



APR 29 2013

Dear State Child Welfare Director or Tribal Leader:

On April 10, 2013, the Administration for Children and Families (ACF) issued Program Instructions ACYF-CB-PI-13-03 to Tribes and ACYF-CB-PI-13-04 to States on the requirements for submitting Annual Progress and Service Reports (APSRs) by June 30, 2013. The APSR provides an annual update on the progress made toward accomplishing the goals and objectives in the state or tribal Child and Family Services Plan (CFSP), a five-year strategic plan that sets forth the vision and the goals to be accomplished to strengthen state and tribal child welfare systems. Approval of a CFSP and subsequent APSRs is required to receive annual funding under several important child welfare programs, including the Stephanie Tubbs Jones Child Welfare Services Program (title IV-B, subpart 1 of the Social Security Act [the Act]); the Promoting Safe and Stable Families Program (title IV-B, subpart 2 of the Act); the Chafee Foster Care Independence Program and the Education and Training Vouchers program (Section 477 of the Act).

I am writing to emphasize how important it is for states and tribes to work together and to engage in ongoing, meaningful consultation around the delivery of child welfare services and the measures taken by each state to comply with the Indian Child Welfare Act (ICWA). Now is a particularly important time for states and tribes to strengthen working relationships and consultation practices to prepare not only for the APSR due this year, but also for the new five-year CFSP that will be due on June 30, 2014. As Secretary Sebelius wrote in a letter to Governors on September 14, 2011, "Tribes should be considered full partners by states during the design and implementation of programs that are administered by states with HHS funding." ACYF reminds states of the requirement to consult with tribes located in your state regarding the development of the state plan.

The attached document highlights and summarizes several specific provisions that must be addressed in this year's APSR that touch directly on the need for consultation and collaboration between states and tribes. These include provisions relating to collaborative planning, compliance with the Indian Child Welfare Act, and use of funds under the Chafee Foster Care Independence Program and Education and Training Vouchers Program to provide services to Indian youth.

Page 2 – State Child Welfare Director or Tribal Leader

The referenced provisions are just some of the important areas where it is critical for states to consult with tribes and where development of an ongoing collaborative relationship is essential to meeting the needs of vulnerable children and families involved with the child welfare system. To receive additional information about any of the programs or requirements outlined in this letter, please refer to the complete program instructions or contact your ACF Regional Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan Samuels", is written over the typed name and title.

Bryan Samuels
Commissioner

Enclosure

Summary of Key Provisions Relating to State-Tribe Consultation and Collaboration in the Annual Progress and Services Report due June 30, 2013

(Please refer to Program Instructions ACYF-CB-PI-13-03 and ACYF-CB-PI-13-04 for additional information and complete requirements for submitting an APSR.)

- **Collaborative Planning:** In preparing the APSR, each state and tribe is required to conduct a review of the progress made in the past year toward accomplishing the goals and objectives in the CFSP based on updated information and current data. When conducting this annual review, each state and tribe must include the agencies, organizations, and individuals involved in the development of the CFSP and in the ongoing CFSP-related consultation and must describe the coordination process used in developing the APSR. States and tribes are also required to exchange copies of their APSRs.
- **Compliance with ICWA:** It is a specific statutory requirement of title IV-B, subpart 1 (section 422(b)(9) of the Act) for states to consult with tribes and to describe in their CFSP the specific measures they have taken to comply with the ICWA. Some components in ICWA that States are to address in consultation with Tribes include:
 - Notification of Indian parents and tribes of state proceedings involving Indian children and their right to intervene;
 - Placement preferences of Indian children in foster care, pre-adoptive, and adoptive homes;
 - Active efforts to prevent the breakup of the Indian family when parties seek to place a child in foster care or for adoption; and
 - Tribal right to intervene in state proceedings, or transfer proceedings to the jurisdiction of the tribe.

In the APSR, states are required to:

- Describe the process used to consult with tribes since the last APSR, list the names of tribes and individuals involved in the consultation, and address the outcomes or results of these consultations.
- Assess the level of compliance and the progress made to improve compliance with ICWA during the past year, as informed by consultation with tribes and available data.
- Update the goals and describe the specific activities that have been or will be undertaken to improve or maintain compliance with ICWA, including information on any changes to laws, policies, or procedures, and/or a description of any trainings implemented to increase compliance with ICWA.

Similarly, tribes in their APSR are to:

- Provide an update regarding the consultation between the state and the tribe with respect to state compliance with ICWA and are asked to describe any concerns with respect to the ICWA consultation and compliance.
- Consultation Between States and Tribes Relating to Chafee Foster Care Independence Program: Federal law (section 477(b)(3)(G) of the Act) requires each state to consult with each Indian tribe in the state about the programs to be carried out under its plan for the Chafee Foster Care Independence Program and the Education and Training Vouchers program. (These programs provide funding for independent living services for youth at risk of aging out of foster care and for young adults who have aged out of foster care and funding for vouchers for postsecondary education for youth who have aged out of foster care or who exited foster care through adoption or kinship guardianship after reaching age 16.) In submitting the CFSP, each state certified that it has made efforts to coordinate the programs with tribes; that benefits and services under the programs will be made available to Indian children in the state on the same basis as to other children in the State; and that the state will negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the state that does not receive a direct allotment from the Federal government and that requests to develop an agreement with the state to receive an appropriate portion of the state's allotment to administer, supervise or oversee the programs to be carried out for eligible Indian children under the authority of the tribe.

In the APSR, states are required to:

- Provide information regarding consultations with Indian tribes specifically as it relates to determining eligibility for benefits and services and ensuring fair and equitable treatment for Indian youth under the Chafee Foster Care Independence Program and the Education and Training Voucher program. Describe how the state has negotiated in good faith with any tribe requesting to develop an agreement with the state to receive from the state a portion of the state's allotment to operate these programs.
- Provide results of the consultation with Indian tribes around provision of services to Indian children and negotiation of any agreements.

Tribes in their APSR submissions must describe:

- How the tribe has been consulted about the programs to be carried out under the state's Chafee program and explain the results of the consultation, specifically as it relates to determining eligibility for benefits and services and ensuring fair and equitable treatment for Indian youth in care.
- Some tribes are also eligible to opt to apply to receive direct funding from ACF to operate these programs and the APSR Program Instruction provides information on how to exercise this option.