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Governor

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Secretary

**State of Wisconsin**  
Department of Children and Families

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April 13, 2009

Mr. Joe Bock  
Acting Associate Commissioner, Children's Bureau  
Administration on Children, Youth and Families  
1250 Maryland Ave., SW, 8<sup>th</sup> Floor  
Washington, DC 20024

Dear Mr. Bock:

Thank you for the opportunity to comment on proposed regulations for federal agreements to provide Title IV-E funding to tribes for maintenance and administrative costs of providing tribal foster care and adoption assistance services to children. The Wisconsin Department of Children and Families (DCF) manages the Title IV-E program, and we are currently in the process of developing state IV-E agreements with tribes to provide IV-E foster care maintenance and administrative reimbursement. The regulations for federal IV-E agreements are important to the 11 recognized tribes in Wisconsin and will make a significant difference in whether individual tribes pursue a state or federal IV-E agreement.

The authority for federal/tribal IV-E agreements was created by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (FCSIAA) which contains clear direction to give tribes choices between federal and state IV-E agreements reflecting tribal sovereignty. Given the intent of FCSIAA, the regulations should be designed to provide as much parity as possible between state and federal agreements so that tribes can choose based on tribal preference for which level of government they wish to work with for claiming IV-E reimbursement. Thus, we encourage ACF to draft the regulations so that favorable provisions applicable to federal agreements also apply to state agreements.

The regulations should keep the tribal IV-E program as simple as possible. It is important to acknowledge that some of the tribes in Wisconsin and elsewhere across the country are very small and do not have many people to do administrative work. The complex claiming procedures applicable to states should not be applied to tribes to keep the tribal workload associated with claiming IV-E reimbursement manageable.

The following are specific comments or questions for consideration as the regulations are developed:

- The federal agreement should give tribes choice regarding whether to include foster care, adoption assistance or subsidized/assisted guardianship. In Wisconsin, tribal adoptions and guardianship orders are recognized for purposes of adoption assistance and

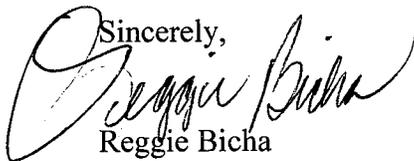
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subsidized guardianship and the state pays the costs of those programs for tribal children. Thus, tribes should have the option for foster care only agreements.

- For foster care agreements, the regulations should allow tribes the option to claim only administrative costs. Some of the Wisconsin tribes do not make foster care maintenance payments (generally a county financial responsibility), but do provide case management services to families with children in placement and license tribal foster homes. These tribes should have the opportunity for a federal IV-E agreement that is not contingent on including maintenance costs.
- Since the FCSIAA provides authority for tribes to make contrary to the welfare and reasonable efforts findings retroactively for one year, this authority should apply to both federal and state IV-E agreements.
- Federal policy recognizes the ability of tribes to license foster homes on or near the reservation. The regulations should provide tribes with considerable flexibility regarding the definition of "near the reservation" for purposes of what foster homes tribes can license and claim IV-E reimbursement for placements.
- The tribes will be subject to the 1996 State AFDC eligibility requirements for purposes of determining the IV-E eligibility of children. Since Wisconsin and other states did not change AFDC eligibility requirements in the last years of the program, the treatment of per capita payments from tribes under the AFDC requirements is clearly addressed. Wisconsin recommends that the regulations authorize tribal per capita payments to be disregarded for purposes of determining IV-E eligibility for both federal and state IV-E agreements.

We appreciate the opportunity to provide comments and would welcome any additional opportunities to provide further input as the federal regulations are developed.

Sincerely,



Reggie Bicha  
Secretary

cc: Wisconsin Indian Child Welfare Directors  
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