

Tribes pursuant to paragraph (b) of this section, an amount of funds equal to the greater of:

(1) the Federal share of its child care expenditures under subsections (g) and (i) of section 402 of the Social Security Act (as in effect before October 1, 1995) for fiscal year 1994 or 1995 (whichever is greater); or

(2) the average of the Federal share of its child care expenditures under the subsections referred to in subparagraph (a)(1) of this section for fiscal years 1992 through 1994.

(b) For Indian Tribes and tribal organizations up to 2 percent of the amount appropriated under section 418(a)(3) of the Social Security Act shall be allocated according to the formula at paragraph (c) of this section. In Alaska, only the following 13 entities shall receive allocations under this subpart, in accordance with the formula at paragraph (c) of this section:

- (1) The Metlakatla Indian Community of the Annette Islands Reserve;
- (2) Arctic Slope Native Association;
- (3) Kawerak, Inc.;
- (4) Maniilaq Association;
- (5) Association of Village Council Presidents;
- (6) Tanana Chiefs Conference;
- (7) Cook Inlet Tribal Council;
- (8) Bristol Bay Native Association;
- (9) Aleutian and Pribilof Islands Association;
- (10) Chugachmuit;
- (11) Tlingit and Haida Central Council;
- (12) Kodiak Area Native Association; and
- (13) Copper River Native Association.

(c)(1) Grants to individual Tribes with 50 or more Indian children, and to Tribes with fewer than 50 Indian children that apply as part of a consortium pursuant to §98.80(b)(1), will be equal to an amount per Indian child under age 13 (or such similar age as determined by the Secretary from the best available data), which is determined by dividing the amount of funds available, by the number of Indian children in each Tribe's service area pursuant to §98.80(e).

(2) Tribal consortia will receive grants that are equal to the sum of the individual grants of their members.

**§ 98.63 Allotments from the Matching Fund.**

(a) To each of the 50 States and the District of Columbia there is allocated an amount equal to its share of the total available under section 418(a)(3) of the Social Security Act. That amount is based on the same ratio as the number of children under age 13 residing in the State bears to the national total of children under age 13. The number of children under 13 is derived from the best data available to the Secretary for the second preceding fiscal year.

(b) For purposes of this subsection, the amounts available under section 418(a)(3) of the Social Security Act excludes the amounts reserved and allocated under §98.60(b)(1) for technical assistance and under §98.62(a) and (b) for the Mandatory Fund.

(c) Amounts under this subsection are available pursuant to the requirements at §98.53(c).

**§ 98.64 Reallotment and redistribution of funds.**

(a) According to the provisions of this section State and Tribal Discretionary Funds are subject to reallotment, and State Matching Funds are subject to redistribution. State funds are reallotted or redistributed only to States as defined for the original allocation. Tribal funds are reallotted only to Tribes. Funds granted to the Territories are not subject to reallotment. Any funds granted to the Territories that are returned after they have been allotted will revert to the Federal government.

(b) Any portion of a State's Discretionary Fund allotment that is not required to carry out its Plan, in the period for which the allotment is made available, shall be reallotted to other States in proportion to the original allotments. For purposes of this paragraph the term "State" means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. The other Territories and the Tribes may not receive reallotted State Discretionary Funds.

(1) Each year, the State shall report to the Secretary either the dollar amount from the previous year's grant that it will be unable to obligate by the

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end of the obligation period or that all funds will be obligated during such time. Such report shall be postmarked by April 1st.

(2) Based upon the reallocation reports submitted by States, the Secretary will reallocate funds.

(i) If the total amount available for reallocation is \$25,000 or more, funds will be reallocated to States in proportion to each State's allotment for the applicable fiscal year's funds, pursuant to § 98.61(a).

(ii) If the amount available for reallocation is less than \$25,000, the Secretary will not reallocate any funds, and such funds will revert to the Federal government.

(iii) If an individual reallocation amount to a State is less than \$500, the Secretary will not issue the award, and such funds will revert to the Federal government.

(3) If a State does not submit a reallocation report by the deadline for report submittal, either:

(i) The Secretary will determine that the State does not have any funds available for reallocation; or

(ii) In the case of a report postmarked after April 1st, any funds reported to be available for reallocation shall revert to the Federal government.

(4) States receiving reallocated funds shall obligate and expend these funds in accordance with § 98.60. The reallocation of funds does not extend the obligation period or the program period for expenditure of such funds.

(c)(1) Any portion of the Matching Fund granted to a State that is not obligated in the period for which the grant is made shall be redistributed. Funds, if any, will be redistributed on the request of, and only to, those other States that have met the requirements of § 98.53(c) in the period for which the grant was first made. For purposes of this paragraph the term "State" means the 50 States and the District of Columbia. Territorial and tribal grantees may not receive redistributed Matching Funds.

(2) Matching Funds allotted to a State under § 98.63(a), but not granted, shall also be redistributed in the manner described in paragraph (1) of this section.

(3) The amount of Matching Funds granted to a State that will be made available for redistribution will be based on the State's financial report to ACF for the Child Care and Development Fund (ACF-696) and is subject to the monetary limits at paragraph (b)(2) of this section.

(4) A State eligible to receive redistributed Matching Funds shall also use the ACF-696 to request its share of the redistributed funds, if any.

(5) A State's share of redistributed Matching Funds is based on the same ratio as the number of children under 13 residing in the State to the number of children residing in all States eligible to receive and that request the redistributed Matching Funds.

(6) Redistributed funds are considered part of the grant for the fiscal year in which the redistribution occurs.

(d) Any portion of a Tribe's allotment of Discretionary Funds that is not required to carry out its Plan, in the period for which the allotment is made available, shall be reallocated to other tribal grantees in proportion to their original allotments. States and Territories may not receive reallocated tribal funds.

(1) Each year, the Tribe shall report to the Secretary either the dollar amount from the previous year's grant that it will be unable to obligate by the end of the obligation period or that all funds will be obligated during such time. Such report shall be postmarked by a deadline established by the Secretary.

(2) Based upon the reallocation reports submitted by Tribes, the Secretary will reallocate Tribal Discretionary Funds among the other Tribes.

(i) If the total amount available for reallocation is \$25,000 or more, funds will be reallocated to other tribal grantees in proportion to each Tribe's original allotment for the applicable fiscal year pursuant to § 98.62(c).

(ii) If the total amount available for reallocation is less than \$25,000, the Secretary will not reallocate any funds, and such funds will revert to the Federal government.

(iii) If an individual reallocation amount to an applicant Tribe is less than \$500, the Secretary will not issue

the award, and such funds will revert to the Federal government.

(3) If a Tribe does not submit a reallocation report by the deadline for report submittal, either:

(i) The Secretary will determine that Tribe does not have any funds available for reallocation; or

(ii) In the case of a report received after the deadline established by the Secretary, any funds reported to be available for reallocation shall revert to the Federal government.

(4) Tribes receiving reallocated funds shall obligate and expend these funds in accordance with § 98.60. The reallocation of funds does not extend the obligation period or the program period for expenditure of such funds.

**§ 98.65 Audits and financial reporting.**

(a) Each Lead Agency shall have an audit conducted after the close of each program period in accordance with OMB Circular A-133 and the Single Audit Act Amendments of 1996.

(b) Lead Agencies are responsible for ensuring that subgrantees are audited in accordance with appropriate audit requirements.

(c) Not later than 30 days after the completion of the audit, Lead Agencies shall submit a copy of their audit report to the legislature of the State or, if applicable, to the Tribal Council(s). Lead Agencies shall also submit a copy of their audit report to the HHS Inspector General for Audit Services, as well as to their cognizant agency, if applicable.

(d) Any amounts determined through an audit not to have been expended in accordance with these statutory or regulatory provisions, or with the Plan, and that are subsequently disallowed by the Department shall be repaid to the Federal government, or the Secretary will offset such amounts against any other CCDF funds to which the Lead Agency is or may be entitled.

(e) Lead Agencies shall provide access to appropriate books, documents, papers and records to allow the Secretary to verify that CCDF funds have been expended in accordance with the statutory and regulatory requirements of the program, and with the Plan.

(f) The audit required in paragraph (a) of this section shall be conducted by

an agency that is independent of the State, Territory or Tribe as defined by generally accepted government auditing standards issued by the Comptroller General, or a public accountant who meets such independent standards.

(g) The Secretary shall require financial reports as necessary.

**§ 98.66 Disallowance procedures.**

(a) Any expenditures not made in accordance with the Act, the implementing regulations, or the approved Plan, will be subject to disallowance.

(b) If the Department, as the result of an audit or a review, finds that expenditures should be disallowed, the Department will notify the Lead Agency of this decision in writing.

(c)(1) If the Lead Agency agrees with the finding that amounts were not expended in accordance with the Act, these regulations, or the Plan, the Lead Agency shall fulfill the provisions of the disallowance notice and repay any amounts improperly expended; or

(2) The Lead Agency may appeal the finding:

(i) By requesting reconsideration from the Assistant Secretary, pursuant to paragraph (f) of this section; or

(ii) By following the procedure in paragraph (d) of this section.

(d) A Lead Agency may appeal the disallowance decision to the Departmental Appeals Board in accordance with 45 CFR part 16.

(e) The Lead Agency may appeal a disallowance of costs that the Department has determined to be unallowable under an award. A grantee may not appeal the determination of award amounts or disposition of unobligated balances.

(f) The Lead Agency's request for reconsideration in (c)(2)(i) of this section shall be postmarked no later than 30 days after the receipt of the disallowance notice. A Lead Agency may request an extension within the 30-day time frame. The request for reconsideration, pursuant to (c)(2)(i) of this section, need not follow any prescribed form, but it shall contain:

(1) The amount of the disallowance;

(2) The Lead Agency's reasons for believing that the disallowance was improper; and