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February 21, 2024

Katie Hamm
Deputy Assistant Secretary for Early Childhood Development
Office of Early Childhood Development
Administration for Children and Families
Mary E. Switzer Building
330 C ST SW, Room 4502
Washington, DC 20201

RE: Submission for OMB Review; Child Care and Development Fund Plan Preprint for States/Territories for FFY 2025-2027 (ACF-118) and Extension of Child Care and Development Fund Plan Preprint for States/Territories for FFY 2022-2024 (OMB #0970-0114)

Dear Deputy Assistant Secretary Hamm:

On behalf of the 100,000 early learning and child care workers represented by the Service Employees International Union (SEIU), we thank you for the opportunity to provide comments as the Administration for Children and Families (ACF) proposes revisions to the form ACF-118: CCDF Plan Preprint for States/Territories for FY 2025-27 (CCDF Plan Preprint). SEIU supports the changes made to the CCDF Plan Preprint that streamline questions and promote alignment with the proposed CCDF rule, *Improving Child Care Access, Affordability, and Stability in Child Care and Development*. These changes include adding questions on family co-payments, presumptive eligibility, and supporting the child care workforce. We recommend that ACF release the FY 2025-27 CCDF Plan Preprint after the final CCDF rule is issued to ensure continuity in rule adherence and enforcement.

SEIU submitted a public comment in response to the CCDF Plan Preprint issued in June 2023. We're pleased that ACF incorporated a number of our recommendations into the current draft. Specifically, in Section 1.3.3 (b)(vii), ACF added "Direct communication with the child care workforce" to the checklist of strategies that the Lead Agency could use to make the CCDF Plan and Plan amendments available to the public. In Section 4.3, ACF explicitly states in the introduction that Lead Agencies must provide a "summary of data and facts to demonstrate how payment rates ensure equal access." Additionally, in Section 6.1.8, ACF now requires Lead Agencies to describe their engagement with providers to identify barriers in the subsidy system for those with limited English proficiency and disabilities. We appreciate that ACF is recognizing and valuing the input of child care providers.

We strongly urge ACF to include additional revisions to the 2025-27 CCDF Plan Preprint in order to increase accountability among funding recipients to improve the quality of care and ensure workforce stability among federally-funded child care providers. Below are our specific comments and recommendations for the 2025-27 CCDF Plan Preprint, according to the corresponding sections, including recommendations provided in our 2023 public comment.

Section 4. Parental Choice, Equal Access, Payment Rates, and Payment Practices

Section 4.2.5 requires Lead Agencies to describe how they analyzed the cost of child care through a narrow cost analysis. Workforce compensation levels are a crucial part of a narrow cost analysis, and the child care workforce themselves provide vital insight on the compensation levels that are needed based on their lived experience. We recommend adding an additional question to this section asking Lead Agencies to describe how the methodology addresses the compensation levels needed to recruit and retain the workforce needed to deliver both basic and higher-quality care. Lead Agencies should also describe how they involved the child care workforce and child care workforce organizations in the process of identifying these compensation levels.

Section 4.4.1 (a) requires Lead Agencies to report on how they ensure the timeliness of payments. We recommend adding a question asking Lead Agencies to explain how they ensure that providers are protected against the financial burden of late payments or are made whole.

Section 4.5.1 addresses state use of contracts. States that have implemented grants and contracts for child care services have reported positive outcomes, according to ACF's Improving Child Care Access, Affordability, and the Child Care and Development Fund Notice of Proposed Rulemaking.¹ Providers report that contracted services have helped them stay in business, enabled them to hire and retain qualified staff, and receive higher reimbursement rates in comparison to providers who only receive payments through certificates. The use of grants and contracts have led to increased child care enrollment as families have been able to access child care subsidies through programs connected to contract-funded subsidies.² During the peak of the COVID-19 pandemic, payments through grants and contracts played a key role in helping providers remain financially stable.³ Despite the proven benefits of grants and contracts, data from ACF reveals that only 10 states and territories currently use contracts for direct services, underscoring the urgent need for wider adoption.⁴

We therefore recommend that in section 4.5.1, Lead Agencies that respond in the negative be asked to explain whether they have considered the use of contracts to improve stability of services and if they have sought input on the use of contracts from providers, staff, and/or parents. We recommend that Lead Agencies that respond in the affirmative be asked how they determine accountability with contractors and whether contractors are required to do any of the following: meet any workforce compensation standards; have staff and parent input in decision-making; provide Lead Agency or the public with financial disclosures; maintain fairness and non-discrimination in personnel practices; comply with all applicable laws and regulations; and

¹ Docket No. ACF–2023–0003, Improving Child Care Access, Affordability, and Stability in Child Care and Development Fund (CCDF) <https://www.govinfo.gov/content/pkg/FR-2023-07-13/pdf/2023-14290.pdf>.

² Dorn, Chad, Infant and Toddler Contracted Slots Pilot Program: Evaluation Report. Pennsylvania Office of Childhood Development and Early Learning: https://s35729.pcdn.co/wp-content/uploads/2020/11/ITPilot-Evaluation-Report_PA_Final.V2.pdf.

³ Workman, S. (2020). Grants and Contracts: A Strategy for Building the Supply of Subsidized Infant and Toddler Child Care. Center for American Progress.

⁴ Id. at 1.

whether they have whistleblower and worker retention policies that protect workers who report concerns. We further recommend Lead Agencies be asked to provide any metrics they use to track contractor accountability and to explain the purpose of those metrics and discuss their results. Finally, given the importance of workforce compensation to the quality and stability of child care, we also recommend that 4.5.1 (c) be amended to ask how Lead Agencies consider workforce compensation in setting payment rates for contracted slots.

Section 5. Health and Safety of Child Care Settings

Section 5.6.2 requires Lead Agencies to certify that procedures are in effect to ensure that providers caring for children receiving CCDF services comply with all applicable state and local health and safety requirements. Child care workers often have the deepest knowledge of programs' compliance with health and safety requirements, and can play a vital role in ensuring these requirements are met. We recommend that states be asked to explain how they facilitate and support the child care workforce in making complaints. Lead Agencies should further be required to indicate whether they have whistleblower and worker retention policies for workers making complaints and if they collect up-to-date worker contact information to communicate directly with child care workers to share information in both directions.

Section 6. Support for a Skilled, Qualified, and Compensated Child Care Workforce

Section 6.1.1 requires Lead Agencies to identify activities related to strengthening workforce recruitment and retention of child care providers, including providing a checklist of possible strategies. Increasing the compensation of the child care workforce is a key strategy to improve the quality and supply of child care, and increasing the wages paid to child care staff at CCDF-funded programs is an important way to do that. We recommend adding "Wage minimums for workers that providers must meet in order to receive contracts or other types of funding" to the checklist.

Another important strategy to improve the quality and supply of child care is stabilization funding, also known as bedrock funding or foundational funding, which enables providers to receive a stable and predictable amount of funding on a regular basis to support child care services, that does not fluctuate from month to month due to changes in the number of subsidized children enrolled. We recommend adding "Stabilization funding or other predictable, regular payments to programs" to the checklist. We also recommend that the 2025-27 Plan Preprint include follow up questions that prompt Lead Agencies to explain accountability measures they employ to ensure funding is reaching workers as intended. For example, the U.S. Department of Health and Human Services recommends states implement accountability measures for wage pass through programs funded by Medicaid, including having the state conduct a full audit, requiring providers to submit financial records, and/or surveying providers.⁵

We recommend that the topic of "Compliance with employment and labor laws" be added to the checklist at Section 6.1.7. In our experience, many child care providers do not understand or

⁵ U.S. Department of Health and Human Services. State Wage Pass-Through Legislation: An Analysis, (2002): <https://aspe.hhs.gov/basic-report/state-wage-pass-throughlegislation-analysis>

comply with these laws, and violations can interfere with workforce recruitment and retention. States should be encouraged to educate providers about these laws and how to stay in compliance.

Section 6.1.8 asks Lead Agencies to report on how they meet the requirement to facilitate the participation of child care providers with limited English proficiency and with disabilities in the subsidy system. In our experience, providers with limited English proficiency frequently face multiple barriers to participation in the child care subsidy system. Lead Agencies should be asked to explain specific actions they have taken to address language barriers and to include a checklist of actions that facilitate participation from providers with limited English proficiency in the subsidy system, such as: listing any languages that the Lead Agency requires all relevant documents be translated into; how the Lead Agency ensures that documents are translated in a timely manner; and how the Lead Agency collects information about providers' preferred language.

Section 6.2.4 asks Lead Agencies to describe how their professional development framework improves the quality, diversity, stability, and retention of caregivers, teachers, and directors. Without an intentional and thoughtful focus on the impact of policies on diversity and retention, state efforts to improve the professional development of the child care workforce can result in members of the existing, diverse child care workforce leaving the subsidy program or leaving the field entirely, resulting in decreased racial and language diversity and fewer family child care providers serving subsidized families. Consequently, in order to achieve the goals set out in § 98.44(a)(7), we believe that Lead Agencies should be asked to explain how they address issues of diversity as part of their professional development framework. 81 Fed. Reg. 67585 (Sept. 30, 2016). We recommend that Lead Agencies be asked to describe how they ensure that their professional development framework improves rather than worsens diversity and retention, and how they have consulted with child care workers and child care worker organizations representing child care workers as part of that process.

Section 6.2.4 (c) asks Lead Agencies to describe how their professional development advisory structure contributes to improving the quality, diversity, stability, and retention of caregivers, teachers, and directors. We recommend that 6.2.4 (c) be amended to ask Lead Agencies how they ensure that current child care workers have a meaningful role in the state's advisory structure.

We recommend the 2025-2027 Plan Preprint include a question asking Lead Agencies to describe the accountability measures they use and whether or not they do any of the following: require employers to submit financial records that document the proper use of funds; require employers who receive funds to submit employee names and contact information to the Lead Agency to verify employer is using funds properly; and whether the Lead Agency has a way for employees to submit complaints if they believe their employer is not using these funds appropriately.

Section 9. Family Outreach and Consumer Education

In section 9.1, Lead Agencies must report how they meet requirements concerning parental complaints. Parents play an important role in maintaining quality of care and safety for children, including ensuring workers are adequately protected and fairly treated. We recommend adding specific detail in Section 9.1.1 to prompt Lead Agencies to include their descriptions of what constitutes a valid complaint and whether they specify worker safety, wage and hour violations, unfair labor practices, or other employer behavior that harms workers and threatens to undermine quality of care at the providers' facilities in their description of valid complaints.

In Section 9.3, Lead Agencies must certify that they will collect and disseminate information about the full diversity of child care services to promote parental choice. In our experience, families are often unaware that they can use child care subsidies with licensed or license-exempt home-based providers, and this can lead to some of the highest-need families and providers not participating in the subsidy program at all. We recommend adding an additional question to Section 9.3, asking Lead Agencies to describe how they communicate the full diversity of child care options available for participating families and the general public, including family child care, relative care, and in-home care.

Section 10. Program Integrity and Accountability

Section 10.1.5 asks Lead Agencies to describe internal controls that are in place to ensure program integrity and accountability for CCDF expenditures. We urge ACF to support states in adopting “responsible contracting” policies that would help ensure the quality and continuity of government-funded child care. Responsible contracting policies would help government funders of child care ensure the jobs they fund meet the Biden Administration’s Good Jobs Principles—particularly in the areas of benefits, empowerment and representation, organizational culture, and pay. Using responsible contracting provisions to ensure government funded child care jobs are good jobs can help stabilize the industry’s workforce and ensure more reliable and better quality child care for families. Given the importance of implementing and enforcing responsible contracting policies to this goal, we recommend adding an item to the checklist regarding regularly assessing the effectiveness of the Lead Agency’s policies and procedures for contractor accountability.

Thank you for your consideration of these comments. If you have any questions, please contact Cathy Sarri at cathy.sarri@seiu.org.

Respectfully,

A handwritten signature in black ink, appearing to read 'Heather Conroy', with a stylized flourish at the end.

Heather Conroy, Executive Vice President
Service Employees International Union (SEIU)