	Obligation must Be Made by End of –	Obligation must Be Liquidated by End of –
FY 2021 Discretionary (Assistance Listing 93.575)	FY 2022 (i.e., by 9/30/2022)	FY 2023 (i.e., by 9/30/2023)
FY 2021 Mandatory (State) (Assistance Listing 93.596)	FY 2021 (i.e., by 9/30/2021 but ONLY if Matching Funds are used)	No requirement for liquidation by a specific date
FY 2021 Mandatory (Tribes) (Assistance Listing 93.596)	FY 2022 (i.e., by 9/30/2022)	FY 2023 (i.e., by 9/30/2023)
FY 2021 Matching (Assistance Listing 93.596)	FY 2021 (i.e., by 9/30/2021)	FY 2022 (i.e., by 9/30/2022)
FY 2021 Child Care Disaster Relief—Not Used for Construction or Renovation (Assistance Listing 93.489)	FY 2022 (i.e., by 9/30/2022)	FY 2023 (i.e., by 9/30/2023)
FY 2021 Child Care Disaster Relief—Used for Construction or Renovation (Assistance Listing 93.489)	FY 2024 (i.e., by 9/30/2024)	FY 2025 (i.e., by 9/30/2025)

TANF funds (Assistance Listing 93.558) transferred to the CCDF during a fiscal year are treated as Discretionary Funds of the year they are transferred for purposes of the period of availability (45 CFR section 98.54(a)(1)).

In lieu of the obligation and liquidation requirements cited above, tribes are required to liquidate CCDF funds used for construction or major renovation by the end of the second fiscal year following the fiscal year for which the grant is awarded (45 CFR section 98.84(e)).

Supplemental funds provided under the CARES Act (Pub. L. No. 116-136), the CRRSA Act (Pub. L. No. 116-260), and the ARP Act (Pub. L. No. 117-2) have specific obligation and liquidation timeframes that are outlined below:

	Obligation must Be Made by End of –	Obligation must Be Liquidated by End of –
FY 2020 Discretionary supplemental funds provided under the CARES Act (Pub. L. No. 116-136) (Assistance Listing 93.575)	FY 2022 (i.e., by 9/30/2022)	FY 2023 (i.e., by 9/30/2023)
FY 2021 Discretionary supplemental funds provided under the CRRSA Act (Pub. L. No. 116-260) (Assistance Listing 93.575)	FY 2022 (i.e., by 9/30/2022)	FY 2023 (i.e., by 9/30/2023)
FY 2021 Discretionary supplemental funds provided under the ARP Act (Pub. L. No. 117-2) (Assistance Listing 93.575)	FY 2023 (i.e., by 9/30/2023)	FY 2024 (i.e., by 9/30/2024)
FY 2021 Child care stabilization funds provided by the ARP Act (Pub. L. No. 117-2) (Assistance Listing 93.575)	FY 2022 (i.e., by 9/30/2022)	FY 2023 (i.e., by 9/30/2023)

M. Subrecipient Monitoring

Lead agencies that use other governmental or nongovernmental subrecipients to administer the program must have written agreements in place outlining roles and responsibilities for meeting CCDF requirements. The contents of the written agreement may vary based on the role the subrecipient is asked to assume or the type of product undertaken, but must include, at a minimum, tasks to be performed, a schedule for completing tasks, a budget which itemizes categorical expenditures, and indicators or measures to assess performance. Lead agencies shall oversee the expenditure of funds by sub-grantees, monitor programs and services, and ensure that sub-grantees that determine individual eligibility operate according to rules established by the program (45 CFR section 98.11).

N. Special Tests and Provisions

1. Health and Safety Requirements

Compliance Requirements As part of their CCDF plans, lead agencies must certify that procedures are in effect (e.g., monitoring and enforcement) to ensure that providers serving children who receive subsidies comply with all applicable health and safety requirements. This includes verifying and documenting that child care providers (unless they meet an exception, e.g., family members who are caregivers or individuals who object to immunization on certain grounds) serving children who receive subsidies meet requirements pertaining to health and safety. These requirements must address 11 specific areas—including first aid and CPR, safe sleeping practices, and administration of

medication—and child care workers must be trained in these areas (42 USC 9858c(c)(2)(I); 45 CFR section 98.41).

Audit Objectives Determine whether lead agencies ensure that child care providers serving children who receive subsidies meet applicable health and safety requirements.

Suggested Audit Procedures

- a. Request that the Lead Agency identify state health and safety requirements for child care providers serving children who receive subsidies.
- b. Review the Lead Agency’s procedures, including any monitoring and enforcement procedures, for ensuring child care provider compliance with relevant health and safety requirements for those providers serving children who receive subsidies. This review should include, at a minimum, relevant information in the Lead Agency’s CCDF Plan.
- c. Review a sample of Lead Agency files for child care providers serving children who receive subsidies to verify that the Lead Agency followed its procedures for ensuring child care provider compliance with relevant state health and safety requirements, including training requirements.

2. Fraud Detection and Repayment

Compliance Requirements Lead agencies shall recover child care payments that are the result of fraud. These payments shall be recovered from the party responsible for committing the fraud (45 CFR section 98.60).

Audit Objectives Determine if the Lead Agency correctly identified and reported fraud and took steps to recover payment.

Suggested Audit Procedures

- a. Review the Lead Agency’s procedures for identifying and recovering payments resulting from fraud, including the Lead Agency’s definition of fraudulent child care payments.
- b. Request documentation of any fraudulent payments that have been identified by the Lead Agency. If fraudulent payments occurred, review a sample of those payments to verify that the Lead Agency followed its procedures related to authenticating that a payment was actually fraudulent and as applicable recover payment.

3. Tribal Lead Agencies – Protection of Federal Interest in Real Property and Facilities

Compliance Requirements CCDF can only be used for construction or major renovation of child care facilities in two instances: (1) a tribal Lead Agency that is approved to use

CCDF for construction or major renovation; or (2) a state, territory, or tribal Lead Agency that is approved to use Disaster Relief funds (Assistance Listing 93.489) for construction or major renovation. The requirements for construction and renovation of child care facilities by tribal lead agencies are described in 45 CFR section 98.84. As required by this section, OCC established uniform procedures in program instruction CCDF-ACF-PI-2016-05, “Procedures for Requests for Tribal Lead Agencies to Use Child Care and Development Fund (CCDF) Funds for Construction or Renovation of Child Care Facilities” (<https://www.acf.hhs.gov/occ/resource/ccdf-acf-pi-2016-05>). The requirements for using Disaster Relief funds (Assistance Listing 93.489) for construction and renovation are described in program instruction CCDF-ACF-PI-2019-06.

Facilities activities (construction, major renovation, and disposition) are initiated through the submission of Form SF-429 (cover sheet) and applicable attachments B (*Request to Acquire, Improve or Furnish*) or C (*Disposition or Encumbrance Request*).

In instances where federal interest provisions apply, 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 appropriate official records of the jurisdiction in which the facility will be located (unless the facility will be located on tribal lands held in trust by the US government). In the case of Disaster Relief funds (Assistance Listing 93.489), federal interest is limited to 10 years and does not apply to privately-owned family child care homes. The full requirements for the protection of the federal interest are described in program instructions CCDF-ACF-PI-2016-05 and CCDF-ACF-PI-2019-06.

Audit Objectives Determine whether the federal interest in real property and facilities is protected by the required Notice of Federal Interest and language content and the required prior written approvals were obtained from ACF.

Suggested Audit Procedures

- a. Review the appropriate documentation (e.g., Lead Agency’s general ledger accounts and the meeting minutes of its governing body) and inquire of the tribal Lead Agency’s management to identify if any of the following transactions, which are subject to the requirements for protecting the federal interest, occurred during the audit period and, if so, that the required prior written approvals were obtained from ACF:
 - (1) Construction or major renovation of a facility, including a modular unit.
 - (2) Sale, lease, or encumbrance, such as a mortgage of real property or a facility (including modular units).
 - (3) Changes in approved use of facilities.
- b. For construction, or major renovation during the audit period, ascertain if the Notice of Federal Interest was required, and if so, whether it was properly recorded in the locality’s official real property records and, for a modular unit, if

this Notice was properly posted in a conspicuous place. A Notice is not required for a facility on tribal lands held in trust by the US government; however, there is still a federal interest in any facility constructed or renovated with CCDF funds.

- c. Review the Notices of Federal Interest and mortgage agreements and other security instruments executed during the audit period to ascertain if the documents include the required language content.
- d. For sales, leases, and encumbrances and property used for a different purpose during the audit period, review the change in use to ascertain if the tribal Lead Agency obtained and complied with the requirement for ACF prior written approval.

IV. OTHER INFORMATION

Transfer of Funds to CCDF

Under the TANF program (Assistance Listing 93.558), a state may transfer TANF funds to CCDF and the funds transferred are treated as Discretionary Funds under CCDF. The amounts transferred into CCDF should be included in the audit universe and in total expenditures of CCDF when determining Type A programs. On the Schedule of Expenditures of Federal Awards (SEFA), the amount transferred in should be shown as CCDF expenditures when expended.

Tribal CCDF Grantees under a Pub. L. No. 102-477 Project

Audits of Indian tribal governments with tribal CCDF in their approved 477 Plan with reporting under Version 2 forms (75 FR 57970 (September 26, 2014)) must follow the guidance in the 477 Cluster found in the Department of the Interior's section of Part 4 of this Supplement.