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GENERAL MEMORANDUM 14-089

Child Care Development Block Grant Bill Enacted; Tribal Child Care Allocation Could Increase

On November 19, 2014, President Obama signed as Public Law 113-186 legislation (S 1086) reauthorizing the Child Care and Development Block Grant (CCDBG) for FYs 2015 through 2020. CCDBG provides funds to tribes and states to help low-income parents and those in job training and other education programs access child care. The Act, approved by the House by voice vote and by the Senate by 88 to 1, makes significant changes to the program and provides an avenue by which tribes may receive an increased funding allocation and also utilize some funds for construction purposes.

CCDBG funding is discretionary and is combined with mandatory funding authorized in Section 418 of the Social Security Act¹ into the Child Care Development Fund (CCDF).² Prior to enactment of PL 113-186, tribes received an allocation of one to two percent; however, the Secretary of Health and Human Services had always allocated the full two percent. For FY 2014 the total discretionary funding was \$2.36 billion and the total mandatory funding was \$2.91 billion, equaling a combined amount of \$5.27 billion. Of this combined amount, tribes received approximately \$100 million in FY 2014.

The last CCDBG reauthorization was in 1996 (it extended through 2002), and the newly-enacted version places new focus on state development of educational, health, and safety standards; child abuse prevention and reporting; criminal background checks; coordination with the Head Start, foster care and other programs; and increased supply and quality of care for children in underserved areas, infants and toddlers, children with disabilities, and children who receive care during non-traditional hours. States will be required to have at least one on-site inspection annually of CCDBG providers and also undertake pre-licensure inspection of child care providers. At the option of the tribe, states will coordinate with tribes in the development of its three-year CCDBG plan.

¹ Also referred to as the Child Care Entitlement to States.

² The discretionary funding is under the jurisdiction of the Senate Health, Education, Labor and Pensions Committee and the House Education and the Workforce Committee; the mandatory funding is under the jurisdiction of the Senate Finance Committee and the House Ways and Means Committee.

Three tribal-specific provisions of note in PL 113-186 are:

Funding Allocation. Thanks to an amendment offered by Senators Murkowski (R-AK) and Franken (D-MN), the tribal funding allocation was changed from its previous one to two percent to a *required* two percent. Additionally, the Secretary may now increase the tribal allocation above the two percent if the discretionary appropriation level exceeds its FY 2014 amount.

The authorization levels for discretionary funding in PL 113-186 are: \$2.36 billion for FY 2015 (same as FY 2014); \$2.47 billion for FY 2016; \$2.53 billion for FY 2017; \$2.60 billion for FY 2018; \$2.66 billion for FY 2019; and \$2.74 billion for FY 2020.

Tribal Licensing and Standards. The Act modifies the previous law's provision regarding the development by the Secretary of the Department of Health and Human Services (DHHS), in consultation with tribes, of licensing and regulatory requirements. In 2000, DHHS issued voluntary minimum child care standards for tribes and tribal organizations receiving CCDF funds; those standards were updated and reissued in 2005. The provision in PL 113-186 is:

(D) LICENSING AND STANDARDS.—In lieu of any licensing and regulatory requirements applicable under State or local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards that shall be applicable to Indian tribes and tribal organizations receiving assistance under this subchapter. Such standards shall appropriately reflect Indian tribe and tribal organization needs and available resources, and shall include standards requiring a publicly available application, health and safety standards, and standards requiring a reservation of funds for activities to improve the quality of child care provided to Indian children.

Construction Waiver. An amendment offered by Senators Tester (D-MT) and Murkowski (R-AK) that allows tribes to apply to the DHHS Secretary to waive the prohibition on using funds for construction was included in the final bill. The waiver language is:

(B) in paragraph (6), by striking subparagraph (C) and inserting the following:

"(C) LIMITATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if the use will result in a decrease in the level of child care services provided by the Indian tribe or tribal organization as compared to the level of child care services provided by the Indian tribe or tribal organization in the fiscal year preceding the year for which the determination under subparagraph (B) is being made.

"(ii) WAIVER.—The Secretary shall waive the limitation described in clause (i) if—

"(I) the Secretary determines that the decrease in the level of child care services provided by the Indian tribe or tribal organization is temporary; and

"(II) the Indian tribe or tribal organization submits to the Secretary a plan that demonstrates that after the date on which the construction or renovation is completed—

"(aa) the level of child care services will increase; or

"(bb) the quality of child care services will improve."

Please let us know if we may provide additional information regarding the Child Care and Development Block Grant Act of 2014.

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