

Tribal TANF and CCDF Guide to
*Financial Management, Grants
Administration, and Program Accountability*



DEPARTMENT OF HEALTH & HUMAN SERVICES

Child Care Bureau • Office of Family Assistance

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Introduction

A “*Tribal TANF and CCDF Guide to Financial Management, Grants Administration, and Program Accountability*” was developed in conjunction with a special Tribal Cluster Training, “*Collaboration and Accountability as Foundations for Success*,” held in Portland, Oregon on August 24-25, 2004. This Tribal Cluster Training is jointly sponsored by the Office of Family Assistance (OFA), which administers the Tribal Temporary Assistance for Needy Families (TANF) program, and the Child Care Bureau (CCB), which administers the Child Care and Development Fund (CCDF) program.

Recognizing that the TANF and CCDF programs have a number of cross-cutting issues, this *Guide* focuses on general program administration and accountability issues that are common to the Tribal TANF and CCDF programs, including basic grants management and financial management principles, audits, and procurement and Federal property requirements. TANF and CCDF specific information is highlighted throughout the *Guide*.

By working collaboratively across the TANF and CCDF programs, Tribes have the opportunity to provide enhanced services to Indian families as they move along the path toward social and economic self-sufficiency.

1. Overview of Programs

Child Care and Development Fund for Tribal Grantees (CCDF)

The Child Care and Development Block Grant Act was enacted in 1990 to provide child care assistance to low income working families. In 1988 and 1990, Congress enacted Title IV-A programs to support families on welfare, leaving welfare, and at-risk of welfare. The Child Care and Development Fund (CCDF) was authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), also known as PRWORA or “welfare reform.” It eliminated the separate Title IV-A programs and consolidated Federal child care subsidy funding. PRWORA provided new direct Federal child care funds for Tribes which have been designated as Tribal Mandatory Funds. The new funds, combined with the Discretionary Fund (also referred to as the Child Care and Development Block Grant or CCDBG), are called the Child Care and Development Fund (CCDF).

The CCDF assists low-income families, families receiving temporary public assistance, and those transitioning from public assistance in obtaining child care so they can work or attend training/education. Funds are awarded by the U.S. Department of Health and Human Services (DHHS), through the Administration for Children and Families (ACF), Child Care Bureau (CCB). ACF Regional Office staff have approval authority for Tribal CCDF two-year plans.

Tribal Temporary Assistance for Needy Families (TANF)

With the signing of the 1996 welfare reform law, the Administration and Congress charted new ground by giving federally recognized Indian Tribes, or consortia of such Tribes, authority to operate their own Temporary Assistance for Needy Families (TANF) programs. The final Tribal TANF regulations hold Tribes accountable for moving families to self-sufficiency while encouraging and supporting flexibility, innovation, and creativity in tribal programs. The final regulations also implement the Native Employment Works (NEW) program which authorizes funding to former Tribal JOBS grantees, for tribal programs to make work activities available.

This final rule implements the provisions in PRWORA, which for the first time gives Tribes the opportunity to operate their own TANF programs. The TANF statute offers Tribes the choice of whether to operate their own TANF program or to participate in the program operated by the State, a choice that represents a major step forward in tribal self-governance.

The Tribal TANF final regulations provide Tribes and tribal consortia with a clear and balanced set of rules for complying with the law's performance goals. They reflect PRWORA's focus on moving needy families to work and self-sufficiency, and on ensuring that welfare is a time-limited, transitional experience, not a way of life. The regulations encourage and support flexibility, innovation, and creativity to enable tribal programs to reach all families and provide supports to working families. They do not dictate to Tribes how to design their TANF programs or spend their funds; however, they do hold Tribes accountable for moving families toward self-sufficiency. Funds are awarded and administered by the DHHS, through the ACF, Office of Family Assistance (OFA) at the regional office level.

2. Applicable Regulations, OMB Circulars, and Certifications

Tribal agency staff working with Federal grants must be fully knowledgeable of all applicable Federal requirements and skilled in applying these requirements in the daily operation of their program, whether starting a new program or striving to maintain a quality program which meets the intent of the enacting legislation. It is the responsibility of the tribal agency staff to determine what regulations apply to each program they administer.

While legislation and enacting regulations are program specific, there are also regulations and Office of Management and Budget (OMB) Circulars which are cross-cutting and apply to many Federal programs. These requirements address program administration such as financial management and procurement. There are also "assurances" which define standards for operation, such as the Drug-Free Workplace, which apply uniformly. Statements of agreement to abide by these assurances are included in the tribal plan.

Code of Federal Regulations

The *Code of Federal Regulations (CFR)* is a systematic collection of the rules published in the Federal Register by the executive departments and agencies of the Federal government. The CFR is divided into 50 Titles that represent broad areas of Federal regulation. A portion of these are devoted to common regulations that apply across several different Departments of the government, such as Title 5, *Administrative Personnel*, and Title 41, *Public Contracts and Property Management*. Other Titles contain only the regulations of a single Department, such as Title 7, *Agriculture*, Title 29, *Labor*, and Title 49, *Transportation*. Title 25 is titled *Indians* and includes regulations related to programs funded through the Bureau of Indian Affairs (BIA), U.S. Department of the Interior.

Some of the regulations pertaining to DHHS are Title 21, *Food and Drug Administration*; Title 42, *Public Health Service*; and for Human Services, Title 45, *Public Welfare*. CCDF regulations are found at Title 45, Parts 98 and 99.

Title 45

Several Parts under Title 45 contain the Department-wide regulations that apply to DHHS programs. Most important among these in terms of the day-to-day operation of the programs under discussion are Part 74, *Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Non-Profit Organizations, and Commercial Organizations* and Part 92, *Uniform Administrative Requirements for Grants and Cooperation Agreements to State and Local Governments including Indian Tribal Governments*.

Part 74 and Part 92 contain the procedures governing the administration of awards issued by DHHS. The Subparts cover topics such as cash management, financial reports, allowable and unallowable costs, and property management and procurement. Part 92 applies to tribal governments.

Regulations related to the operation of a Tribal Child Care (CCDF) program are found at 45 CFR Part 98, Subpart I. Subpart I specifies the extent to which general regulatory requirements apply to Tribes. In accordance with Section 98.80(a), Tribes shall be subject to all regulatory requirements in Parts 98 and 99, unless otherwise indicated. Subpart I lists general regulatory requirements that apply to Tribes. It also identifies requirements that do not apply to Tribes. Financial Management issues that apply to Tribes are addressed in Subpart G – Financial Management, and Data Reporting issues that apply to Tribes are addressed in Subpart H – Program Reporting Requirements.

Regulations related to Tribal TANF are found at 45 CFR, Subtitle B, Chapter II (Office of Family Assistance), Part 286. Part 286 is divided into five subparts:

- Subpart A – General Tribal TANF Provisions;
- Subpart B – Tribal TANF Funding;
- Subpart C – Tribal TANF Plan Content and Processing;
- Subpart D – Accountability and Penalties; and
- Subpart E – Data Collection and Reporting Requirements.

What Does This Mean for Tribal TANF and CCDF Programs?

TANF: Follows Part 92

*CCDF: Follows Parts 98 and 99

*As noted in Part 98.84(d), Tribes that have ACF approval to use CCDF funds for construction are required to comply with certain requirements set forth in Part 92.

Office of Management and Budget (OMB) Circulars

On behalf of the executive branch of the Federal government, OMB leads the development of government-wide policy to assure that grants are managed properly and that Federal dollars are spent in accordance with applicable laws and regulations. The outcome of this process is the issuance by OMB of instructions or information to Federal grant-making agencies. These issuances are referred to as OMB Circulars. Although a number of OMB Circulars have addressed grants management issues, each Federal grant award recipient is covered by only three Circulars, depending on the type of entity. Tribal governments follow these circulars:

- A-87 for cost principles;
- A-102 for administrative requirements (also referred to as the “Common Rule”); and
- A-133 for audit requirements.

The administrative requirements for Indian Tribes are codified at 45 CFR Part 92.

What Does This Mean for Tribal TANF and CCDF Programs?

TANF: Follows OMB Circulars A-87, A-102 and A-133

CCDF: Follows OMB Circular A-133 only (and A-87 for Construction and Major Renovation of Child Care Facilities)

Policies

Legislation and regulations represent the first two levels of rulemaking. The third level of rulemaking is referred to as *policy*. Policies are developed to guide the implementation of a regulation.

Generally, new policies are developed and existing policies are updated in response to changes in the body of knowledge concerning “best practice,” or because of frequent misinterpretation of the meaning of a regulatory requirement. Policies are generally issued in the form of a Policy Announcement (PA), Information Memorandum (IM), or Program Instruction (PI). For example, TANF-ACF-PA-00-4 transmitted “Guidance concerning State Maintenance-of-Effort (MOE) funds paid to a Tribe with an Approved Tribal Family Assistance plan.”

Certifications

When a grantee accepts Federal funding, they are asked to certify that they will adhere to certain cross-cutting requirements. These include, but are not limited to:

- Certification regarding debarment (includes definitions for use with the certification of debarment);
- DHHS certification regarding drug-free workplace requirements;
- Certification of compliance with the Pro-Child Act of 1994;
- Assurance of compliance with Title VI of the Civil Rights Act of 1964 (CCDF only); and
- Assurance – Non-Construction Programs (TANF only).

3. Basic Grants Management Principles

Allowable Cost Determination

Determinations of cost allowability are based on principles found in the OMB Cost Principles (A-87). Costs must meet certain criteria to be allowable. The costs must be reasonable, necessary, and conform to limitations set forth in legislation, regulation, or circulars. They must be consistent with the grantee's policies and procedures such as agency procurement policies. Grantees are required to determine and adequately document costs in accordance with Generally Accepted Accounting Principles (GAAP). Failure to follow these principles may result in an inappropriate use of Federal funds; as the result of an audit finding or questioned cost, the grantee may have to repay the funds or incur a financial penalty.

Attachment B of OMB Circular A-87 lists numerous "Selected Items of Cost." A cost is not necessarily unallowable just because it is not listed in these circulars. If a specific cost is not listed, the cost must meet the "necessary and reasonable" principle before being charged to the program. Costs that are listed as unallowable under certain paragraphs cannot be shifted to another category to make them allowable. For example, all forms of fundraising and lobbying costs are unallowable and are noted as such in the cost principles.

Costs must also be "allocable" to a program to be allowable. Costs can be allocated in one of three ways. They can be directly charged, proportionately charged, or be an indirect cost. A direct cost is a cost which is incurred specifically for one program, such as the salary of a program manager. A cost which is proportionately allocated is one which benefits more than one program. An example of a proportionately allocated cost would be the salary for an administrative assistant who works for two programs. This salary cost would be allocated based on the number of hours worked for each program. Indirect costs benefit all programs in an agency or tribal government equally. These costs are charged to an indirect cost pool and allocated to the programs using an indirect cost rate. This rate is determined during the indirect cost negotiation process and is approved by the cognizant Federal agency.

A written cost allocation plan is required for costs which are allocated proportionately between programs. The plan must include the items of cost, the basis for allocation, and the funding source information to which the cost will be allocated.

NOTE to CCDF Programs:

While CCDF Programs are not required to follow OMB Circular A-87 (Cost Principles), this Circular is a good reference document, containing “Best Practices” information related to cost principles. However, a Tribal CCDF Program must follow OMB Circular A-87 if it has received ACF approval for construction or major renovation of a child care facility.

Recipient/Subrecipient/Vendor Status

There is a distinction between the status of recipient, subrecipient, and vendor. Federal awards expended as recipient or subrecipient are subject to audit under OMB Circular A-133. In contrast, a vendor supplies either goods or services.

The functions performed by the agency determine the status as subrecipient or vendor. For example, when a Federal award is received by a subrecipient agency, the following may be completed by the organization:

- Determination of client eligibility for the program;
- Is subject to performance measurement by the Federal agency;
- Responsible for programmatic decision making;
- Must adhere to Federal program compliance requirements;
- Uses Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

In contrast, payment for goods and services received by a vendor are when the organization:

- Provides the goods and services within normal business operations;
- Provides similar goods/services to many different purchasers;
- Operates in a competitive environment; and
- Provides goods or services that are ancillary to the operation of the Federal program.

Obligation and Liquidation Periods

Based on the Federal regulations at 45 CFR 92.23 and 98.60(e), where a funding period is specified, a grantee may charge only allowable costs resulting from obligations incurred during the funding period for the award. Funding period refers to the period of time that Federal funds are available for obligation. An obligation is defined as a legally binding agreement between two parties for purchase of services, supplies, or equipment. Examples include purchase orders and contracts. Liquidation means the issuance of payment for an obligation.

When submitting financial reports, the grantee must be able to provide information related to the *unobligated balance of Federal funds* and the *unliquidated balance*. The unobligated balance is defined as the portion of the funds authorized by the DHHS awarding agency that has not been obligated by the grantee, and is determined by deducting the cumulative obligations from the cumulative funds authorized. The unliquidated obligations are those obligations which have not yet been paid.

The programs under discussion in this document have different funding periods which are defined in the applicable regulations, and noted below:

CCDF:

The Tribal Child Care (CCDF) program grantees have a two-year obligation period with an additional one-year liquidation period, with the exception of construction awards which have a three-year obligation/liquidation period.

TANF:

Tribal TANF funds do not necessarily need to be obligated by the end of the funding period. A Tribe may reserve amounts awarded to it, without fiscal year limitation, to provide assistance under the Tribal TANF program. It may expend funds beyond the fiscal year in which awarded only on benefits that meet the definition of assistance at Sec. 286.10 and administrative costs directly associated with providing that assistance.

Tribal TANF grantees need to obligate current year funds on non-assistance activities before the end of that current fiscal year. Current year funds that are obligated by the end of the current fiscal year may be carried into the succeeding fiscal year to pay for those non-assistance activities. But, if those funds are not liquidated by the end of the succeeding fiscal year, then any remaining funds would be de-obligated and carried into the next fiscal year to use only to provide “assistance” and pay for any administrative costs directly associated with providing that “assistance.” For example, if the Tribe obligated current year funds by September 30 of that fiscal year to pay for non-assistance activities, the Tribe would have an additional fiscal year (the immediately succeeding fiscal year) to liquidate those funds. Any current year funds not obligated by September 30 of that year must only be used in immediately succeeding fiscal year to provide “assistance” (and administrative costs related to that “assistance”). Tribes may read relevant principles expressed in TANF-ACF-PI-2002-02, dated May 23, 2002, regarding *Clarification of Procedures and Methods of Obligating Federal Funds under the TANF program* at <http://www.acf.hhs.gov/programs/ofa/pi2002-2.htm>.

Administrative Costs

The Tribal TANF and Tribal Child Care programs both limit the amount of administrative cost that can be charged. The allowable amounts vary between the programs, as does the definition of these costs.

Administrative costs include the organization-wide management functions of accounting, budgeting, coordination, direction, and planning, as well as the management of payroll, personnel, property, and purchasing. Such costs can be for either personnel or non-personnel functions.

CCDF:

Tribal Child Care funding is broken down into three parts. The *Mandatory* and *Discretionary* Funds categories are allocated on a per-child amount basis. Each grantee also receives a Discretionary Funds *base amount* of \$20,000. (Note: It is not necessary to track whether expenditures are mandatory or discretionary.) Of total mandatory and discretionary expenditures, no more than 15% can be administrative (see 45 CFR 98.83(g)). The base amount is not subject to the administrative limitation and is excluded from the calculation. Administrative costs include:

- Salaries of staff performing administrative functions;
- Planning/developing;
- Plan preparation;
- Developing agreements;
- Monitoring compliance;
- Preparing reports;
- Public hearings;
- Maintaining complaints;
- Coordination activities;
- Audit resolution;
- Program evaluation;
- Personnel management;
- Travel, equipment rental, supplies, etc. for administrative staff and/or functions;
- Audit services; and
- Indirect costs.

The following are not categorized as administrative costs:

- Eligibility (re)determinations;
- Preparation/participation in judicial hearings;
- Recruitment, licensing, inspection of child care providers;
- Reviews & supervision of placements;
- Rate setting;
- Resource and referral services;
- Training of child care staff; and
- Establishment and maintenance of computerized information systems.

TANF:

For the Tribal TANF program, ACF will negotiate a limitation on administrative costs with each Tribal TANF applicant, based on the applicant’s justification for its proposed administrative cost. The negotiated limit may not exceed 35% in year 1, 30% in year 2, and 25% in year 3 and thereafter. Activities, personnel, and related costs that fall within the definition of “administrative cost” in Sec. 286.5 are subject to the limit. Indirect costs are based on the rate negotiated by the Tribe with the BIA or, where applicable, the Department of Health and Human Service’s Division of Cost Allocation and applied to the administrative portion of the grant; this is considered part of the total administrative costs.

Costs which are not considered to be administrative include direct costs of providing services, e.g., costs of providing diversion benefits and services, providing program information to clients, screening and assessment, development of employability plans, work activities, post-employment services, work supports, and case management. Information technology and computerization for Tribal TANF tracking, data entry, and monitoring, including personnel and other costs associated with the automation activities needed for these purposes, are excluded from the administrative cost cap, even if they otherwise fall within the definition of “administrative costs.”

If the Tribe has expended the maximum toward administrative costs in the previous year and has reserved or carryover funds available, no administrative costs associated with providing the assistance can be charged to the prior year carryover funds.

For Additional Information on Administrative Costs:

Program	Federal Regulations	Other Sources
Tribal CCDF	45 CFR 98.52 45 CFR 98.83(g)	Preamble Language 45 CFR 98 and 99 — pages 39962- 39963 Preamble Language 45 CFR 98 and 99 — pages 39976- 39977
Tribal TANF	45 CFR 286.5 45 CFR 286.50 45 CFR 286.55	Executive Summary to the Tribal TANF Final Rule (http://www.acf.hhs.gov/programs/dts/execsum.htm)

Penalties and Disallowances

Tribal TANF grantees face financial penalties if Federal funds are used in violation of the Act. The single audit conducted under the Single Audit Act, supplemented by other related audits, reviews, and data sources, will help identify violations.

Any use of TANF funds in violation of the provisions of the Act, the provisions of 45 CFR Part 92, OMB Circulars A-87 and A-133, or any Federal statutes and regulations applicable to the TANF program, will be considered to be a misuse of funds.

Misuse of the Tribal TANF grant will be considered to have been intentional under the following conditions: (1) there is supporting documentation, such as Federal guidance or policy instructions, indicating that TANF funds could not be used for that purpose; or (2) after notification that the government has determined such use to be improper, the Tribe continues to use the funds in the same or similarly improper manner.

Five TANF penalties can be imposed on tribal grantees. They are as follows:

- A penalty of the amount by which a Tribe's grant was used in violation of part IV-A of the Act, including providing assistance beyond the Tribe's negotiated time limit, as determined by findings from a single audit;
- In addition to the amount misused, a penalty of five percent of the TANF grant as a result of audit findings which show that the Tribe intended to violate a provision of the Act;
- A penalty in the amount of the outstanding loan plus interest owed on the outstanding amount for failure to repay a Federal loan;
- A penalty for failure to satisfy the minimum work participation rates; and
- A penalty of no more than two percent plus the amount a Tribe failed to expend of its own funds to replace the reduction in its grant due to the assessment of a penalty.

To ensure tribal accountability, the regulations have narrowly defined the limited circumstances under which Tribes may demonstrate reasonable cause or receive penalty reductions.

Within 60 days of receiving notice that it is facing a penalty, a Tribe may respond by stating that it has reasonable cause for failing to meet a requirement and/or by providing a corrective compliance plan. A penalty will not be assessed against a Tribal TANF grantee if it can be determined that there was reasonable cause for its failure. The general factors a Tribe may use to claim reasonable cause are:

- Natural disasters, extreme weather conditions, and other calamities (e.g., hurricanes, earthquakes, fire, and economic disasters) whose disruptive impact was so significant that the Tribe failed to meet a requirement;
- Formally issued Federal guidance which provided incorrect information resulting in the Tribe's failure;
- Isolated, non-recurring problems of minimal impact that are not indicative of a systemic problem; or
- Significant increases in the unemployment rate in the Tribal TANF service area and changes in the TANF caseload size during the fiscal year being reported.

The statute provides that prior to imposing a penalty against a Tribe, the Tribe must be given an opportunity to enter into a corrective compliance plan. The regulation requires the corrective compliance plan to identify the causes of the problems, the corrective action steps, outcomes, and time frames which the Tribe believes will fully and adequately correct the violation. Each plan will be reviewed on a case-by-case basis, and acceptance of the plan will be guided by the extent to which the Tribe's plan will lead to correction of the situation leading to the penalty.

Tribal Child Care grantees are subject to disallowances, penalties, and sanctions based on the results of the annual A-133 audit, or a finding that the grantee failed to comply with regulation or law. These disallowances may be based on questioned costs, e.g., incurring costs deemed to be unallowable, or other failure to comply with Federal requirements.

Required Financial Reporting

Recipients of Federal funds are required to submit financial reports which are defined and/or described in applicable legislation and regulation. Tribal Child Care programs must submit the ACF-696T financial reporting form annually. This report details how the CCDF funds have been expended over the prior twelve month period. Cost categories included on the report include:

- Child care services;
- Child care administration;
- Non direct services;
- Quality activities; and
- Construction/renovation expenditures.

While Tribes and States operate under approved two-year plans, CCDF funds are awarded annually, and they must be accounted for by Federal fiscal year on the ACF-696T form. The grantee must also report the unobligated balance and the unliquidated obligations. One report is submitted for each grant year, thus the grantee may be responsible for submitting as many as three separate reports.

Tribal TANF grantees are required to file quarterly expenditure data on a form prescribed by ACF. Tribes receiving direct funds (non-102-477) must use the SF-269 form until the Tribal TANF 196 form is approved. 102-477 Tribes must report on the 102-477 Tribal TANF report as a part of their 102-477 annual report.

4. Basic Financial Management Principles: Federal Financial Management Requirements

Financial Systems

Effective and efficient financial management systems are required by Federal regulations (45 CFR 92.20). All Federal grantees are required to have financial management systems that provide for timely, accurate, current, and complete disclosure of financial information while providing for oversight and protection of Federal funds.

A financial management system is comprised of accounting records (checkbooks, journals, ledgers, etc.) and a series of processes and procedures assigned to staff, volunteers, and/or outside professionals. The goals of the system are to ensure that financial data and economic transactions are properly entered into the accounting records and that financial reports necessary for management are prepared accurately and in a timely fashion.

All agencies have common requirements to fulfill when administering Federal programs. For example:

- Contract and compliance requirements must be fulfilled and grant and contract funds must be expended appropriately.
- Accounting records must be maintained.
- Assets must be safeguarded.
- Internal control systems must be adequate.
- Internal policies and procedures must be developed and implemented.
- Costs must be allocated to the correct program based upon a cost allocation plan in cases where costs are shared by programs.
- Grantees must have an annual audit.

Often, agencies are administering numerous grants and contracts with differing requirements. Communication between program staff and accounting staff is a key factor to ensuring successful operations.

NOTE to CCDF Programs:

Reminder: Part 92 does not apply to CCDF Programs. 45 CFR 98.67(a) requires that CCDF grantees shall expend and account for CCDF funds in accordance with their own laws and procedures for expending and accounting for their own funds. While Tribal CCDF programs are not required to follow Part 92, or OMB Circular A-87, both are good reference documents for Tribal CCDF programs.

Internal controls

Internal controls are the systems established by a grantee agency's governing body and/or administrative staff that are designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations;
- Control of assets and records of the organization to protect against loss, theft, or misuse;
- Compliance with applicable laws and regulations;
- Appropriate oversight by the agency's governing body;
- Adherence to the agency's policies and procedures; and
- Reliability of financial reporting.

Internal controls help ensure that financial information is reliable, thereby assuring managers and governing bodies that the information is accurate for making programmatic and other decisions.

Accounting Systems

The accounting department is responsible for the accounting records. Initial set up of the chart of accounts should be based on communication with program managers and, if necessary, the grantee agency's auditor or other financial consultant to determine necessary information to be tracked. It also should be based upon the terms and conditions and regulations applicable to the program. For example, Tribal Child Care and Tribal TANF programs must track administrative cost. Correct categorization of the chart of accounts will help meet these requirements.

The end products of the accounting process are the financial statements that summarize all of the financial transactions of the organization for the period. Because each organization faces different financial issues and has different resources to bring to financial functions, each organization will choose a different set of regular financial reports to prepare and analyze. At different times an organization will need different reports to provide information to support its decision-making.

It is critical that the financial statements meet the needs of the end user. For example, financial statements prepared for the Tribal Council may not contain the same level of detail, or be formatted the same way, as those produced for program managers. Regulations state that Federal grantees must produce a budget-to-actual expenditures report that is timely, current, and complete (45 CFR 92.20 (b)(1)). Other reports that may be produced include the balance sheet (showing the agency's assets and liabilities) and the cash flow statement (which provides an analysis of cash available for operations).

Cash Management

Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

Because of the short timeframe between request of funds and deposit into the agency bank account, many grantee agencies submit a drawdown request to coincide with payroll and accounts payable processing.

Tribes are not covered by the Department of Treasury rules implementing the Cash Management Improvement Act. However, the Tribal TANF program is covered by 45 CFR Part 92. For Tribes operating TANF, 45 CFR Part 92.20(b)(7) states that procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursements by the Tribe for TANF expenditures must be followed whenever advance payment procedures are used. The Tribe must establish reasonable procedures to ensure the receipt of reports on sub-grantees' cash balances and cash disbursements in sufficient time to enable the Tribe to prepare complete and accurate cash transactions reports. Tribes must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the Tribe. These rules apply to all Tribes operating a Tribal TANF program under Section 412 of Title IV-A of the Social Security Act, including those Tribes that elect to include Tribal TANF in a consolidated 102-477 plan through the U.S. Department of the Interior.

Audits

Agencies that expend more than \$300,000 in Federal cash are required to have an audit completed each year. The audit is referred to as a “Single Audit,” as the auditor will review all programs. The OMB Circular A-133 and the OMB Circular A-133 Compliance Supplement help the auditors in fulfilling their responsibilities and define compliance issues for each program. The audit, which is completed by an independent auditor, will help to determine:

- Whether the agency's financial statements are accurate;
- Whether the agency is complying with the terms and conditions of the grant;
- Whether appropriate financial and administrative procedures and controls have been installed and are operating effectively; and
- Whether the agency is complying with laws, regulations, and the provisions of contracts or grant agreements.

A financial audit is a process for testing the accuracy and completeness of information presented in an organization's financial statements as well as evaluating the financial systems used to gather this information. This testing process enables an independent certified public accountant (CPA) to issue what is referred to as "an opinion" on how fairly the agency's financial statements represent its financial position and whether they comply with Generally Accepted Accounting Principles (GAAP).

The audit team also will develop an opinion regarding the internal control structure of the agency. The team may test program data to ensure compliance with regulations. During the audit, the auditor may determine that there are "disallowed costs" or costs which were not appropriate under the terms of the grant. For example, fundraising costs are specifically unallowable and may not be paid with Federal funds. Significant findings will be written up in the audit report. Audit findings are sent to the funding agency and disallowance of Federal funds or a financial penalty(ies) may result.

Per the OMB Circular A-133, the auditor(s) will:

- Perform an audit of the financial statement(s) for the Federal program in accordance with Generally Accepted Government Auditing Standards (GAGAS) (A-133.235(b)(3)(i));
- Perform procedures to determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on the Federal program consistent with the requirements for a major program (A-133.235(b)(3)(iii)); and
- Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding in accordance with the requirements (A-133.235(b)(3)(iv)).

5. *Procurement/Property Requirements*

Federal Procurement Requirements

Federal grantee agencies are required to establish their own written procedures based on Federal standards for purchasing services, supplies, and other expendable property, equipment, and real property. The standards for procurement are found in regulations 45 CFR 92.36 for local government organizations. The Federal standards were established to ensure that grantee agencies obtain materials and services paid for with Federal funds in an effective manner and in compliance with Federal laws. Grantee agencies are directed to use Federal funds to purchase items and services in the most economical way, and to buy only what they need.

Grantees shall have in place written procurement policies which ensure:

- Procurement need is legitimate;
- Open and free competition;
- Clear specifications for bids;
- Efforts to use small and minority owned businesses;
- Price comparisons/cost analysis;
- Invoices are checked against purchase orders and receiving reports;
- Goods/services are received prior to payment; and
- Contractors comply with the terms of contracts.

Within the parameters of the Federal standards, grantee agencies are allowed to design their own systems for procurement and use whatever forms and workflow processes best suit the organizational structure. Such systems may be more stringent than the Federal requirements, but not less.

Code of Conduct

Grantee agencies must maintain written standards of conduct governing the performance of employees who are involved in the award or administration of procurement contracts, including vendor contracts, lease contracts, construction contracts, and program services and administrative services contracts. Generally this includes, at a minimum, the procurement officer (or whoever in the agency does the purchasing or leasing), contract administration officer, and all grantee agency officials who can sign or authorize procurement contracts (such as the procurement officer or program manager).

The written code of conduct must state that no grantee agency employee, officer, or agent shall participate in the selection, award, or administration of a procurement contract supported by Federal funds if a real or apparent conflict of interest would be involved. Based on the regulations, such conflict would arise when the employee, officer, or agent, or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated, has a financial or other interest in the firm selected for an award.

The grantee agency's written code of conduct also must state that officers, employees, and agents of the grantee agency shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subagreements. However, grantee agencies may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.

Competition

Based on Federal standards, all procurement transactions, regardless of amount, must be conducted in a manner that provides, to the maximum extent practical, open and free competition. This means that, even if it seems like a "good deal," grantee agencies cannot make the purchase until other vendors also are given consideration.

Soliciting competitive bid prices from vendors might be done in different ways. For example, a grantee agency could get vendor prices by advertising in newspapers, sending letters to prospective vendors, telephoning prospective vendors, or even by comparing prices in office supply catalogs. Solicitations for bids should clearly state all the requirements the vendor must fulfill in order for the bid or offer to be evaluated by the grantee agency.

The procurement should be given to the vendor whose bid or offer is responsive to the solicitation, and is the most advantageous to the grantee agency (considering price, quality, and other applicable factors). Any and all bids or offers may be rejected when it is in the grantee agency's interest to do so. This means that grantees do not have to accept the lowest bid received because other factors, such as quality of the product or service record of the vendor, also may be considered by the grantee in making the decision.

Grantee agencies must, whenever possible, make positive efforts to use small businesses, minority-owned firms, and women's business enterprises, and should take all of the following steps to further this goal:

- Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practical;
- Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises;
- Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises; and
- Encourage contracting with consortiums of small businesses, minority-owned firms, and women's business enterprises when a contract is too large for one of these firms to handle individually.

Contract Requirements

A contract is defined as a legally binding agreement entered into by two parties for the purpose of purchasing goods or services. Federal regulations found at 45 CFR 92.36(i) detail provisions which must be included in all contracts which require payment by Federal funds. Grantees must have a contract administration system in place to monitor contractor adherence to contract terms, specifications, and conditions.

Contract award should follow the agency procurement policies and procedures. For example, threshold levels for bids, sole source requirements, and other stipulations must be adhered to.

Property Management

Federal regulations require that grantees have written procedures which document their system for:

- Maintaining control over assets including assurance against loss, theft, damage, etc.;
- Separation of duties, e.g., control of assets vs. control of records; and
- Inventory process which provides for inventory of Federal equipment every 2 years.

Inventory records must include the following information for all equipment (i.e., acquisition price of \$5,000 or above): cost; serial number; source; title holder; acquisition date; description; percent of Federal dollars used for purchase; current location; condition; and disposition data.

6. Other Administrative Requirements/Options

Record-Keeping and Record Retention

Grantee financial records, supporting documents, statistical records, and all other records pertaining to the grant award must be retained for a period of at least three years from the date of submission of the annual financial report (45 CFR 92.42, or 45 CFR 98.90). Exceptions to this are:

- If any litigation, claim, financial management review, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- Records for real property and equipment acquired with Federal grant funds must be retained for three years beyond the date of final disposition (i.e., the date the equipment or property was sold or otherwise disposed).

Federal awarding agencies have the right of timely and unrestricted access to any of the grantee's books, documents, papers, or other records that are pertinent to the grant award in order to make audits, reviews, examinations, excerpts, transcripts, and/or copies of such documents. This right of access exists as long as the records are retained.

For purposes of Tribal TANF programs, the three-year record-keeping requirement in 45 CFR 92.42 has been interpreted in TANF-ACF-PI-2003-1, dated January 28, 2003 regarding *Retention of TANF Records — Starting Date of Retention Period* (available online at <http://www.acf.hhs.gov/programs/ofa/retentn.htm>).

This program instruction clarifies the general rule for determining the start date of the three-year record retention period provided under 45 CFR 92.42(c)(1) as it pertains to the State, Territorial, and Tribal Federal TANF awards and MOE expenditures. For Federal TANF awards, the record retention period starts on the day the grantee submits its final expenditure report showing that all the funds awarded in the particular Federal fiscal year (FFY) have been expended. For each fiscal year, the three-year record retention period begins in the first quarter of the new fiscal year that immediately follows the 4th quarter TANF/Territorial Financial Report (ACF-196) or the 4th quarter Tribal TANF Financial Report (SF-269A

and/or ACF-196TR) for the current fiscal year showing the final expenditure for the particular grant year. If any litigation, claim, negotiation, audit, or other action starts before the expiration of the three-year record retention period, then the retention period extends up to expiration of the three-year retention period, as illustrated in the PI, or upon resolution of all issues arising from the action, whichever is later.

Program Administration Option: Indian Employment, Training and Related Services Demonstration Act (102-477)

The Indian Employment, Training and Related Services Demonstration Act of 1992, as amended, (P.L. 102-477) was enacted to:

- Demonstrate how Indian tribal governments can integrate the employment, training and related services they provide in order to improve the effectiveness of those services;
- Reduce joblessness in Indian communities;
- Foster economic development in Indian communities; and
- Serve tribally determined goals consistent with the policies of self-determination and self-governance.

Public Law 102-477 permits tribal governments to consolidate a number of Federal programs to integrate their federally funded employment, training, and related services programs into a single, coordinated comprehensive program. The TANF and CCDF programs may be consolidated under P.L. 102-477. The Office of Self-Governance and Self-Determination, U.S. Department of the Interior serves as the Lead Agency for all P.L. 102-477 plans. Consolidation into 102-477 does not relieve the grantee of its responsibilities for meeting program reporting requirements and for fiscal accountability.

Appendix

Web Sites for Agencies and Documents Referenced in This Guide

45 CFR Part 92

http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfr92_03.html

45 CFR Part 98

http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfr98_03.html

45 CFR Part 98, Subpart G

<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITTLE=45&PART=98&SUBPART=G&TYPE=TEXT>

45 CFR Part 98, Subpart H

<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITTLE=45&PART=98&SUBPART=H&TYPE=TEXT>

45 CFR Part 98, Subpart I

<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITTLE=45&PART=98&SUBPART=I&TYPE=TEXT>

45 CFR Part 99

http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfr99_03.html

45 CFR Subtitle B, Chapter II, Part 286

http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfr286_03.html

Administration for Children and Families (ACF)

<http://www.acf.hhs.gov>

Application for Federal Financial Assistance (SF-424 Form)

<http://www.acf.hhs.gov/programs/ofs/grants/sf424.pdf>

Bureau of Indian Affairs

<http://www.doi.gov/bureau-indian-affairs.html>

CCDF Financial Reporting for Indian Tribes (ACF-696T)

<http://www.acf.hhs.gov/programs/ccb/report/formhelp/acf696t/index.htm>

Child Care and Development Fund (CCDF) Final Rule

<http://www.acf.hhs.gov/programs/ccb/policy1/current/finalrul/index.htm>

Child Care and Development Fund (CCDF) Law

<http://www.acf.hhs.gov/programs/ccb/policy1/current/ccdbgact/index.htm>

Child Care Bureau (CCB)

<http://www.acf.hhs.gov/programs/ccb>

Division of Tribal TANF Management

<http://www.acf.hhs.gov/programs/dts>

Generally Accepted Accounting Principles

<http://www.fasab.gov/accepted.html>

**Indian Employment, Training and Related Services Demonstration Act,
as amended (Public Law 102-477)**

<http://thomas.loc.gov/cgi-bin/query/z?c102:S.1530.ENR:>

Office of Family Assistance (OFA)

<http://www.acf.hhs.gov/programs/ofa>

OMB Circular A-87 - Cost Principles (State, Local, & Tribal Governments)

http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html

OMB Circular A-102 - Administrative Requirements (State, Local, & Tribal Governments)

<http://www.whitehouse.gov/omb/circulars/a102/a102.html>

OMB Circular A-133 - Audit Requirements

<http://www.whitehouse.gov/omb/circulars/a133/a133.html>

OMB Circular A-133 Compliance Supplement

http://www.whitehouse.gov/omb/circulars/a133_compliance/04/04toc.html

**Personal Responsibility and Work Opportunity Reconciliation
Act of 1996 (PRWORA) (Public Law 104-193)**

<http://thomas.loc.gov/cgi-bin/query/z?c104:H.R.3734.ENR:>

Temporary Assistance For Needy Families (TANF) Final Rule

<http://www.acf.hhs.gov/programs/ofa/finalru.htm>

**Tribal Temporary Assistance for Needy Families (TANF)
and Native Employment Works (NEW) Program Final Rule**

<http://www.acf.hhs.gov/programs/dts/tribal.txt>

U.S. Department of Health and Human Services (DHHS)

<http://www.hhs.gov>

U.S. Department of the Interior

<http://www.doi.gov/>

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