



American Indian  
Title IV-E  
Application  
Planning Process:  
*Tribal Progress,  
Challenges, and  
Recommendations*

SEPTEMBER 2012

# acknowledgements

## Acknowledgements

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## Executive Summary

This report provides a current picture of the American Indian Title IV-E grantee planning process authorized under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008. This legislation gave tribes the authority to directly administer and operate IV-E programming for tribal children. Under the authorizing legislation, plan development grants were awarded to seven American Indian tribes in 2009, four American Indian tribes in 2010, and one American Indian tribe in 2011. Despite great effort, only one tribe, Port Gamble S'Klallam Tribe in Washington State, has been approved to directly administer its Title IV-E child welfare program. It is notable that they were able to accomplish this without a IV-E Plan Development Grant.

This report presents the experiences, concerns, and recommendations of tribes who received the Title IV-E Plan Development Grant. These tribes have been active in the planning process as they seek to assume their sovereign rights and responsibilities for youth, improve funding, develop culturally congruent child welfare programming, and develop models, tools, and methodologies that can also assist other tribes. The report focuses on bringing forth the voices of the participating tribes.

Two questions are addressed: What is the current status of the tribal Title IV-E planning process and how could the process be improved? Grantees were asked for feedback via the Internet and through a convening of the tribes to solicit their perspectives (12 tribes were approached and 8 responded). Through this process, the grantees described the challenges they face and offered recommendations for improving tribal ability to assume full responsibility for their children. The tribes demonstrated clear progress and cited significant accomplishments in knowledge, strategy, technology, and collaboration. They also explicitly identified the issues within tribal, state, and federal purview that should be addressed. Recommendations for improving the planning process include the following:

1. Create explicit model definitions, guidelines, and tools for codes and policies that are culturally sensitive.
2. Increase program design clarity through more consistent interpretation of federal program guidance.
3. Consider new strategies for collaborative planning that should facilitate clear goal-setting, benchmarks, and feasible timelines that would facilitate goal-oriented problem solving.
4. Fund and implement *working meetings* with current grantees, technical assistance providers, and representatives from the Children's Bureau.
5. Create an accessible information center that supports joint work among tribes and between tribes, states, and the federal government.

6. Identify a direct liaison between the plan development grantees and the office of the ACYF commissioner.
7. Create a small resource development task force with representation from all relevant tribal entities and private sponsors interested in this work.
8. Develop a sound, culturally appropriate needs assessment tool and consultation process.
9. Provide tribes with examples of code provisions that could meet IV-E legal requirements rather than legal guidelines.
10. Define criteria or standards for tribal technical assistance in this area.

The tribal nations are positive and determined to present their concerns, needs, and recommendations. They are developing a strong knowledge base and intend to take care of their children. However, they need resources in order to obtain matching funds and inform practice model development. They also need expert technical assistance with technology, cost allocation, data management, and legal requirements. In addition, they require culturally relevant guidelines for models and strategies, as well as clarity and uniformity of policy interpretation across the federal regions. Finally, a greater presence at the national and regional planning and decision-making level is one of the more urgent priorities so tribes can bring an increasingly strong and informed voice to the planning discussions.

This report highlights the experiences, concerns, and recommendations of tribes who received the plan development grant and who have been active in the IV-E planning process as they seek to assume their sovereign rights and responsibilities for youth. They also seek to *improve funding, develop culturally congruent child welfare programming, and build models, tools, and methodologies* that can assist other tribes.

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## Introduction

### Purpose and Overview

This report provides a real-time snapshot of the American Indian Title IV-E grantee application planning process authorized under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections). This legislation gives tribes the authority to directly administer and operate Title IV-E programming for tribal children. Under the authorizing legislation, plan development grants were awarded to seven American Indian tribes in 2009, four American Indian tribes in 2010, and one American Indian tribe in 2011. Despite great effort, only one tribe, the Port Gamble S'Klallam tribe in Washington State, has been approved to directly administer its Title IV-E child welfare program. It is notable that this tribe was able to accomplish this without a Title IV-E Plan Development Grant.

This report highlights the experiences, concerns, and recommendations of tribes who received the plan development grant and who have been active in the IV-E planning process as they seek to assume their sovereign rights and responsibilities for youth. They also seek to improve funding, develop culturally congruent child welfare programming, and build models, tools, and methodologies that can assist other tribes. The report's uniqueness is found in its representation of the voices of participating tribes. Through a web-based questionnaire and through a convening of the tribes to gain their perspectives (tribal perspectives convening), the grantees describe the issues with which they struggle, the challenges they face, and their recommendations for improving their ability to develop a direct IV-E plan. In addition, brief reviews of previous research and reports from current providers of technical assistance (TA) to tribal grantees demonstrate the commonality of challenges and recommendations over time that continue to resonate in current planning efforts.

### Context

Federal, state, and tribal government relationships in the United States are historically replete with complexities, conflict, and insensitivity leading to great overreach, misunderstanding, and suspicion. These factors continue to affect all participants (tribal, federal, state, public/private sector agencies) in efforts to construct culturally sensitive child welfare plans that will allow tribes to directly administer Title IV-E and provide the most effective services possible. In analyzing the information shared by the tribes, TA professionals, advocacy organizations, and policy and research efforts on the subject of direct tribal administration of Title IV-E, we noted core principles established in common law, case law, and legislation that frame the work.

Federal common law has long recognized the following:

- “Indian nations are distinct political governments retaining their original natural rights...” (*Worcester v. The State of Georgia*, 1832).
- As summarized by one court, “Indian tribes are neither states, nor part of the federal government, nor subdivisions of either. Rather they are sovereign political entities possessed

of sovereign authority not derived from the United States, which they predate... [and are] qualified to exercise powers of self-government... by reason of their original tribal sovereignty” (*National Labor Relations Board v. Pueblo of San Juan*, 2002).

However, in exercising its authority over American Indian and Alaska Native affairs, there is a “distinctive obligation of trust incumbent upon the [federal] Government that involves moral obligation of the highest responsibility” (*Seminole Nation v. United States*, 1942). In recent years, Congress has repeatedly reaffirmed the principle of tribal self-government (Indian Self Determination and Education Assistance Act, 1974; Indian Tribal Justice Act, 2002), and tribal exercise of jurisdiction over the domestic relations of tribal members who maintain tribal relations has been recognized in a long series of cases dating from the 1800s to the present. In 1916, for example, the U.S. Supreme Court acknowledged that “personal and domestic relations of the Indians” have been regulated from “an early period... according to their tribal customs and laws” (*United States v. Quiver*, 1916). This has meant that state governments have no jurisdiction over such matters when they involve members of the tribe domiciled or resident on the reservation because it “would subject a dispute arising on the reservation to a forum other than the one they have established for themselves” (*Fisher v. District Court*, 1976; *Raymond v. Raymond*, 1997). Even so, there is some case law support for the idea that where Public Law (PL) 280 applies, state governments have concurrent jurisdiction.

Some of the states’ practices gave rise to the Indian Child Welfare Act of 1978 (ICWA). ICWA is federal law that affirms the importance of tribal culture and decision making in child welfare matters, a direct response to escalating concern over the impact on children, families, and tribes from the “abusive child welfare practices” that had separated children from families and tribes through foster care placements and/or adoptions (Limb, Chance, & Brown, 2004, p. 1280). While researchers have noted lack of funding as a significant issue that has impeded full state compliance with ICWA (Cross, Earle, & Simmons, 2000), it is also clear that ICWA has empowered tribes through funding resources and the authority to participate in public and private child welfare proceedings involving their member children and families. This in turn has strengthened tribal child welfare by giving tribes a distinct role in child welfare decision making involving their children and strengthening their capacity to assume responsibility and develop programs and services for their children.

### Fostering Connections Plan Development Grants

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (PL 110-351), signed into law on October 7, 2008, presents a major opportunity for American Indian child welfare reform. The law has great meaning for American Indian and Alaskan Native tribes. A historic first, the Act authorizes federally recognized Indian tribes, tribal organizations, and consortia of Indian tribes to apply to the federal Department of Health and Human Services (HHS) to directly operate the Title IV-E Foster Care and Adoption Assistance Program.

Title IV-E is the largest federal funding stream available to child welfare programs on state and, with the signing of PL110-351, tribal levels as well. Additionally, the Act allows and provides incentives for

states and tribes to continue existing agreements or develop new agreements with states to operate the program, including new funding for foster care, kinship guardianship, adoptive, and independent living services for American Indian and Alaskan Native children who are under tribal jurisdiction and new funding for tribal technical assistance (TA) and development grants.

Effective FY 2009, the Act appropriated \$3 million annually for three purposes: (1) information services to address program services, administrative functions, data collection, program management, and reporting requirements necessary for tribal administration of the Title IV-E program; (2) TA for tribes intending to directly operate a tribal Title IV-E program or seeking a cooperative agreement with a state relative to the administration of such a program; and (3) plan development grants for tribes to assist with the costs of constructing a directly administered Title IV-E program. From this \$3 million, the Children's Bureau allocated up to \$850,000 per year for up to five years for the National Child Resource Center for Tribes (NRC4Tribes).

Plan development grants are maximized at \$300,000 with a stipulation of one grant per tribe. Grantees are expected to submit tribal pre-plans for direct administration of Title IV-E (direct Title IV-E) to the Children's Bureau within 24 months of receiving the grant. Tribes may request a no-cost extension for one year if they cannot meet the 24-month expectation. However, should the grantee not meet the stated timeline, the tribe is required to return the development grant funds although Secretary Sebelius can waive this requirement, if failure to complete the development plan is determined to be beyond the control of the tribe. The plan development grant funds may be expended on costs related to constructing an approvable tribally operated Title IV-E plan. This includes developing a data collection system and a cost allocation plan, and ensuring that the Act's care review requirements are established in tribal, agency, and court procedures.

As noted by Carolyn Benallyson, formerly of Casey Family Programs, many tribes had already been receiving Title IV-E funds through state agreements although this brokered arrangement did not provide tribes with full IV-E funding. Specifically, tribes received maintenance payments via these Title IV-E state agreements, but administrative and training costs were not covered, leaving significant decision-making and management responsibility in the hands of the state (C. Benallyson, personal communication, January 27, 2012). However, it is important to note that this has not been true for all tribal/state agreements. Many of these agreements do provide administrative and training funds. This also includes some of the current IV-E development grantees (e.g., Salish and Kootenai of Montana, Siletz of Oregon, and the Sac and Fox and Chickasaw of Oklahoma).

American Indian and Alaskan Native tribes welcomed the legislation as a long-desired recognition of tribal sovereignty, respect for tribal culture, and affirmation of tribal rights and responsibility to care for their own children. The opportunity, however, has been fraught with complications and is, as yet, largely unrealized. Three years have passed; and despite substantial efforts, only one tribe, the Port Gamble S'Klallam (Washington State), has an approved direct Title IV-E plan. Port Gamble S'Klallam was able to accomplish this without a plan development grant.

There are multiple reasons for the slow pace: some are historic and embedded; others are specific to Title IV-E planning. Fostering Connections made possible direct IV-E administration by tribes; it also increased the requirements for tribes that hoped to pursue this option. In addition, these federal requirements of tribes in administration, cost allocation methodology, legal requirements, and data collection systems were functions with which tribes had already struggled for some time. Many of these responsibilities had, in fact, been handled by the states with which tribes had agreements.

A further challenge was posed by the resources necessary to meet these requirements; tribes are frequently resource-poor in staff and funding, and yet now they face tasks that further challenge those limited resources, i.e. human, financial, technological, and judicial. For example, tribes intending to design a direct Title IV-E agreement with the federal government must create or adapt tribal foster care standards, licensing regulations, cost allocation, and methodology plans. While many tribal entities already have these policies in place, revisions are needed to meet IV-E requirements, including language and practice methods. These efforts necessitate significant resources and sophisticated technology in addition to acceptance by tribal elders and councils and placement in tribal codes and courts systems. Beyond these resource challenges, tribes must typically develop this IV-E infrastructure with existing staff who are already working at full capacity delivering services and administering programs.

A lack of clarity in relevant federal information early on regarding the definition of *in-kind matches* that tribes can use to meet the matching requirement for the Title IV-E funds is another stumbling block. Tribes engaged in developing their IV-E plans were trying to develop estimations of the fiscal impacts Title IV-E would have for their governments; without this clarity, it was difficult for them to accurately assess how much non-federal share funding would be required from the tribes. The federal Department of Health and Human Services (HHS) was expected to make explicit and to promote permanent regulations on the use of in-kind matches by October 1, 2011, in consultation with the tribes. This did not happen until the Interim Final Rule was promulgated in January 2012 and it took effect in March 2012. While some consultation with tribes was included in the discussions that led to the Interim Final Rule, reports indicate that some tribal representatives did not experience the sessions as useful or informative (D. Simmons, personal communication, March 15, 2012), in part because consultation occurred before tribes had gained experience with the Administration for Children and Families (ACF) outline for grantee plan proposal (plan proposal) and its requirements. In addition, communication was hindered by the limited knowledge of tribal child welfare that some of the federal staff facilitating the consultation sessions possessed and the structure of the consultation sessions, which allowed very limited opportunity for tribes to ask questions outside the agenda developed by federal officials. As a result, the consultation was limited in its effectiveness.

An additional complication arose from ambiguity, this time in the grant budgeting process. Mandatory grantee meetings were not included in the grant requirements; thus, tribal grant budgets did not include funding for these meetings and tribes had to fund those costs by other means. This diminished opportunities for grantee tribes to meet, talk, learn from each other, and work together.

Lastly, grantee tribes did not receive the plan development funds until six months after the actual award. The 24-month timeline for plan submission was not extended, leaving tribes with 18 months to submit their proposal plans. A one-year, no-cost extension could be requested; and the entire first cohort of grantee tribes received this extension. Nonetheless, the tribes are understandably concerned with the potential need to repay the proposal plan funding if their plan is not approved or submitted within the timeframe. The deadlines are now imminent for the first year of grantees (2009) as the end of FY 2012 approaches (C. Benallyson, personal communication, January 27, 2012).

### Current Grantees

In the first two years after passage of Fostering Connections, approximately 75 tribes submitted a letter of intent or notified their regional Children's Bureau office expressing their interest in applying for a plan development grant (D. Simmons, personal communication, March 15, 2012).

In 2009, seven tribes were awarded grants:

- Confederated Salish and Kootenai Tribes, Pablo, MT
- Confederated Tribes of Siletz Indians of Oregon, Siletz, OR
- Keweenaw Bay Indian Community, Baraga, MI
- Navajo Nation, Window Rock, AZ
- Sac and Fox Nation, Stroud, OK
- Tohono O'odham Nation, Sells, AZ
- Washoe Tribe of Nevada and California, Gardnerville, NV

In 2010, four tribes were awarded grants:

- Chickasaw Nation, Ada, OK
- Lummi Nation, Bellingham, WA
- Shoshone-Bannock Tribes, Fort Hall, ID
- Yurok Tribe, Del Norte, CA

In 2011, one tribe was awarded a grant:

- South Puget Inter-Tribal Planning Agency, Sheldon, WA

### Profiles of Tribal Nations Participating in These Findings

*Confederated Salish and Kootenai Tribes.* The Confederated Salish and Kootenai tribes have 7,753 enrolled members (*Confederated Salish and Kootenai Tribes Annual Report, 2010-2011*) and are comprised of the Bitterroot Salish, the Pend d'Oreille, and the Kootenai tribes in Montana. The confederation is a member of the first cohort of planning grantees. The child welfare director leads the development of an IV-E plan for Salish and Kootenai.

*Confederated Tribes of Siletz Indians of Oregon.* The Siletz tribe, a nation of approximately 4,800 members (Confederated Tribes of Siletz Indians, 2010), was among the first cohort of planning grantees. A three-member team leads the IV-E development effort with leadership from the child welfare director.

*Keweenaw Bay Indian Community (KBIC).* Total enrollment for the KBIC was 3,315 in 2005 (Bureau of Indian Affairs, 2005). This tribe was among the first cohort of planning grantees. Two individuals, including the child welfare director, are participating in the IV-E planning process.

*Navajo Nation.* The Navajo Nation, with approximately 250,000 enrolled members (Navajo Nation Government, 2011) is the largest tribal nation participating in the planning grant process. Ten individuals are working on the Fostering Connections development grant team, which is led by the Title IV-E coordinator. The Navajo Nation was among the first cohort of planning grantees and has been participating in the process since 2009.

*Shoshone-Bannock Tribes.* The Shoshone-Bannock tribes (Shoshone-Bannock Tribes, 2011) are part of the second cohort of planning grantees. Located in Idaho, the Shoshone-Bannock tribes have approximately 5,675 enrolled members. Six individuals including the social services manager have time dedicated to the development of an IV-E plan.

*South Puget Intertribal Planning Agency (SPIPA).* SPIPA is made up of five tribes from the state of Washington: the Chehalis, Nisqually, Shoalwater Bay, Skokomish, and Squaxin Island tribes. SPIPA was the only tribal organization to receive a planning grant in fiscal year 2011 and at this time, only Nisqually and Squaxin Island (711 and 1023 enrolled members, respectively; *2011 Annual Report for SPIPA*) are actively involved in the grant.

*Washoe Tribe of Nevada and California.* The Washoe tribe was also among the first cohort of grantees. Washoe has two individuals assigned to work on the Fostering Connections development grant. According to Lynelle Hartway of the Washoe tribe, there are approximately 1,600 enrolled members.

*Yurok Tribe.* In 2006, the Yurok tribe had approximately 5,000 enrolled members. This tribe was a part of the second cohort of planning grantees and at present they have a team of six individuals working on the planning grant.

### Prior Research Informing This Report

Several prior documents informed this report. These documents described below:

- Provided historical, technical, and legal background to the Fostering Connections legislation.
- Described the compliance issues with ICWA, Title IV-B, and state-tribal agreements.
- Identified challenges experienced by tribes and TA providers in implementing past

child welfare law.

- Offered ideas for improving current direct IV-E planning.

### American Indian Tribal Planning

Limb and Brown (2008) examined the ICWA section of State Title IV-B Child and Family Services Plans (CFSP). ICWA is a fundamental underpinning of the intent and expectations of Fostering Connections. The authors noted that the Administration for Children and Families (ACF) program

instructions for CFSP lacked sufficient clarity and detail regarding what states must do to comply with ICWA requirements, impeding understanding of federal requirements and limiting what states included in their plans. A review of a nationwide sample of the ICWA section of Title IV-B CFSPs (Brown et al., 2004) also identified insufficient ACF program instructions for the CFSP and APSR (Annual Progress and Services Report), and a lack of consistency in required tribal consultation. Challenges with clarity and specificity of requirements, incomplete and/or missing data, and lack of models, relationship building, and collaboration were consistently identified as obstacles and continue to be problematic in current planning efforts. Recommendations concerned improving CFSP documentation for subsequent use in IV-E plans and strengthening relationships and collaborations. (For specifics on these recommendations, see Appendix A).

Challenges with clarity and specificity of requirements, incomplete and/or missing data, and lack of models, relationship building, and collaboration were consistently identified as obstacles and continue to be problematic in current planning efforts.

### Direct IV-E Technical Assistance Reports

More recent work is specifically connected to the direct IV-E planning process. Geary and Day (2010) assessed current child welfare data-gathering systems including the Adoption and Foster Care Analysis Report System (AFCARS), the National Child Abuse and Neglect Data System (NCANDS), the Statewide Automated Child Welfare Information Systems,

and the National Youth in Transition Database (NYTD) in the context of Title IV-E requirements. They concluded that implementing and maintaining systems such as these would demand financial, human, technical, and technological design, development, and management resources that are well beyond the reach of most tribes. However, the authors described a successful implementation by the Central Council Tlingit and Haida Indian Tribes of Alaska (CCTHITA) in June 2009. Their comprehensive, integrated, multi-program data management system meets the Title IV-E requirements, and this system may well be a useful resource for other tribes. CCTHITA identified the collaborative nature and structural design of the system development process as instrumental to their success (Geary & Day, 2010). Geary and Day's Title IV-E planning recommendations related to data collection and management included assessing needs and readiness, building support,

planning strategically, creating practical data systems, and planning for ongoing assessment and modifications. (For specifics on these recommendations, see Appendix A).

David Simmons (2011), writing on behalf of the National Indian Child Welfare Association (NICWA), described the barriers and solutions experienced in providing TA to tribal Title IV-E plan development grantees. The association's work identified specific issues and needs that have challenged many of the grantee tribes, and it also provided examples of possible solutions. The issues and recommendations included developing and maintaining reimbursement for IV-E administrative activities, managing reimbursement for foster care placements, managing IV-E capacity-building activities, developing data collection systems, and securing non-federal matches. Other related issues discussed were expectations of repayment of funds if the proposal plan was not approved within time guidelines and ACF policy interpretations around termination of parental rights. (For specifics on the recommendations, see Appendix A).

Jack Trope, Executive Director of the Association on American Indian Affairs, in his analysis of the legal requirements of IV-E implementation noted that "tribes have always had systems for addressing their internal conflicts and relationships. Historically, these systems were informal, unwritten and based on a holistic philosophy and way of life" (Trope, 2010, p. 9). He acknowledges that today most tribes have written codes and more formal systems. Meeting the Fostering Connections legal requirements, which demand written codes and standards, presents a stubborn problem, he notes, after methodically and chronologically analyzing the legal requirements of Title IV-E to identify the components that must be addressed in tribal codes, regulations, and written policies. Trope recommends a community-based process to define and develop the code provisions, regulations, and policies. He noted that the technical sophistication of the work requires that individuals with that expertise be part of the process. Trope used examples and models from existing tribes, tribal codes, and state/tribal IV-E agreements to provide a framework whereby "a tribe can make an educated decision about whether to operate Title IV-E programs, understand the tools that are needed to make it work, and, if a tribe decides to operate the program, to make the decision and adopt the legal framework necessary to take advantage of the program" (Trope, 2010, p. 34).

*Recommendations from the NRC4Tribes.* In 2011, the NRC4Tribes published the Technical Assistance Needs Assessment, which contained specific recommendations. The NRC4Tribes has the ability to assist with each of the following areas:

- Build tribal child welfare peer networks.
- Address workforce issues in tribal child welfare programs.
- Enhance multidisciplinary collaboration for prevention services.
- Partner with other federal agencies within the ACF, the Bureau of Indian Affairs (BIA), and other organizations to model effective systems of care that will support tribal child welfare programs.

## Report Methods

The purpose of this report is to present feedback about tribes' experiences with the Fostering Connections planning grant process and, in turn, assure that the involved tribes have had an opportunity to give voice to their experience of the planning process to date. This report was driven by two questions: (a) What is the current status of the tribal IV-E planning process? and (b) How could the process be improved?

To this end, the following methods were used to address the main questions of interest:

1. *Electronic feedback questionnaire.* An electronic questionnaire was sent to representatives from each of the 12 tribal nations or consortia that received Fostering Connections planning grants in fiscal years 2009-2011 (see Appendix B). Representatives were selected based on their leadership in the IV-E development efforts for their respective tribes. Representatives from six tribal nations responded to the questions electronically and an additional two representatives completed the questionnaire at a Casey-sponsored convening of tribal grantees on February 26, 2012 in Washington, DC.  
  
Tribal representatives from the four grantees who did not complete the questionnaire were contacted with a follow-up email to find out why. One responded by stating that the individual responsible for the planning grant was no longer with the organization; the other three grantees did not respond to the follow-up request.
2. *Tribal perspectives convening.* The February 26 convening, sponsored by Casey Family Programs, was designed to give tribes a venue for comparing experiences and lessons learned, and for developing consensus-based recommendations that could be given to ACF to improve the grant planning process. Meeting participation was voluntary and open to all grantee tribes. Nine tribes were represented at the meeting. Eight of these tribes also responded to our questionnaire and are shown in Table 1. The Lummi Nation also participated in the meeting but did not respond to the questionnaire. One outcome of this meeting included a set of recommendations for improving the IV-E planning grant process (see the "Tribal Perspectives Convening" section of this report).

**Table 1.** Tribal Representatives Who Responded to the Questionnaire

| Tribal Nation or Consortium                        | Representative's Position                                     | Experience in the Agency | Experience on the Planning Grant |
|--|---|--------------------------|----------------------------------|
| 1. Confederated Salish and Kootenai Tribes         | Child Welfare Director/ Tribal Social Service Department Head | 6 years                  | 14 months                        |
| 2. Confederated Tribes of Siletz Indians of Oregon | Child Welfare Director  | 1 year                   | 5 months                         |
| 3. Keweenaw Bay Indian Community                   | Child Welfare Director  | 14 years                 | 36 months                        |
| 4. Navajo Nation                                   | Title IV-E Coordinator  | 5 years                  | 3 months                         |
| 5. Shoshone-Bannock Tribes                         | Social Services Program Manager                               | 15 years                 | 24 months                        |
| 6. South Puget Interagency Planning Agency         | Social Services Manager                                       | 6 years                  | 4 months                         |
| 7. Washoe Tribe of Nevada and California           | Title IV-E Coordinator  | 2 years                  | 24 months                        |
| 8. Yurok Tribe                                     | Attorney  | 2 years                  | 16 months                        |

## Findings

### Feedback from Tribal Representatives

This section summarizes the questionnaire responses of the representatives from the eight responding tribes. Each representative was involved in leading the IV-E development effort and all feedback was obtained in February 2012. Because only eight of the twelve tribes responded to the questionnaire, the results presented here may not be representative of all tribal grantee experiences. For example, grantees who had a more positive experience with the planning grant may have been more likely (or, conversely, less likely) to respond to our request. Given this incomplete sample and possible source of bias, findings should be interpreted with caution and may not reflect other tribes' experiences with the grant.

### Technical Assistance

In the questionnaire, we asked tribal representatives to identify three technical assistance (TA) providers that their organization had worked most closely with on the IV-E planning grant and the type of TA provided by each. Seven providers were listed as choices in addition to an “other” category. The possible providers were the following:

1. Association of American Indian Affairs
2. Casey Family Programs
3. Children’s Bureau regional and main offices
4. NICWA
5. The National Resource Center for Tribes
6. Other national resource centers
7. A technology vendor

*Degree of helpfulness.* Nearly all (7 of the 8 tribes or 88%) received TA related to the direct IV-E reimbursement. Most representatives found the TA helpful with 50% indicating that it was “very helpful.” With the exception of one representative who did not respond to this question, all representatives indicated that the TA providers respected the unique tribal traditions and values of their communities.

Tables 2 through 6 display the types of TA received by the tribal nations and the providers of that TA. Of the eight representatives who responded to the questionnaire, one representative did not answer this question. One representative indicated TA from one provider and the other six representatives indicated TA from more than one provider. Preceding each table is a summary of comments concerning TA from the representatives. Feedback was not provided for the Association of American Indian Affairs.

*Casey Family Programs.* Two organizations reported receiving TA from Casey and noted that the organization was “very helpful” as a TA provider. One representative wrote: “The provider came onsite to provide TA and was sensitive to allowing the tribes to control their projects.” See Table 2.

**Table 2.** Casey Family Programs TA Provision (2 Tribes)

| TA Types   | Number of Tribes Who Received this TA Type |
|--|--|
| Agency policy and procedure development          | 2  |
| Data collection system development or adaptation | 2  |
| Guidance in assessing agency readiness for IV-E  | 2  |
| Staff training development                       | 1  |
| Writing a reimbursable IV-E plan                 | 1  |

*U.S. Children’s Bureau.* Five tribal agencies noted that they received TA from the Children’s Bureau regional offices. One found the assistance “somewhat helpful,” two found the assistance “helpful,” and two found the assistance “very helpful.” Compared to the other TA providers, more TA was provided by the Children’s Bureau regional offices than by any other source. One of the representatives wrote: “The assistance provided will help us have an approvable plan to submit.” Another shared that the regional office helped them tremendously by paying for one particular trip. Another suggested that “the TA was beneficial but provider was insensitive to tribal control and sovereignty. We had to constantly remind the provider that the Nation is not a state.”

In a separate question, all representatives were asked to describe what would be most helpful to receive from their Children’s Bureau regional office. Additional grantee working sessions was one of the responses, for example, “grantee meetings with tribal and state agency staff working side by side on all aspects of IV-E implementation.” Continued support and TA was also noted, and in particular, assistance with a model tribal plan, preprint/document reviews, continued dialogue about 45 CFR changes, and training on cost allocations. Another response highlighted the importance of recognizing the “tribal and consortia infrastructure” at the level of the regional office.

One tribal representative also noted that they received TA from the Children’s Bureau’s Central Office staff in addition to TA from their regional office and that TA mirrored the type of assistance shown in Table 3. This TA was in person and via numerous conference calls. On average, the assistance they received was described as “somewhat helpful.”

**Table 3.** Children’s Bureau Regional Offices TA Provision (5 Tribes)

| TA Types   | Number of Tribes Who Received this TA Type |
|--|--|
| Agency policy and procedure development          | 4  |
| Child and family code development                | 4  |
| Writing a reimbursable IV-E plan                 | 3  |
| Guidance in assessing agency readiness for IV-E  | 2  |
| Staff training development                       | 2  |
| Crafting a tribally based practice model         | 1  |
| Data collection system development or adaptation | 1  |

*National Indian Child Welfare Association (NICWA).* Three tribal organizations indicated that their experience with TA from NICWA was “very helpful” and one organization reported that it was “somewhat helpful.” One of the representatives noted that the most helpful element of this TA was their “understanding and experience with tribal government and communities.” In addition, “NICWA’s experience with ACF was also very helpful. They understand the ‘corporate culture’ at ACF and really helped us craft effective responses to them. We went out of our way to go to their IV-E training in the beginning,” which was reported as invaluable to their understanding of IV-E. Another noted that “NICWA and Casey [have] worked with . . . [us] . . . for 40 plus years . . . They KNOW what is needed.” A third representative wrote that the onsite TA was helpful. The tribal nation representatives also identified NICWA’s TA as among the “most helpful” including a two-day training on the technical aspects of IV-E. See Table 4.

**Table 4.** National Indian Child Welfare Association (NICWA) TA Provision (4 Tribes)

| TA Types   | Number of Tribes Who Received this TA Type |
|--|--|
| Guidance in assessing agency readiness for IV-E  | 3  |
| Agency policy and procedure development          | 2  |
| Data collection system development or adaptation | 2  |
| Staff training development                       | 2  |
| Child and family code development                | 1  |
| Crafting a tribally based practice model         | 1  |
| Writing a reimbursable IV-E plan                 | 1  |

*National Resource Center for Tribes.* Two tribal representatives reported on TA received from the NRC4Tribes. One found the TA “helpful” and one found it “very helpful.” One of the representatives further noted it was “extremely helpful to visit another tribe that had successful FGDM and social services programs.” However, one of these same representatives noted challenges in working with the NRC4Tribes; “information was very basic; info we already have.” In addition, the most significant problem noted by this representative was that the NRC was not up and running in their first grant year. After this period, the representative shared that they then seemed “busy designing programs rather than providing information” so they did not have an opportunity to use this resource as much as they would have liked. See Table 5.

**Table 5.** National Resource Center for Tribes TA Provision (2 Tribes)

| TA Types                                 | Number of Tribes Who Received this TA Type |
|--|--|
| Agency policy and procedure development  | 1  |
| Crafting a tribally-based practice model | 1  |
| On-site coordination                     | 1  |

*National Resource Center for Data and Technology.* Two tribal representatives indicated that they received TA from this NRC. One found the TA “helpful” and wrote: “The NRC Child Welfare Data and Technology went over our database structure and gave us good advice on tracking for AFCARS.” The other representative noted that the TA from this center was least helpful. See Table 6.

**Table 6.** National Resource Center for Data and Technology TA Provision (2 Tribes)

| TA Types   | Number of Tribes Who Received this TA Type |
|--|--|
| Data collection system development or adaptation | 2  |
| Crafting a tribally based practice model         | 1  |

### Collective Tribal Feedback

More generally, the tribal nation representatives identified a number of types of TA as “most helpful,” for example, providers who reviewed policies and procedures and shared guidance on navigating the federal process. Another representative highlighted the utility of onsite and conference-call TA sessions for understanding program components, development of policies and procedures, problem-solving specific tribal issues, having input for federal policy changes, training plan development, review of current tribal code, and obtaining suggestions from the regional office legal staff. Finally, AFCARS training was viewed as particularly valuable.

Conversely, a few TA types were viewed as “least helpful.” For example, one representative reported that TA surrounding the development of the tribe’s electronic case management system was inadequate. Another example included an NRC’s assistance in designing a foster-home recruitment program that was considered culturally inappropriate.

### Preparing to Receive IV-E Funding

*Challenges.* Tribal representatives also responded to the following questions: (a) What have been the major challenges in preparing to receive Title IV-E funding? and (b) What has been most helpful in addressing those challenges? Their reports of major challenges encountered in the planning process are juxtaposed with what support has been most helpful in Table 7.

**Table 7.** Major Challenges in Preparing to Receive IV-E Funding and What Was Most Helpful in Addressing these Challenges

| Major Challenges   | What Has Been Most Helpful?  |
|--|--|
| Adapting our practices to fit federal requirements, staff to get the work done, complexity and length of the proposal plan, stress of securing matching funds.   | Sharing and networking with other tribes.  |
| Developing the case management database that will collect and submit the AFCARS data.  | NRC-CWDT and local Management Information System contractors.  |
| Development of policies and procedures, revisions to the tribal code, and the tribal/state agreement are very time-consuming. Many delays were also caused by staff changes as well as the limited amount of time available for staff to complete these tasks. | The very supportive regional staff has been the most helpful. The availability and TA from the data and technology NRC on the AFCARS pilot was also very helpful and informative. The availability and regular conference calls with the central office, regional office, and selected NRCs have also been helpful. The Michigan Department of Human Services administrative staff’s support and cooperation have helped move things along for the tribal/state agreement. |
| Amount of time spent directly working with the consultant in all phases of the grant. Participation in conference calls with ACF, Region X, site visits, and meetings with tribal staff.   | Region X for technical assistance.   |

| Major Challenges   | What Has Been Most Helpful?   |
|--|---|
| Limited TA and funding on data system development and changes in rules and regulations during the duration of our project. | Ongoing attempts to address the issue.                                    |
| Understanding the proposal plan process and developing the manual.   | Assistance from grant managers at both federal and regional ACYF offices. |

*Possible solutions.* Tribal representatives also identified the areas where they currently have TA needs and how they plan to address those needs in the next few months. To address these challenges, tribes are planning to obtain support from the data and technology NRC and to collaborate with other tribes on other strategies (see Table 8).

**Table 8.** Current Technical Assistance Needs and How Tribal Nations Anticipate Meeting These Needs

| Current TA Needs   | Anticipated Ways of Meeting These Needs   |
|--|---|
| Cost allocation methodology development, training plan development.  | Not certain at the moment.  |
| Data support/management.   | Tribe has assigned IT to work directly with ACF.  |
| Electronic case management system development.   | We will be requesting TA from the data and technology NRC.  |
| Need a clear step-by-step explanation of what is needed in the development of system to provide data for AFCARS. | Training in DC the week of Feb. 25, 2012, and TA from staff at NICWA and the Child Welfare League of America. |
| Policy and proposal plan reviews.  | Onsite TA.  |
| Practice models, community engagement for input into system.   | TA, sharing from other tribes.  |
| What a completed plan will look like.  | Keep submitting examples.   |

### Advice from Current Grantees to Other Tribes

Tribal nation representatives also had some strategic advice for other tribes who may be in the process of deciding whether to pursue direct Title IV-E reimbursement. Ideas included general advice: “Really weigh the pros and cons before taking the leap” and encouragement related to the process itself: “It’s worth the work as funding is growing smaller—gives tribes more control over our programs” and “Be creative. Make a path and don’t let a regulation discourage you.” One

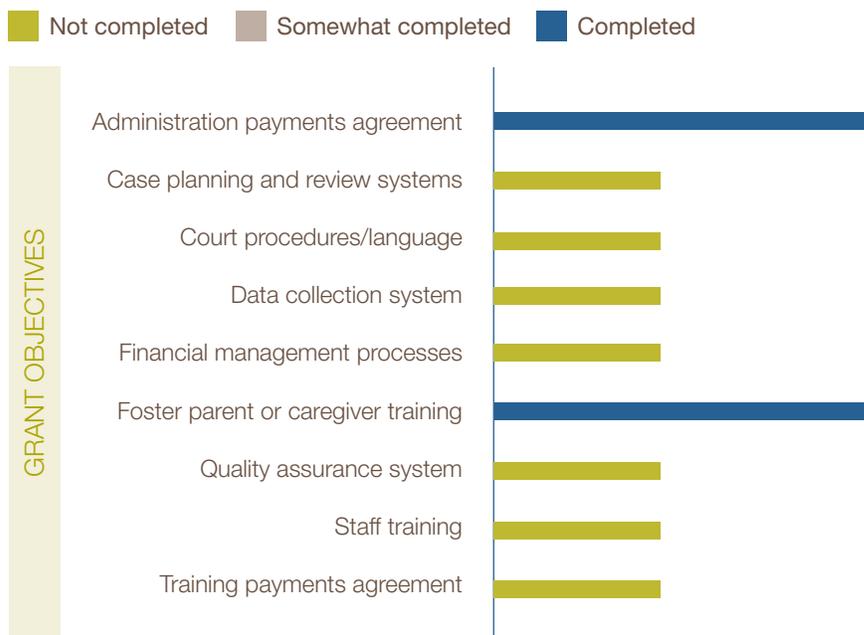
representative shared that “this is an exciting journey and [we are] enjoying tremendous support and involvement from many agencies and other tribes.”

More specific advice focused on funding, in particular, “Obtain clarification up front on cost allocation” and “Go for it, but know how you will meet the matching funds requirement.” They recommended that the planning grant application budget allow for adequate funding for travel to grantee meetings and other trainings. Finally, one representative wrote, “Don’t hesitate to call any of the other grantee tribes for advice and assistance.”

### Completion of Grant Objectives by Tribe

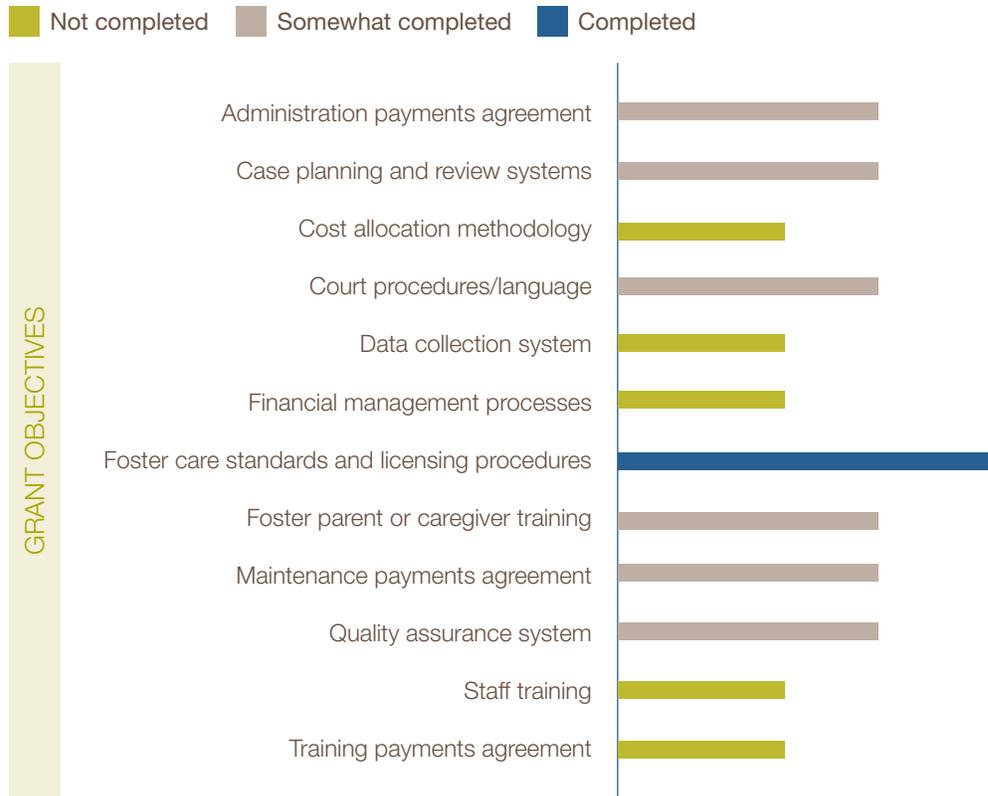
In the questionnaire, we asked the tribal representatives to describe the extent to which they were able to meet 12 grant objectives. The figures below display each tribe’s assessment of their progress (i.e., not completed; somewhat completed; completed; not-applicable). All responses that were not applicable were excluded from the figures for clarity. As described earlier, the information obtained was provided by the tribal representatives leading the IV-E development effort.

**Figure 1.** Confederated Salish and Kootenai Tribes

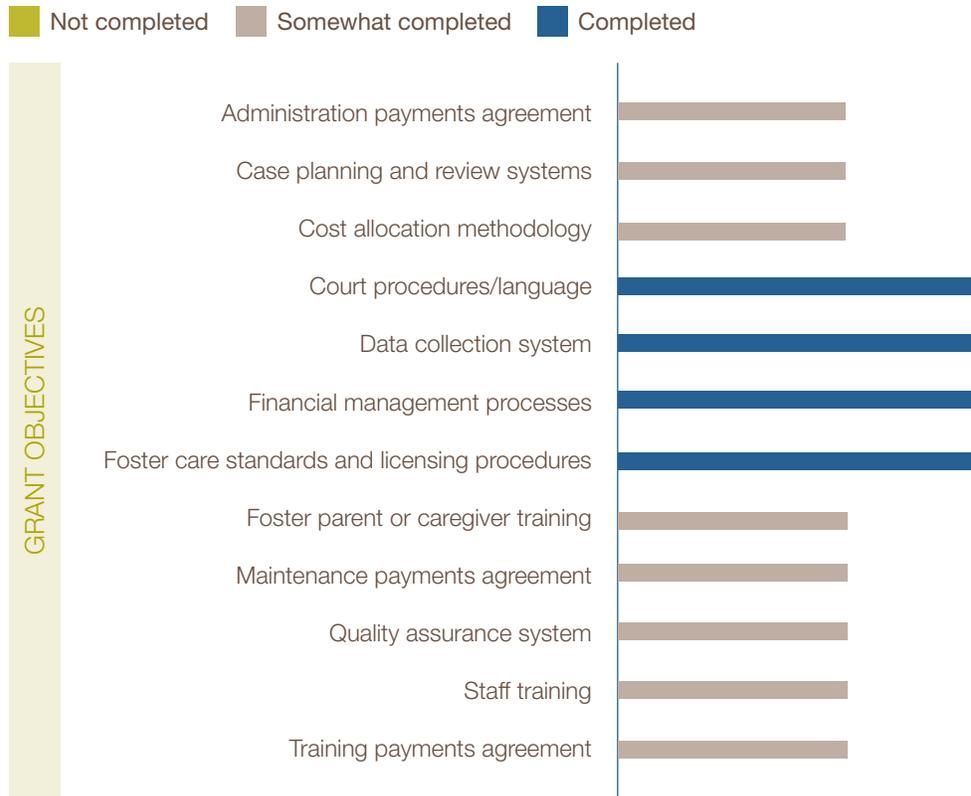


**Note:** The Salish and Kootenai representative indicated that two grant objectives were not applicable: court procedures/language and foster care standards and licensing procedures. No response was provided from the representative regarding the completion status of the maintenance payments agreement.

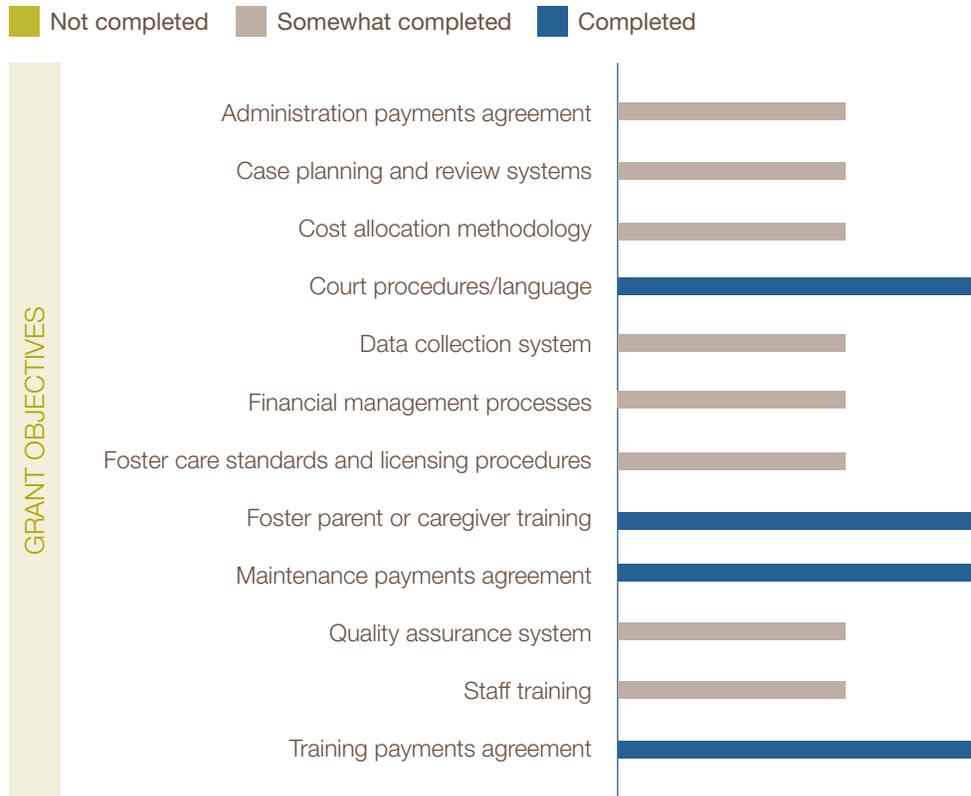
**Figure 2.** Confederated Tribes of Siletz Indians of Oregon



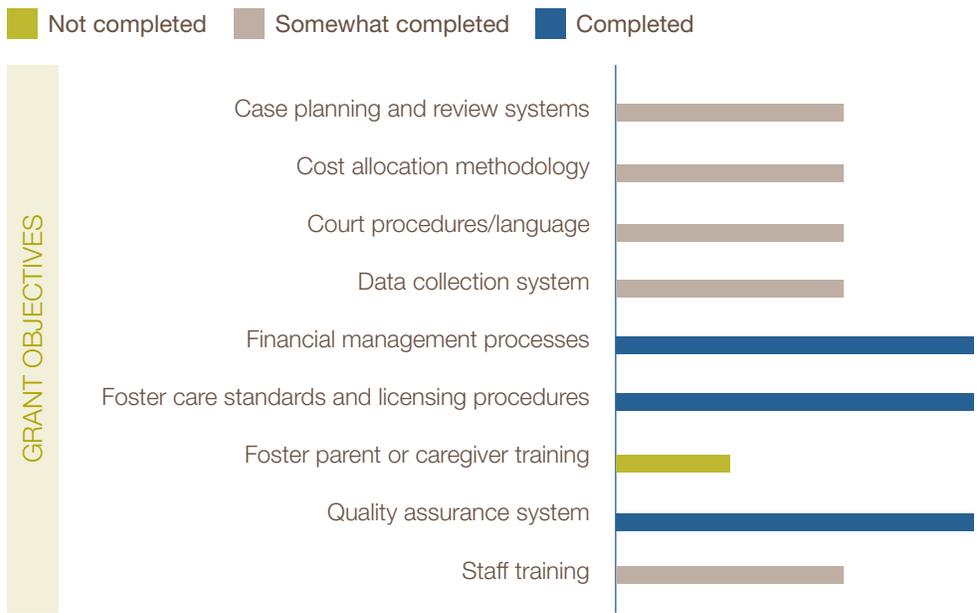
**Figure 3.** Keweenaw Bay Indian Community



**Figure 4.** Navajo Nation

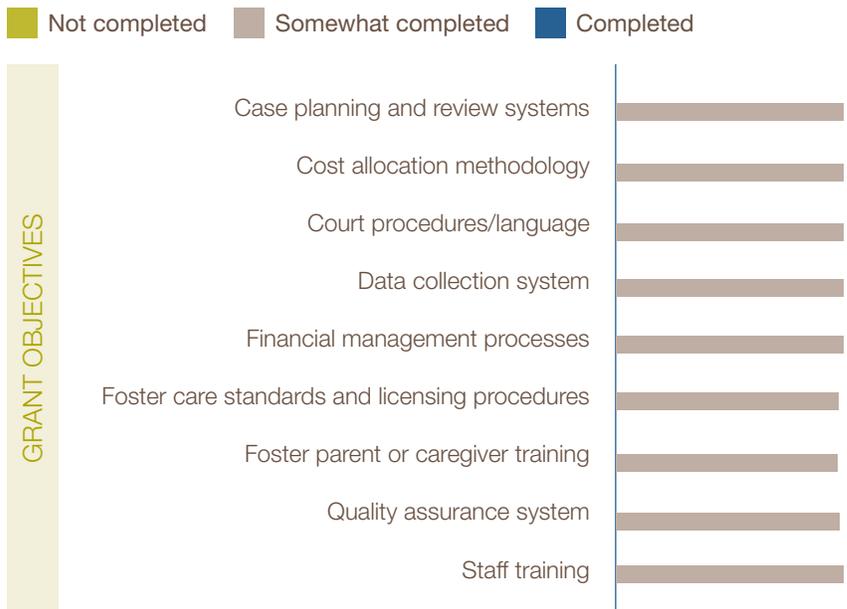


**Figure 5.** Shoshone-Bannock Tribes



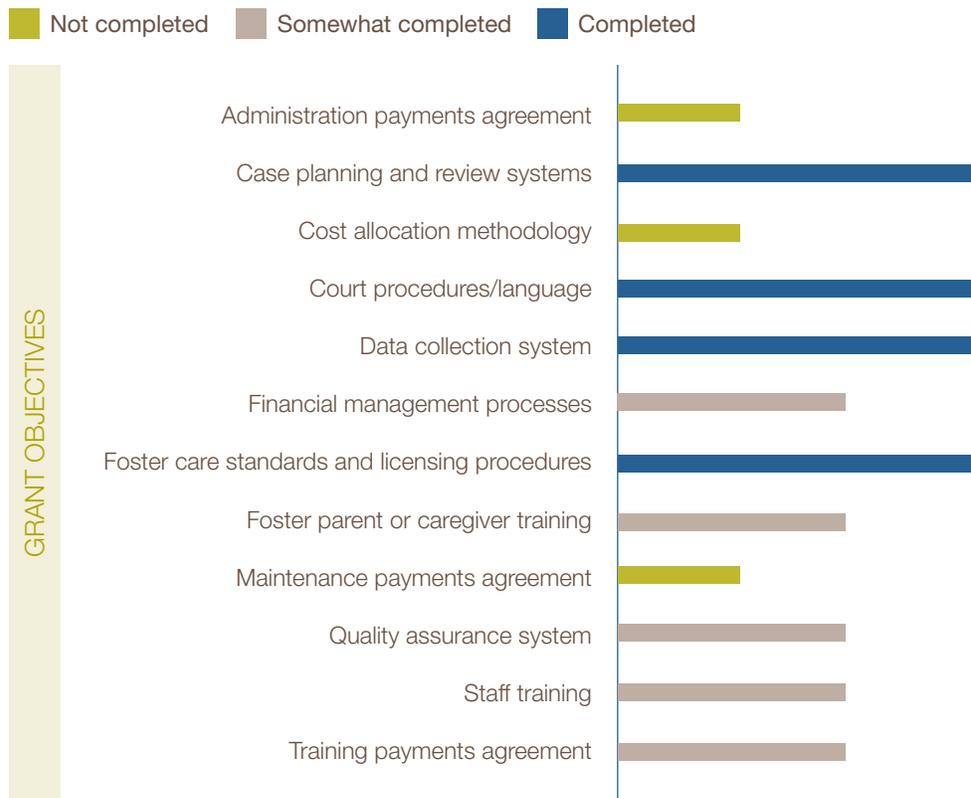
**Note:** The Shoshone-Bannock tribal representative indicated that the following three grant objectives were not applicable: administration, maintenance, and training payment agreements.

**Figure 6.** South Puget Intertribal Planning Agency (SPIPA)

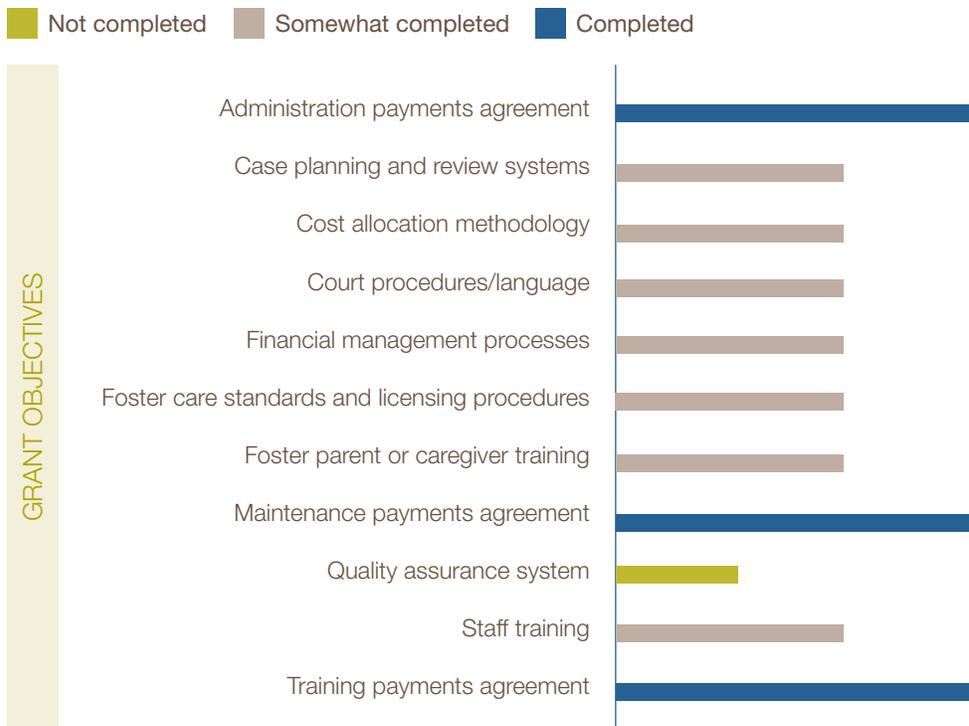


**Note:** The SPIPA tribal representative indicated that the following three grant objectives were not applicable: administration, maintenance, and training payment agreements.

**Figure 7.** Washoe Tribe of Nevada and California



**Figure 8.** Yurok Tribe



**Note:** Information about the data collection system was not provided.

## Tribal Perspectives Convening

### IV-E Planning Grant Accomplishments

The nine tribes who participated in the Tribal Perspectives Convening on February 26, 2012, identified the following accomplishments as a result of their grantee plan development work:

#### *Sovereignty*

- The ability to bring our children home and assume responsibility for their well-being.
- The recognition that tribes should have the right to run programs directly.
- The ability to write our own policies and procedures, which provides an opportunity to create or revamp policies to be more responsive to tribal operations.

### *Collaboration*

- States are now required to consult with tribes on state policy.
- Tribes are working together.
- The creation of a united group of tribes who are paving the way for other tribes.
- Becoming a united force!

### *Concrete outcomes*

- Increased resources.
- Progress toward having plans that can be approved.
- More opportunities were opened at our local levels.
- Development of case management programs such as creating databases.
- Child welfare systems at the state, county, and federal levels have been improved.

### **Obstacles**

Obstacles to successful achievement of an approvable Title IV-E plan were noted at the tribal, state, and federal levels:

#### *Tribal Leadership*

- When tribal leaders are not informed about legislation and requirements, they are unable to provide clear direction.
- Complexities of IV-E are not spelled out for tribes.
- Tribes' knowledge is diffuse and unfocused.
- Turnover in tribal councils disrupts tribal buy-in.
- Nominal knowledge base – a blueprint about IV-E.
- Weak administrative capacity within many tribal governments.
- Tribes not coordinating efforts.

#### *Tribal Programs*

- Knowledge of federal process “not understood” by tribal leaders.
- Disjointed work efforts within tribal programs.
- Programs do not have the benefits of clear direction from tribal councils, which results in unclear goals and objectives.

### *State-Tribal Relations and Authority*

- Entrenched state/county systems that are unwilling to collaborate.
- Tribes and states need a better understanding of the benefits or guidance on collaboration.

### *Federal Law*

- ACF regulations do not mandate ACF to monitor compliance with ICWA. That is, requirements for states to negotiate in good faith and consult with tribes are not enforced by ACF staff.
- Regulations and laws are too restrictive.
- ASFA permanency requirements do not reflect a cultural norm.
- No waiver authority in statute.
- AFDC regulations are outdated (e.g., 1996 Poverty Guidelines).
- Unrealistic timeframes were set, including by the ACF, because it takes a long time for change to occur.
- ACF operates as a top-down system; tribes want and deserve the opposite.
- IV-E is new without tribal history to draw from.
- IV-E is a highly complex, technical, and bureaucratic program.
- Inaccessible technical assistance.
- Process is not tribally centered (many Children's Bureau staff do not have much experience in working with tribes).
- Different funding streams have led to divisions (i.e., child support, TANF, work force).
- For some tribes, technical assistance has been fragmented, overlapping, and incomplete.
- For some tribes, no uniform relationship with ACF.

### *Policy Interpretation*

- Inconsistent policy interpretations and actions across the federal regions hamper cross-tribal planning.
- Conflicting information between the Children's Bureau's main and regional offices.
- Need for a culturally congruent definition of permanency.

## Reflections from the Grantee Questionnaire and Tribal Convening

### Common Themes

Several themes from the tribal responses echo issues described in previous work by researchers and TA providers. These are endemic concerns, not targeted to specific topics, agreements, or legislation; however, they shadow and directly influence the relational, cultural, planning, and problem solving that are critical for creating approvable plans.

- *History of mistrust fueled by mutual misunderstanding.* Federal, state, and county governments are not familiar with tribal culture and customs. At the same time, tribal governments lack knowledge of how state and federal systems work and, as a result, may not know how to work effectively within the complex legal, regulatory, and bureaucratic environment.
- *Absence of a mutually agreed-upon definition of government-to-government relationships, be they tribal-state or tribal-federal.* How should these relationships be defined? What are the guiding principles? What are the negotiation and problem-solving practices that respect and support the defined relationship? What are the respective responsibilities?
- *A dissonance between tribal culture and customs and the state-federal environment in which tribes live.* These are particularly evident in concepts of permanency and licensing standards.
- *The need for resources to build capacity for infrastructure development consistent with the required regulations, practices, etc. of the federal government.*

The tribes speak clearly about the nature and challenges of this complicated effort and their commitment to proceed. As this report was written, the Port Gamble S'Kallam tribe became the first American Indian tribe in the nation to achieve an approved plan. Several of the other grantee tribes report that their plan is close to approval. The remaining tribes who participated in this report have expressed their intention to keep working toward approval.

### What Has Gone Well in the Planning Process?

Much has been accomplished in the planning process. Tribes are working together and working with state and federal governments; sovereignty is recognized in the heart of tribal culture – children, families, and community. Tribes are building their own culturally sensitive child welfare programs, writing their own policies and procedures, creating management systems, and as a result of an arduous process, developing methodologies they can generalize to other aspects of tribal life.

The responses from the tribal representatives indicate that some tribes are generally well along in the development of an approvable plan. However, many of the tribes continue to struggle with cost allocation methodology, data management and tracking, and writing child welfare policies and

procedures that can be inserted into tribal codes and judicial systems. At the same time, there is evidence that collaborative planning processes are emerging from the work. There is a voiced sense of unity and a positive sense that success lies ahead.

### What Has Been Challenging in the Planning Process?

The planning process itself is a challenging work in progress. Diverse entities (tribes, states, federal government) must come together and learn to understand, respect, and constructively agree and disagree together, in the interests of improving tribal child welfare programming. The unstated requirement of the Act but the essential component of success will be the result of working together to create knowledge, understanding, strategies, policies, and systems that can bridge the very real differences in culture, custom, and tribal and state/federal judicial systems. Tribal infrastructure varies, and federal policies frequently lack consistent definition and interpretation. Technology at the level needed to meet Title IV-E requirements is an expensive and sophisticated obstacle that impinges on the tribes' ability to develop cost allocation methods, data collection and tracking systems, and quality assurance. In fact, almost everything about successful engagement in the opportunity afforded by Fostering Connections is challenging. The work that has been accomplished in addressing some of the challenges and identifying specific obstacles and needs is a strong and encouraging statement of the possibilities ahead.

Grantee tribal nations have a clearly articulated and profound commitment to assume responsibility for and care of their children. Based on their experience with the plan development work during the past one to three years, there is a sharpened awareness, a growing knowledge base, and a tenacious determination to create approvable IV-E plans despite the many challenges and resource issues. Participating tribes know what the issues are, what TA help is needed, what works, and what doesn't.

## Recommendations

Specific short- and long-term recommendations which could advance the grant planning process are provided here. These recommendations may benefit tribal child welfare program development across the continuum of options.

**Short-Term Issue #1:** How Can Existing Technical Assistance and Communication be Improved to Support Tribal Grantees?

1. *Create explicit model definitions, guidelines, and tools for policies and regulations that are culturally sensitive.* New models and tools would help tribes and ACF to develop approvable, culturally sensitive plans, support consistency in the planning process, and serve as building blocks for evolving child welfare programming and guidance for future tribes. This would address current ambiguities and inconsistent interpretation in

policies and regulations. And this would include examining existing and in-process tools and models (e.g., Port Gamble S’Kallam Tribe’s approved plan, Central Council Tlingit and Haida Tribe’s data collection and management system and development process, the National Resource Center for Child Welfare Data and Technology, and the Fiscal Calculator and Decision Making Matrix from NICWA).

2. *Work toward consistent interpretation of critical information.* For example, important focus areas include:
  - Federal requirements and Title IV–E regulations
  - Consistency of definitions and interpretation across regions
  - How tribal leadership and councils work
  - The uniqueness of individual tribes, the distinction between tribe and state, and the “fit” of tribal culture and federal regulations
  - Improved communication
  - Working together
  - The need for sufficient staff and resources to meet the requirements
  - Resources for tribes to use as in-kind matches
3. *Consider new planning methodologies.* Strategies for collaborative planning should facilitate clear goal-setting, working together, benchmarks, and feasible timelines that will enhance goal-oriented problem solving.
4. *Fund and implement working meetings with current grantees, technical assistance providers, and representatives from the Children’s Bureau.* Use these meetings for plan development and to create an experience-based vehicle for reviewing, discussing, and refining models, tools, draft policy, and requirement definitions and guidelines. Because there are budget limitations, arranging timely opportunities to work together are productive and constructive, resolve misunderstanding and misinformation, and support increased common ground in knowledge, planning, and problem solving. Such meetings become training and work sessions that increase cultural awareness and mutual understanding, and use cross-cultural teaching and planning techniques. In the short-term, problem solving will become more collaborative and effective; in the long-term, such meetings will build relationships, trust, common ground and purpose, and workable models. Foundations and private sponsors might fund outcome-focused meetings.
5. *Create an accessible information center that supports joint work.* This would create a means whereby tribal plan development grantees can easily communicate with one another. It also would increase the effectiveness of working meetings by creating ongoing information exchange and discussion and by providing a central knowledge base, all of which facilitate good communication.

6. *Identify a direct tribal liaison between the plan development grantees and the office of the ACF commissioner.* ACF should consider appointing a direct tribal liaison who reports directly to the commissioner of the Children's Bureau to work with the commissioner and planning groups to coordinate consistent information access and responses to the planning grant tribes. The liaison would advise ACF of policy and regulatory concerns, issues, and possible strategies. The liaison would provide a direct link from the grantee work meetings to the commissioner and could potentially facilitate the meetings. This could positively impact concerns of consistency, communication, timeliness, and objective problem identification as well as problem solving. A committee of tribal leaders and administrators that advises ACF on Fostering Connections implementation may be a useful enhancement.
7. *Create a small resource development task force with representation from all relevant tribal entities and private sponsors interested in this work.* This group would identify resources that have potential for matching funds, creating needed tools and models, and funding working meetings. There are foundations with a long positive history in tribal child welfare that could be engaged.
8. *Develop a sound, culturally appropriate needs assessment tool and consultation process.* This would help interested tribes decide what is the best and most realistically achievable agreement option to pursue: (1) direct Title IV-E, (2) state-tribal IV-E Agreement, and/or (3) tribal consortia.
9. *Provide tribes with examples of code provisions that could meet IV-E legal requirements rather than legal guidelines.* While the tribes indicated a desire for examples, they also expressed a strong preference for retaining some flexibility to define elements that would best meet their unique circumstances and needs. Jack Trope, Executive Director of the Association on American Indian Affairs, has done an extensive analysis of the legal requirements for implementation (see Trope, 2010).
10. *Define criteria or standards for technical assistance.* There is some indication that quality of TA varies and is not always informed, culturally sensitive, or helpful. It would be useful for tribes to have a core set of criteria through which to assess their own needs for TA and the appropriateness of a potential TA provider.

#### **Short-Term Issue #2:** What Regulatory and Statutory Changes Could Be Made That Would Support Tribal Nations As They Seek IV-E Funding?

The greatest sense of urgency for the tribes is propelled by the possibility of having to repay the plan development grant if an approvable plan is not achieved within the existing timelines. In this regard, clarity is needed regarding the following:

- Will the six-month delay between the grant award and when the tribes received the funds be reflected in an adjustment of the timelines?
- Will funds have to be repaid if an approvable plan is not submitted?

- Can the planning timelines be extended, and if so, what is the process?
- Can the Title IV-E requirements for matching funds, direct and in-kind be more flexible to assure that the unique issues are successfully addressed?

Grantees are aware that direct Title IV-E funding is not for everyone. There are tribes whose size, geography, and resource base make direct Title IV-E a poor fit. Some tribes might pursue direct Title IV-E funding through a consortium; other tribes with existing or potential state agreements might decide that their children are better served through pursuing, maintaining, or refining these agreements. More tribal nations, however, might qualify for Title IV-E funding if the policies were refined to make them more applicable to the realities of tribal nation characteristics, differences in tribal nation structure and culture, and funding levels. Current policies would benefit from review, particularly in those instances where interpretations pose potential barriers to the planning process or achievement of the planning goals. ACF needs a mechanism to track consistent and accurate follow-through by regional Children's Bureau and TA providers with a report to the tribal liaison to the Children's Bureau. Specific statutory changes and recommendations that would be helpful are described in the 2012 Tribal Perspectives Convening section of this report.

#### **Long-Term Issue: What Regulatory Statutory and Planning Changes Should Be Made?**

Important planning changes would acknowledge and address the ambiguities that impede the work. The meaning of sovereign status, government-to-government relationships, good faith negotiations, trustee responsibility, and the principle of tribal self-government are not clearly and operationally defined; this contributes to inconsistent interpretation and impedes planning. These issues are historic, and the critical changes are beyond the reach of direct Title IV-E planning. However, several areas can be addressed in the context of direct Title IV-E funding.

- *Review the Fostering Connections legislation in the context of actual experience.* This will identify areas of dissonance and cultural incongruity, and begin an ongoing process of discussion, problem solving, and implementation.
- *Operationalize definitions and concepts.* For the purpose of direct Title IV-E funding and within the context of the legislation, what is sovereign status and how will it be operationalized? What are government-to-government relationships and what are the guiding principles for effective implementation? What are guidelines for good faith negotiations?
- *Establish protocols, guidelines, and strategies for planning processes that move operational definitions into practice.* A guiding assessment principle might be: "For the good of American Indian and Alaska Native children, are we doing what we have committed to do? What are our current accomplishments and challenges?"
- *Conduct a comprehensive review of American Indian social services funding.* There will always be some inherent tension no matter what the subject – implicit in the relationship between the federal government (a trustee focus) and the tribes as sovereign nations. A more integrated funding design is needed for tribal nation resources that are federal-, state-, government-, and private sector-based (Geary & Day, 2010).

## Conclusions

With all its difficulties, the Fostering Connections legislation can be viewed as both landmark legislation and an instrument for increasing collaboration among tribes, the state, and the federal government. The Act itself affirms tribes as sovereign nations with the right and responsibility to directly care for their own children. It places tribes at the policy-making table. However uncomfortable and contentious that might seem at times, a seat at this table positively changes the power balance.

Tribes involved in the plan development work see direct administration of their own Title IV-E program as a major affirmation of their sovereign status, recognition of their ability to care for American Indian children, an opportunity to strengthen tribal families and communities, and in this initial phase, a responsibility to provide leadership to other tribes who are closely watching the evolution of the planning.

Tribal representative responses indicate that the tribes have used technical assistance (TA) particularly in areas of technology and have gained important knowledge of the challenges they have faced and mastered, as well as the obstacles and issues that continue to hinder the work. They can and do speak for themselves; the questionnaire responses and the tribal perspectives convening demonstrate a critical self-assessment of their progress, a multilevel awareness of what is needed, and a willingness to meet these challenges.

The responses from tribal child welfare representatives summarized earlier provide useful background and support to the work. NICWA, the Indian Child Welfare Department of Casey Family Programs, the National Child Welfare Resource Center for Tribes, and the Children's Bureau (at both the federal and regional levels) have provided extensive TA to tribes. This work has yielded additional recommendations from those groups, which echo the common themes of sovereignty, culturally sensitive and appropriate child welfare program design, sound data management to support accurate information, and collaboration.

American Indian tribes are diverse geographically, culturally, and financially; they are significantly different from states. There were no models for the direct Tribal IV-E agreement. Reports described here noted challenges in the implementation of ICWA, Title IV-B, and in existing state-tribal government agreements. TA providers (e.g., NICWA and NRC4Tribes) noted issues, challenges, and obstacles. The participating tribes are not in disagreement; indeed, they are keenly aware of what they must accomplish internally and externally to achieve success. This is evident in tribal voices as the IV-E plan development process has increased knowledge, information, access, responsibility, and determination. Quite simply, they have achieved a presence at the table and a stronger voice. They are developing a knowledge base and availing themselves of the available TA. The tribes know what is required and have concrete suggestions for obtaining it – which is what this report addresses. They are committed and determined. This is about their children.

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## Appendix A: Recommendations from Prior Research

### Recommendations from Brown et al. (2004):

- ACF should work with states and tribes to review ICWA compliance issues and design concrete outcomes for implementation and improvement. The resulting CFSPs would therefore include more robust data that could assist the current tribal IV-E capacity-building efforts.
- Information from existing agreements should be compiled as examples for the tribes.
- The relationships necessary to support the work must be emphasized, including a statement recognizing tribal sovereignty and the government-to-government relationship, the purpose and philosophy of the agreement, and conflict resolution procedures congruent with such relationships.
- A regional collaboration should be encouraged among states and tribes to share information and lessons learned, and to build relationships.

### Recommendations from Geary and Day (2010):

*Assess needs and readiness.* Become educated about IV-E data collection and reporting; and assess the tribe's current capacity and needs.

*Build support.* Build political and grass-roots support by creating a community of invested stakeholders. Contact advisors at the national level with experience in data system development.

*Plan strategically.* Strategize resource development and identify a data-system point person. Develop a data-system implementation plan.

*Create practical data systems for Title IV-E.* Work closely with IT partners to develop a system that meets organizational needs. Test the system and provide feedback as a committee, train workers, and collect data and reports.

*Plan for ongoing assessment and modification.*

*Develop a strategy for technology maintenance.* Reassess the data system and training needs frequently.

*Participate.* Have a national conversation about the needs of tribal child welfare programs around data collection and reporting.

### Recommendations from Simmons (2011):

- *Developing and Maintaining Reimbursement for IV-E Administrative Activities.* Understand the *penetration rate* (a percentage based on the proportion of tribal children in IV-E eligible out-of-home placements compared to the total number of children in the tribal service population) and how to calculate and track it. Fluctuations in this rate may have a large fiscal impact particularly for smaller tribes.

**Recommendation:** Develop a quality assurance system that can accurately track fiscal and IV-E eligibility data. Ongoing data are needed for management staff regarding eligibility definitions, calculations, and tracking.

- *Reimbursement for Foster Care Placements.* All IV-E eligible placements must be in licensed homes. Because of resource barriers, some tribes have not been able to license as many homes as they would like, which may be due, in part, to some federal requirements that pose challenges to licensing families in tribal communities. In particular, licensing relative homes presents unique challenges.

**Recommendation:** Develop community-based foster care standards. Using active social marketing techniques can be helpful as it relates to developing licensing standards, how tribal members can meet the licensing requirements, what kind of supports are available, and the larger benefits for the tribal community.

- *Managing IV-E Capacity-Building Activities.* Title IV-E capacity building requires intensive program and policy development activities, many that need to occur simultaneously, in order to establish the necessary infrastructure and capacity.

**Recommendation:** Develop a tool that helps tribes understand the lifecycle of developing their IV-E capacity similar to the Tribal Circles of Care lifecycle tool that identifies key products and their relationship(s) to one another, suggested processes, timelines, and benchmarks.

- *Data Collection System Development.* Title IV-E requires that data collection be based on the elements identified in AFCARS; data must be submitted to ACF electronically in a prescribed format via a non-proprietary system. Tribes cannot receive IV-E reimbursement for costs related to data collection until their IV-E plan has been approved. This can require the investment of significant tribal funds to develop a system that is IV-E-compliant before they have secured approval of their IV-E plan.

**Recommendation:** More attention needs to be given to the actual costs of developing a data collection system that is IV-E-compliant for tribes, how this system can integrate with other child welfare data collection outside of IV-E, and additional resources to help tribes develop these types of systems.

- *Securing Nonfederal Match.* Tribes will need a cost allocation methodology that includes sources of non-federal cash or an in-kind match. Currently, a tribal in-kind match can

only come from an entity outside of the tribe that is applying even if the dollars are from a separate department or division. The existing match requirements for Title IV-E are beyond the means of most tribes.

**Recommendation:** Train tribal leadership on how to develop effective strategies for securing potential sources of nonfederal matching funds, such as states and private entities. Tribal program staff may need assistance to understand IV-E match requirements according to program area and strategies for maximizing reimbursement.

- ***Additional Title IV-E Policy Considerations.*** Other policy concerns identified as barriers include the following:
  - Expectations for repayment of the plan development funds should a tribe not submit an approvable plan within the current timelines.
  - ACF policy interpretation of the legal requirements for termination of parental rights, which impede the tribe's ability to develop codes and policies that emphasize customary adoption processes that don't use termination of such rights. Customary adoption is recognized by ACF as a reimbursable placement under Title IV-E.

**Recommendations:** Tribes must clearly and explicitly identify the barriers and obstacles associated with the development of approvable IV-E plans. Federal policymakers need to address inconsistencies in policy and interpretation.

## Appendix B: *American Indian Title IV-E Technical Assistance Questionnaire*

### Tribal Title IV-E

Dear Tribal Nation Title IV-E Fostering Connections Development Grantee Representatives,

Thank you for taking this opportunity to share information about your circumstances and needs – and to make concise and specific recommendations. We need your experiences, expertise, and recommendations!

Please note that your participation is voluntary. By clicking “next,” you are agreeing to provide feedback and that you understand your rights as a participant.

If you have any questions about the project or the questionnaire, you can ask the project consultant, at xxx. If you have questions about your rights as a respondent, you can also contact the Casey Human Subjects Review Committee at [human.subjects@casey.org](mailto:human.subjects@casey.org) or at (206) 282-7300.

### Submit Form Button

There is no option to save a form that is only partly completed. When you have completed entering data, click on the “Submit Form” button. This will submit your entry and open another form to enter data into. When you are done entering data for the day, simply close your web browser.

### Question?

If you have any questions regarding the questionnaire, please contact the project consultant at xxx.

Thank you for your time!

### 1. Which of the following tribes or tribal consortia do you represent? (Check one)

- Confederated Salish & Kootenai Tribes
- Confederated Tribes of Siletz Indians of Oregon
- Keweenaw Bay Indian Community
- Lummi Nation
- Navajo Nation
- Sac and Fox Nation
- Shoshone-Bannock Tribes
- South Puget Interagency Planning Agency
- The Chickasaw Nation
- Tohono O’odham Nation
- Washoe Tribe of Nevada and California
- Yurok Tribe

**2. What is your current professional role? (Check all that apply)**

- Title IV-E coordinator
- Child welfare director
- Attorney
- Case manager
- Other \_\_\_\_\_

**3. How long have you worked in:**

- (a) Your agency? (Round to the nearest year) \_\_\_\_\_
- (b) On planning the IV-E Fostering Connections grant? (Answer in months) \_\_\_\_\_

**4. How large is your team?**

- (a) How many individuals from your organization are assigned to work on the Fostering Connections development grant at least part-time? \_\_\_\_\_

**5. Does your organization receive Bureau of Indian Affairs – 638 funds?**

- Yes
- No
- Not sure

Many of the following questions relate to your experiences receiving technical assistance. For the purposes of this questionnaire, we are using the following working definition of technical assistance:

A process in which an individual or organization with specific knowledge provides information or guidance to address a need.

**6. Has your agency received technical assistance related to direct Title IV-E reimbursement?**

- Yes
- No

**7. Overall, how helpful have you found the technical assistance?**

- Not at all helpful
- A little helpful
- Somewhat helpful
- Helpful
- Very helpful

8. Overall, the technical assistance provided to my organization respected the unique tribal traditions and values of our community.

- Strongly disagree
- Disagree
- Neutral
- Agree
- Strongly agree

For the next section of the questionnaire, *please identify the three TA providers your organization has worked most closely with as you prepare for direct Title IV-E reimbursement.* **Now, for each of these providers you will be asked a set of questions.**

If you have received TA from fewer than three providers, skip the appropriate questions (i.e., if you have only received TA from two providers, skip questions 17-20).

9. Provider 1:

- Casey Family Programs
- National Indian Child Welfare Association
- Association of American Indian Affairs
- The National Resource Center for Tribes
- The Children's Bureau (regional office)
- The Children's Bureau (main office)
- National resource center (other than NRC4Tribes)
- Technology vendor (identify below)
- Other (identify below)  
If you indicated "Technology vendor" or "Other," please specify \_\_\_\_\_

10. What types of technical assistance did your organization receive from *Provider 1*? (Check all that apply).

- Crafting a tribally based practice model
- Developing agency policies and procedures
- Developing a child and family code or children's code
- Developing staff training
- Guidance in assessing agency readiness for Title IV-E reimbursement
- Writing a reimbursable IV-E plan
- Other (please specify) \_\_\_\_\_

11. I found this assistance. . .

- Not at all helpful
- A little helpful
- Somewhat helpful
- Helpful
- Very helpful

12. Why did you or did you not find this technical assistance helpful? (What specific aspects were helpful? What aspects were not helpful?)

13. Provider 2:

- Casey Family Programs
- National Indian Child Welfare Association
- Association of American Indian Affairs
- The National Resource Center for Tribes
- The Children's Bureau (regional office)
- The Children's Bureau (main office)
- National resource center (other than NRC4Tribes)
- Technology vendor (identify below)
- Other (identify below)  
If you indicated "Technology vendor" or "Other," please specify \_\_\_\_\_

14. What types of technical assistance did your organization receive from *Provider 2*?

- Crafting a tribally based practice model
- Developing a child and family code or children's code
- Developing agency policies and procedures
- Developing or adapting a data collection system
- Developing staff training
- Guidance in assessing agency readiness for Title IV-E reimbursement
- Writing a reimbursable IV-E plan
- Other (please specify) \_\_\_\_\_

15. I found this assistance. . .

- Not at all helpful
- A little helpful
- Somewhat helpful
- Helpful
- Very helpful

16. Why did you or did you not find this technical assistance helpful? (What specific aspects were helpful? What aspects were not helpful?)

17. Provider 3:

- Casey Family Programs
- National Indian Child Welfare Association
- Association of American Indian Affairs
- The National Resource Center for Tribes
- The Children's Bureau (regional office)
- The Children's Bureau (main office)
- National resource center (other than NRC4Tribes)
- Technology vendor (identify below)
- Other (identify below)  
If you indicated "Technology vendor or "Other," please specify \_\_\_\_\_

18. What types of technical assistance did your organization receive from *Provider 3*?

- Crafting a tribally based practice model
- Developing a child and family code or children's code
- Developing agency policies and procedures
- Developing or adapting a data collection system
- Developing staff training
- Guidance in assessing agency readiness for Title IV-E reimbursement
- Writing a reimbursable IV-E plan
- Other (please specify) \_\_\_\_\_

19. I found this assistance . . .

- Not at all helpful
- A little helpful
- Somewhat helpful
- Helpful
- Very helpful

20. Why did you or did you not find this technical assistance helpful? (What specific aspects were helpful? What aspects were not helpful?)

21. What technical assistance was *most* helpful and why?

22. What technical assistance was *least* helpful and why?

23. What have been the major challenges in preparing to receive Title IV-E funding?

24. What has been most helpful in addressing those challenges?

25. What current technical assistance needs do you have?

26. How do you anticipate meeting these needs?

27. What would be most helpful from your regional Children's Bureau office?

28. Which of the following objectives have you met on your way to an approvable Title IV-E plan?

|   | No                    | Somewhat completed    | Yes                   | NA                    |
|---|-----------------------|-----------------------|-----------------------|-----------------------|
| A data collection system  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Cost allocation methodology                                     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Financial management processes                                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Case planning and review system meet standards                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Foster care standards and licensing procedures                  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Quality assurance system  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Tribal court procedures and language meet IV-E requirements     | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Staff training  | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Foster parent, relative guardian, caregiver training            | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| A tribal/state Title IV-E agreement for maintenance payments    | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| A tribal/state Title IV-E agreement for administration payments | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| A tribal/state Title IV-E agreement for training payments       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other (specify)   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other (specify)   | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

29. Have you already or will you be filing comments related to the Administration on Children, Youth and Families interim final rule for Title IV-E implementation, which took effect February 6, 2012?

- Yes
- No
- Not Sure

30. Please provide any thoughts you have related to these new regulations:

31. What advice would you provide to other tribes deciding whether to pursue direct Title IV-E reimbursement?

32. Any other thoughts?



Casey Family Programs is the nation's largest operating foundation whose work is focused on safely reducing the need for foster care and building communities of hope for all of America's children and families. We work in partnership with child welfare systems, families and communities across the nation to prevent child abuse and neglect and to find safe, permanent and loving families for all children. We believe every child deserves a family of their own and a community of hope.

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