

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



December 28, 2006

ALL COUNTY INFORMATION NOTICE I-94-06

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHILD WELFARE SERVICES
PROGRAM MANAGERS
CHIEF PROBATION OFFICERS

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

SUBJECT: TRIBAL/STATE INTERGOVERNMENTAL AGREEMENTS

The purpose of this All County Information Notice is to provide information relative to Tribal/State Intergovernmental Agreements (Agreements). The Social Security Act and the Indian Child Welfare Act (ICWA) allows for states and Indian tribes to enter into agreements with each other regarding care and custody of Indian children and jurisdiction over child custody proceedings (25 U.S.C. Section 1919).

In an effort to recognize and support the sovereign right of Indian nations to provide for the welfare of their Indian children, California enacted Assembly Bill 1525 (Chapter 724, Statutes of 1995). This legislation allows the California Department of Social Services (CDSS) and California Indian tribes to negotiate and enter into Agreements concerning the provision of child welfare services to Indian children by their respective tribes and allows tribes' access to Title IV-E funding for provision of these services. While these laws have been in place for many years, it is only recently that tribes have begun to approach CDSS with proposals that present viable programs. The interest among California tribes is increasing as more tribes develop their own infrastructures including tribal courts, children's codes and child welfare programs.

Direct funding under Title IV-E is not available to tribes. In order to access Title IV-E funds, federal legislation requires tribes to enter into cooperative agreements with their respective states. States can then provide, at a minimum, pass through of Title IV-E dollars (and State General Fund dollars at the State's discretion) to eligible children under tribal jurisdiction. As of June 2001, 14 states and 75 American Indian tribal governments, have Agreements in place nationally. The CDSS is committed to promoting the intent of the ICWA in developing effective Tribal/State agreements and will provide support and technical assistance to tribes and counties in achieving successful implementation.

Under California law, an Agreement will provide for delegation to the tribe or tribes in some instances consortiums of tribes the responsibility that would otherwise be the responsibility of the county or counties for child welfare services and/or assistance payments under the foster care program.

Unless otherwise approved by the Administration for Children and Families, tribes will be held to the same service delivery and foster care standards and fiscal reporting requirements as the counties.

What this means and how an Agreement is actually implemented locally will depend on what program options a tribe chooses to provide. A tribe is eligible to provide all options that are funded by Title IV-E funds as well as provide services funded with State General Fund dollars. Depending on the capacity of the tribal court and child welfare agency, a tribe may choose to provide only a few of the program options. For example, a tribe may be interested in having their child custody proceedings adjudicated in tribal court and, if placement in foster care is the plan, have the IV-E funds available to pay for these placements. In this case, the county child welfare agency would be responsible for all other services and would receive the funding to support this. Another tribe and county may develop a local protocol where both entities conduct joint emergency response visits. Another tribe may have a greater capacity and will want to implement all of the program options and receive funding to do so. These details will be part of the negotiations with CDSS, each tribe or tribes, and the county or counties that will be impacted by the Agreement.

When Agreements are achieved, a tribe will be eligible to be reimbursed in accordance with allocation formulas currently in place for counties. Allocation methodologies for tribes entering into Agreements will be developed in consultation with, and agreed to by, CDSS, the affected county or counties, and the affected tribe or tribes. For ease of identification, tribes that achieve a Tribal/State Agreement will be known as "Title IV-E" tribes (however funding may include State General Fund dollars).

Although the Agreements are between the State and the tribes, we recognize that the counties must be involved to allow for the successful implementation of these Agreements. Successful implementation will require a cooperative relationship in the ongoing provision of services to and protection of Indian children and will allow for the smooth transition of cases from the counties to the tribes.

We have attached a Tribal Agreement Flow Chart that describes the process CDSS will follow once a tribe approaches us to begin negotiations of an Agreement. Any affected county will be notified by CDSS and will be provided a Tool Kit that will provide resource information that will assist in development of an Agreement. Negotiations take into consideration interests and conditions that are specific to each particular tribe. We anticipate that in order to achieve the goals of tribal provision of child welfare services and successful implementation of such Agreements, it will be necessary for tribes and counties to enter into Memorandums of Understanding (MOUs) that detail the responsibilities of both parties. Guidelines for the content of a MOU will be included in the Tool Kit.

We intend to provide support and guidance to all that are affected. We recognize that we are embarking on a new and complex program. We will be looking for your support and input as we move toward implementation. We will be communicating with affected counties and tribes, and will be very interested in knowing how things are working.

Please feel free to contact us should you have questions or need additional information. You may contact Teresa Contreras, Chief, Child Welfare Policy and Program Development Bureau, at (916) 651-6160 or teresa.contreras@dss.ca.gov, or Anne Smith, Indian Child Welfare Act Specialist at (916) 651- 6130 or anne.smith@dss.ca.gov.

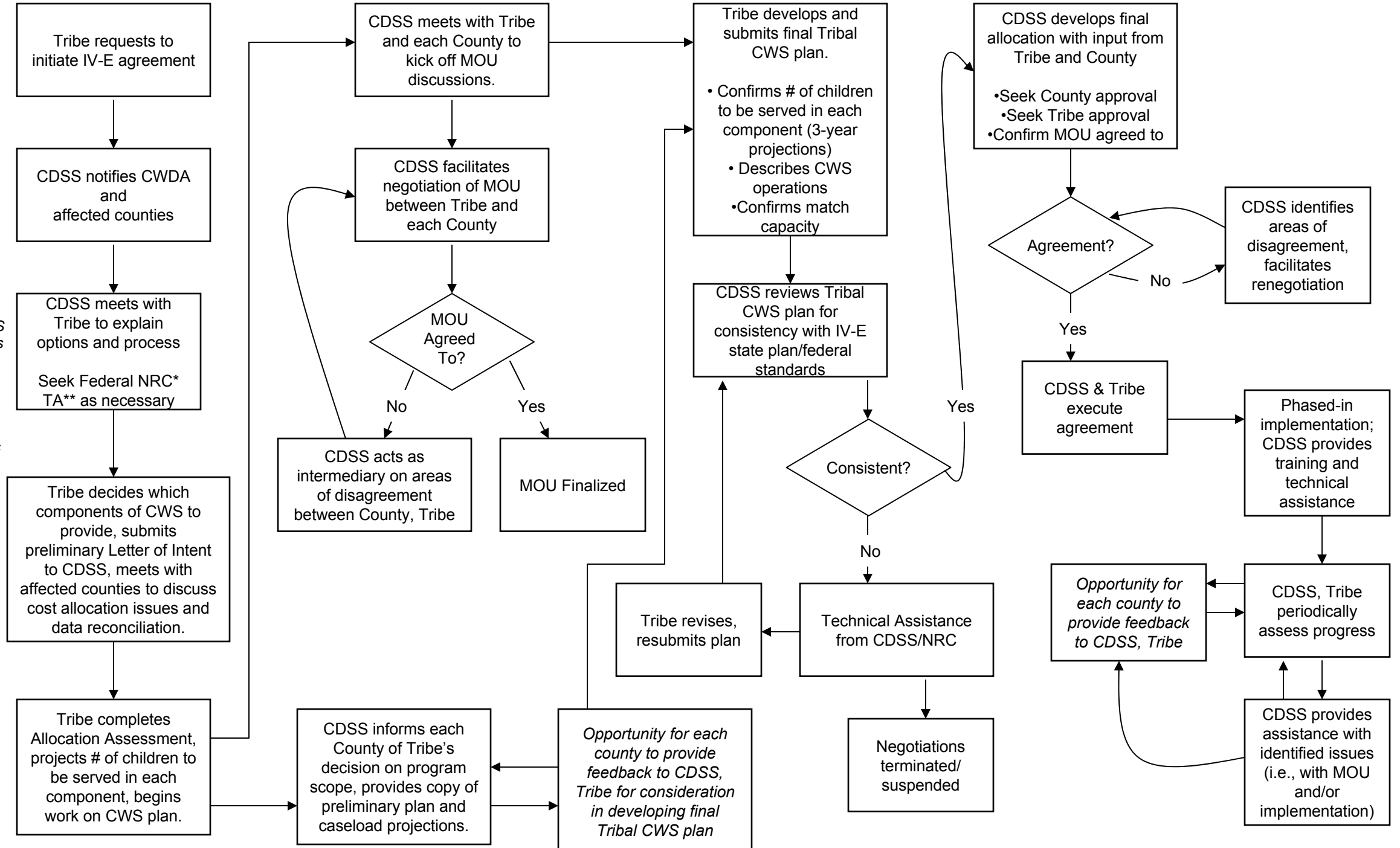
Sincerely,

Original Document Signed By:

MARY L. AULT
Deputy Director
Children and Family Services

Attachment

TRIBAL AGREEMENT FLOW CHART



CDSS gives affected counties:

- Toolkit
- MOU Framework

CDSS gives Tribe:

- Information on CWS program components and requirements
- Guidelines for development of plan
- Guidelines for funding, match, and caseload projections
- MOU Framework