



IDEAS
ACTION
RESULTS

Blind Spots in Tribal 477 Plans

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Summary

Consolidating the Child Care and Development Fund (CCDF) and other federal formula programs into 477 Plans has helped parents living on tribal lands receive the child care assistance they need, but the merger has created significant blind spots in how tribes serve children from low-income families and how they support child care providers. A reporting and accountability system should be created that both honors the values that animate P.L. 102-477 and ensures that CCDF funds support early-childhood development.

The Indian Employment and Related Services Demonstration Act of 1992 (P.L. 102-477) authorizes tribes to combine formula-funded federal employment, training, and related programs into a single, comprehensive service delivery plan with one budget and one reporting system. In 2017, Congress passed the Indian Employment Training and Related Services Consolidation Act, which amended P.L. 102-477 and expanded the number of agencies using this reporting system from four to 12.¹

Under the amended law, tribes can integrate eligible grant programs and reprogram grant funds into a single plan, budget, and report. This plan, or 477 Plan, is then approved by the secretary of the Interior. The Bureau of Indian Affairs (BIA), housed within the U.S. Department of the Interior, is administers 477 Plans and provide a single, universal format for tribal governments to report on activities and expenditures.²

By 2018, the Interior Department entered into a memorandum of agreement with all 12 agencies to implement the law.³ Based on information released by the U.S. Department of Health and Human Services (HHS) in 2021, of the roughly 260 Child Care and Development Fund (CCDF) tribal grantees, 45 had a 477 Plan in place.⁴ One-third of these tribes are in Alaska.

P.L. 102-477 & CCDF

The Child Care and Development Fund is among the programs that a tribe may include in its 477 Plan.⁵ Tribes that consolidate their CCDF funds must still comply with the Child Care and Development Block Grant Act of 2014 (CCDBG) and applicable regulations. However, tribes can submit abbreviated plans and applications for CCDF funding as a part of their 477 Plan.⁶ They are also not subject to reporting requirements in the same way as other tribal CCDF grant recipients.

ISSUES ADMINISTERING CCDF UNDER A 477 PLAN

One of the main flexibilities offered through a 477 Plan is the simplification of reporting requirements. However, the bias toward ensuring tribes support employment and training with their 477 Plan creates significant blind spots into how tribes are serving low-income children and families and supporting providers. For example, Tribal CCDF grantees are required to submit information under the ACF-700 form, which is the primary method HHS uses to capture data on the use of federal child care assistance on tribal lands.⁷ In 2021, the ACF-700 required tribes to submit administrative data on: the number of families receiving services; the number of children receiving services, according to the type of provider; the number of children receiving services according to age bands (e.g. three to four years); the reasons children received assistance; how long, on average, children received services per month; the average monthly amount paid for child care services; and the number of children served by

payment type (i.e., grant or contract).^a Beyond this, tribes are required to provide information on how tribal lead agencies administer the program, including how they direct quality improvement activities.

Under the CCDF, tribes with a 477 Plan only have to provide administrative data regarding the total number of children served according to provider type and the total number of families served.⁸ The absence of more-detailed data among 477 tribes presents challenges in trying to determine fundamental questions around the operation of CCDF, such as the rate that families pay for care or whether children in certain age groups are being served at greater levels than others. Modest expectations for reporting remained the same even after 477 tribes received American Rescue Plan Act (ARPA) funds. After ARPA's passage, HHS released reporting requirements for all states, tribes, and territories to determine whether the funds were distributed equitably; examples include information on the gender, race, and ethnicity of the center director or family child care owner receiving an ARPA subgrant.⁹ However, these requirements did not apply to tribes with 477 Plans. Thus, unless 477 tribes provide the information voluntarily, it is impossible to determine how they distribute the ARPA grants.¹⁰

The 477 Plan prevents HHS from ensuring the CCDF grantees are meeting the needs of low-income children and families while advancing quality. For other programs, CCDBG requires that states, tribes, and territories submit plans to HHS on a triennial basis. These plans serve as both an application for funding and a description of how grantees plan to manage their programs (e.g., setting eligibility guidelines, provider payment rates, etc.). The plans are subject to HHS approval, and, once approved, any substantial change to the plan requires the submission of an amendment. But tribes operating under a 477 Plan are not required to submit the same level of information as a part of their 477 Plan, nor are they required to submit amendments to their 477 Plans if they undertake substantial changes in policy.¹¹

IMPROVING THE ADMINISTRATION OF CCDF UNDER P.L. 102-477

Enactment of CCDBG preceded the passage of P.L. 102-477 by two years. In 1990, CCDBG's role was focused on ensuring that low- and working-class families outside the welfare system could receive the assistance necessary for them to work.¹² Congress expanded the program in 1996 when other child care programs were consolidated within CCDBG as a part of a broader effort to revise welfare-to-work programs.¹³ Still, the program's prevailing focus was to ensure that parents could receive child care assistance so they could seek employment or training. Given this background, it makes sense to consolidate CCDF with other federal formula programs focused on employment and to base most programmatic expectations around achieving outcomes relating to employment and training. The law's focus, however, has changed.

In 2014, the program was reauthorized, establishing early-childhood development as a core purpose of the CCDF program.¹⁴ And now, eight years

a Ibid.

later, we have a deeper understanding of how CCDF policies contribute to the economics of child care programs, and attending to workers' needs will likely be a focus of the next reauthorization. To honor the principles of self-determination that animate P.L. 102-477, while also ensuring that CCDF funds are used in the manner Congress intended, BIA and HHS should work together to create a system of reporting and accountability that meets these dual purposes. These recommendations are reflected in the Bipartisan Policy Center's most recent report [Righting a Wrong: Advancing Equity in Child Care Funding for American Indian & Alaska Native Families](#).



Endnotes

- 1 25 U.S.C. §§ 3401-3417.
- 2 Federal Register. Agency Information Collection Activities: Reporting Systems for Indian Employment, Training and Related Services Consolidation Act of 2017. Available at: <https://www.federalregister.gov/documents/2020/10/21/2020-23325/agency-information-collection-activities-reporting-systems-for-indian-employment-training-and->
- 3 U.S. Department of the Interior. Dec 20th Dear Tribal Leader Letter and Interagency Memorandum of Agreement. Public Law 115-93, the Indian Employment, Training and Related Services Consolidation Act of 2017. Available at: <https://www.bia.gov/sites/default/files/dup/DTLL-477%20MOA.pdf>.
- 4 U.S. Department of Health & Human Services. ARPA Supplemental Stabilization and CCDF Discretionary Funding Allocation Tables – Tribes. Available at: <https://www.acf.hhs.gov/occ/data/arpa-supplemental-stabilization-and-ccdf-discretionary-funding-allocation-tables-tribes>. <https://www.acf.hhs.gov/occ/policy-guidance/ccdf-acf-im-2022-01>.
- 5 U.S. Department of Labor. Division of Indian and Native American Programs. Available at: <https://www.dol.gov/agencies/eta/dinap/directories>.
- 6 U.S. Department of Health & Human Services. CCDF-ACF-PI-2019-04. Program Instruction: Child Care & Development Fund (CCDF) Fiscal Year 2020-2022 Funding; Application and Plan Requirements to Consolidate CCDF Under Indian Employment, Training, and Related Services Consolidation Act of 2017. Available at: https://www.acf.hhs.gov/sites/default/files/documents/occ/ccdf_acf_pi_2019_04.pdf.
- 7 U.S. Department of Health & Human Services. Child Care and Development Fund (CCDF) Tribal Annual Report Form ACF-700 for Tribal Lead Agencies. Available at: <https://www.acf.hhs.gov/occ/policy-guidance/child-care-and-development-fund-ccdf-tribal-annual-report-form-acf-700-tribal>.
- 8 Office of Management & Budget. OMB Control Number 1076-0135. Available at: <https://www.tribalsegorg.org/wp-content/uploads/2017/03/H11c-Version-2-Public-Law-102-477-Financial-Report-Form-and-Instructions-Expires-2-28-2018.pdf>.
- 9 U.S. Department of Health & Human Services. CCDF State, Territory, and Tribal Reporting. Available at: <https://www.acf.hhs.gov/occ/policy-guidance/ccdf-state-territory-and-tribal-reporting>.
- 10 U.S. Department of Health & Human Services. OCC ARP Act Funding Guidance Dear Colleague Letter for 477 Tribes. Available at: https://www.acf.hhs.gov/sites/default/files/documents/occ/OCC_ARP_Funding_Guidance_Dear_Colleague_Letter_for_477_Tribes.pdf.
- 11 U.S. Department of Health and Human Services. Child Care and Development Fund Tribal Plan Program Instruction. Available at: <https://www.acf.hhs.gov/sites/default/files/documents/occ/CCDF-ACF-PI-2022-06.pdf>.
- 12 P.L. 101-508.
- 13 Congressional Research Service. Trends in Child Care Spending from the CCDF and TANF (2016). Available at: <https://crsreports.congress.gov/product/pdf/R/R44528/3>.
- 14 42 U.S.C. §§ 9587, et seq.



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