I. PROGRAM OBJECTIVES

Grants for Supportive Services and Senior Centers

The objective of this program is to assist States and area agencies on aging in facilitating the development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

a. collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;

b. conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—
   (1) respond to the needs and preferences of older individuals and family caregivers;
   (2) facilitate the provision, by service providers, of long-term care in home and community-based settings; and
   (3) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

c. implementing, through the agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

d. providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the area agency on aging itself, and other appropriate means) of information relating to—
   (1) the need to plan in advance for long-term care; and
   (2) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources (Older Americans Act [OAA] Section 305(a)(3)).
The target population for these supportive services is individuals with greatest economic and social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas), and older individuals at risk for institutional placement (OAA Section 306(a)(1)); however; proof of age (or income) is not required as a condition of receiving services.

Supportive services may include a full range of economic and social services, including, but not limited to, (1) access services (transportation, health services [including mental health services] outreach, information and assistance); (2) legal assistance and other counseling services; (3) health screening services (including mental health screening); (4) ombudsman services; (5) provision of services and assistive devices (including provision of assistive technology services and assistive technology devices); (6) services designed to support States, area agencies on aging, and local service providers in carrying out and coordinating activities for older individuals with respect to mental health services, including outreach for, education concerning, and screening for such services, and referral to such services for treatment; (7) activities to promote and disseminate information about life-long learning programs, including opportunities for distance learning; and (8) services designed to assist older individuals in avoiding institutionalization and to assist individuals in long-term care institutions who are able to return to their communities any other services necessary for the general welfare of older individuals (OAA Section 321). Nutrition services are provided under a separate authorization, as described below.

Organizations funded under this program and the nutrition services program (see below) also receive funds from other Federal sources as well as from non-Federal sources.

Grants for Nutrition Services

The purposes of this grant program are to (1) reduce hunger and food insecurity; (2) promote socialization of older individuals; and (3) promote the health and well-being of older individuals by helping them gain access to nutrition and other disease prevention and health promotion services to delay the onset of adverse health conditions resulting from poor nutritional health or sedentary behavior (OAA Section 330). Services are provided through this program to individuals aged 60 or older, in a congregate setting or in-home. These services include meals, nutrition education, nutrition counseling, and nutrition screening and assessment, as appropriate (OAA Sections 331, 336, and 339). This program is clustered with the grants for supportive services and senior centers for purposes of this program supplement since these services, although separately earmarked, fall under the overall State planning process and process for allocation of funds.

Nutrition Services Incentive Program

The objective of this grant program is to provide resource incentives to encourage and reward effective and efficient performance in the delivery of nutritious meals to older individuals. The Administration on Aging (AoA) is responsible for this program. This program is included as part of this cluster because of its direct relationship to the nutrition services program.
II. PROGRAM PROCEDURES

Administration and Services

The AoA, a component of the Department of Health and Human Services, administers the supportive services and senior centers program and the nutrition services program in cooperation with States, sub-State agencies, and other service providers. The States receive a formula grant from AoA, which is used by the State Unit on Aging (State Agency) both for its planning, administration, and evaluation of these programs as well as to pass through to other entities.

Planning and Service Areas (PSAs) are designated by the State Agency in accordance with AoA guidelines after considering the geographical distribution of the service populations, location of available services, available resources, other service area boundaries, location of units of general-purpose local government, and other factors. An Area Agency on Aging (Area Agency) is then designated by the State for each PSA after considering the views of affected local governments (States that had a single statewide planning and service area in place prior to fiscal year (FY) 1981 had the option to continue that method of operation; there are currently eight States in this category). A single Area Agency may serve more than one PSA. The Area Agencies, which may be public or private non-profit agencies or organizations, develop and administer counterpart area aging plans, as approved by the State Agency, and, in turn, provide subgrants to or contract with public or private service providers for the provision of services.

With limited exceptions (e.g., ombudsman services, information and assistance, case management1), the State Agency and the Area Agencies are precluded from the direct provision of services, unless providing the services is necessary to ensure an adequate supply of services, the services are related to the agency’s administrative functions, or where services of comparable quality can be provided more economically by the agency. Federal funds may pay for only a portion of the costs of administration and services with the State and subrecipients required to provide a matching share from other sources.

1 The term “case management service” means a service provided to an older individual, at the direction of the older individual or a family member of the individual (i) by an individual who is trained or experienced in the case management skills that are required to deliver the services and coordination described below; and (ii) to assess the needs, and to arrange, coordinate, and monitor an optimum package of services to meet the needs, of the older individual. Case management includes services and coordination such as (i) comprehensive assessment of the older individual (including the physical, psychological, and social needs of the individual); (ii) development and implementation of a service plan with the older individual to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older individual, including coordination of the resources and services with any other plans that exist for various formal services, such as hospital discharge plans; and with the information and assistance services provided under the OAA; (iii) coordination and monitoring of formal and informal service delivery, including coordination and monitoring to ensure that services specified in the plan are being provided; (iv) periodic reassessment and revision of the status of the older individual with the older individual or, if necessary, a primary caregiver or family member of the older individual; and (v) in accordance with the wishes of the older individual, advocacy on behalf of the older individual for needed services or resources (OAA Section 102(11)).
AoA administers NSIP in cooperation with States, sub-State agencies, and other service providers. Under Section 311(b) (1) and (d) (1) of the OAA, States receive a cash grant from AoA, based on the formula in the OAA. The amount of a State’s grant is determined by dividing the number of meals served to eligible persons in the State during the preceding Federal fiscal year by the number of such meals served in all States and tribes, and applying the resulting ratio to the amount of funds available. Under OAA Section 311(d)(1), a State may choose to use all or any part of its grant to obtain commodities distributed by the USDA through State Distributing Agencies. The amount a State chooses to use in commodities, as well as administrative costs from USDA associated with the purchase of commodities, are deducted from the State’s grant from AoA. AoA transfers funds to USDA. USDA remains responsible for the overall management of the commodities program, including ordering, purchase, and delivery of the requested commodities. (See also IV, “Other Information.”)

State Plan and Area Plans

A State plan, approved by AoA, is a prerequisite to funding of the supportive services and nutrition programs; however, the State Plan covers the totality of AoA programs for which the State is the recipient under the OAA. The State Plan is developed on the basis of input from the Area Agencies as well as input from the affected populations as a result of public hearings. The State Plan addresses how the State intends to comply with the various requirements of the OAA and, specifically for Title III, its program objectives, designation of Planning and Service Areas (PSAs), and specification of the intrastate allocation formula for distribution of funds to each PSA. The State Plan also contains assurances required by the Act and implementing regulations.

Unless a State is not in compliance with Title III requirements, the State Plan may be submitted on a 2-, 3-, or 4-year cycle, at the option of the State, with annual amendments, as appropriate; however, AoA funding is provided annually. States found to be in noncompliance may be required to submit their State Plans annually until they are determined to be in compliance. Area plans are prepared and submitted to the State for approval for either 2, 3, or 4 years, with annual adjustments, as necessary.

Source of Governing Requirements

These programs are authorized under Parts B and C, respectively, of Title III of the OAA, as amended, which is codified at 42 USC 3021-3030. These programs may also be referred to as Part B (supportive services and senior centers) and Part C1(congregate nutrition services) and C2 (home-delivered nutrition services). Grants to Indian tribes for similar purposes are authorized under another title of the OAA and are not included in this Supplement. Implementing regulations are published at 45 CFR part 1321.

The Nutrition Services Incentive Program (NSIP) is authorized in Title III of the OAA, as amended, which is codified at 42 USC 3030a. There are no implementing regulations.

Availability of Other Program Information

Additional information about nutrition and supportive services, as reauthorized in 2016 by Pub. L. No. 114-144, is available at the AoA website at http://www.aoa.acl.gov/AoA_Programs/index.aspx.
III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. State Agency

   a. State Agencies may use any amount of Title III-B (supportive services) funding necessary to conduct an effective ombudsman program (42 USC 3024 (d)(1)(B)).

   b. Grant funds may be used for State plan administration, including State Plan preparation, evaluation of activities carried out under the Plan, the collection of data and the conduct of analyses related to the need for services, dissemination of information, short-term training, and demonstration projects (42 USC 3028 (a)).

   c. No supportive services, nutrition services, or in-home services may be provided directly by the State Agency unless the State Agency determines that direct provision of services is necessary to ensure an adequate supply of services, where such services are related to the agency’s administrative...
functions, or where such services of comparable quality can be provided more economically by the State Agency (42 USC 3027(a)(8)(A)).

2. **Area Agency**

   **Supportive Services and Senior Centers and Nutrition Services**

   a. Funds may be used for plan administration, operation of an advisory council, activities related to advocacy, planning, information sharing, and other activities leading to development or enhancement within the designated service area(s) of comprehensive and coordinated community-based systems of service delivery to older persons (45 CFR section 1321.53).

   b. If approved by the State Agency, an Area Agency may use service funds for program development and coordination activities (45 CFR section 1321.17(f)(14)(i)).

   c. No supportive services, nutrition services, or in-home services may be provided directly by an Area Agency except if, in the judgment of the State Agency, direct provision of services is necessary to ensure an adequate supply of services, where such services are related to the agency’s administrative functions, or where such services of comparable quality can be provided more economically by the agency (42 USC 3027(a)(8)).

**NSIP**

Recipient agencies may use the cash received in lieu of commodities only to purchase domestically produced foods for their nutrition projects (42 USC 3030a(d)(4)).

3. **Service Providers**

   **Supportive Services and Senior Centers and Nutrition Services**

   a. Funds may be used to assist in the operation of multi-purpose senior centers and to meet all or part of the costs of compensating professional and technical personnel required for center operation (42 USC 3030d(b)(2)).

   b. Funds may be used for nutrition services and supportive services consistent with the terms of the agreement between the Area Agency and the service provider (42 USC 3026(a)(1), 3030d(a), and 3030e).

   c. Funds may be used for services associated with access to supportive services for in-home services, and for legal assistance (42 USC 3026(a)(2)).
d. Nutrition services may be provided to older individuals’ spouses, who may not be eligible for these services in their own right, on the same basis as they are provided to older individuals, and may be made available to handicapped or disabled individuals who are less than 60 years old but who reside in housing facilities occupied primarily by older individuals at which congregate nutrition services are provided (42 USC 3030g-21(2)(I)).

e. In accordance with procedures established by the Area Agencies, nutrition project administrators may offer meals to individuals providing volunteer services during the meal hours and to individuals with disabilities who reside at home with eligible individuals (42 USC 3030g-21(2)(H)).

f. Funds may be used for provision of home-delivered meals to older individuals (42 USC 3030f).

g. Funds may be used to acquire (in fee simple or by lease for 10 years or more), alter, or renovate existing facilities or to construct new facilities to serve as multi-purpose senior centers for not less than 10 years after acquisition, or 20 years after completion of construction, unless waived by the Assistant Secretary for Aging (42 USC 3030b).

NSIP

Cash received in lieu of commodities may be used only to purchase domestically produced foods for their nutrition projects (42 USC 3030a(d)(4)).

E. Eligibility

1. Eligibility for Individuals – Not Applicable

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

3. Eligibility for Subrecipients

Service providers may include profit-making organizations except that providers of case management services must be public or non-profit agencies (42 USC 3026(a)(8)(C)).
G. Matching, Level of Effort, Earmarking

1. Matching

a. State

   (1) States must contribute from State or local sources at least 25 percent of the cost of State Plan administration as their matching share. This may include cash or in-kind contributions by the State or third parties (42 USC 3028 (a)(1) and 42 USC 3029 (b); 45 CFR section 1321.47).

   (2) All services, whether provided by the State Agency, an Area Agency or other service provider (including any ombudsman services provided under the authority of 42 USC 3024 (d)(1)(D)) must be funded with a non-Federal match of at least 15 percent. This percentage must be met on a statewide basis. Funds for ombudsman services provided under the authority of 42 USC 3024 (d)(1)(B) are not required to be matched (42 USC 3024 (d)(1)(D); 45 CFR section 1321.47).

b. State and Area Agencies

   Area Agencies, in the aggregate, must contribute at least 25 percent of the costs of administration of area plans (42 USC 3024 (d)(1)(A); 45 CFR section 1321.47).

   (1) State – Since this match is computed based on the aggregate of all Area Agencies in the State, the auditor’s testing of the amount of this match is performed at the State Agency.

   (2) Area Agencies – The auditor’s testing of the allowability of the matching (e.g., from an allowable source and in compliance with the administrative requirements and allowable costs/cost principles requirements) should be performed at the Area Agencies.

2.1 Level of Effort – Maintenance of Effort

State – The State Agency must spend for both services and administration at least the average amount of State funds it spent under the State plan for these activities for the 3 previous fiscal years. If the State Agency spends less than this amount, the Assistant Secretary for Aging reduces the State’s allotments for supportive and nutrition services under this part by a percentage equal to the percentage by which the State reduced its expenditures (42 USC 3029 (c); 45 CFR section 1321.49). See III. L.1, “Reporting – Financial Reporting,” for the reporting requirement regarding maintenance of effort.

2.2 Level of Effort – Supplement Not Supplant – Not Applicable
3. **Earmarking**

a. **State**

(1) Overall expenditures for administration are limited to the greater of five percent (or $300,000 or $500,000 depending on the aggregate amount appropriated or a lesser amount for the U.S. Territories) of the overall allotment to a State under Title III unless a waiver is granted by the Assistant Secretary for Aging (42 USC 3028 (b)(1), (2), and (3)).

(2) After a State determines the amount to be applied to State plan administration under 42 USC 3028 (b), the State may:

   (a) Make up to (and including) 10 percent of that amount available for the administration of Area Plans where the State calculates the 10 percent based on the amount remaining after deducting the amount to be applied to State Plan administration (42 USC 3024(d)(1)(A)); and

   (b) Use any amounts available to the State for State plan administration which the State determines are not needed for that purpose to supplement the amount available for administration of Area Plans (42 USC 3028(a)(2)).

(3) Any State which has been designated as a single planning and service area may elect to be subject to the State Plan administration limit (five percent) or the Area Plan administration (10 percent) limit (42 USC 3028(a)(3)).

(4) A State may transfer:

   (a) Up to 40 percent of a State’s separate allotments for congregate and home-delivered nutrition services between those two allotments without AoA approval (42 USC 3028 (b)).

   (b) Not more than 30 percent between programs under Part B and Part C (Parts C1 and/or C2) for use as the State considers appropriate (42 USC 3028(b)).

   (c) An additional 10 percent may be transferred between C1 and C2 with an AoA waiver (42 USC 3028(b)).

   (d) A waiver may be requested to transfer an amount which is above the allowable 30 percent between Parts B and C (42 USC 3030c-3(b)(4)).
A State Agency may not delegate to an Area Agency or any other entity the authority to make such transfers (42 USC 3028(b)(6)).

(5) The State agency will not fund program development and coordinated activities as a cost of supportive services for the administration of area plans until it has first spent 10 percent of the total of its combined allotments under this program on the administration of area plans (45 CFR section 1321.17(f)(14)).

b. **Area Agency**

As provided in agreements with the State Agency, Area Agencies earmark portions of their allotment. The typical earmarks are:

(1) A maximum amount or percentage for program development and coordination activities by that agency (42 USC 3024(d)(1)(D); 45 CFR section 1321.17(f)(14)(i)).

(2) A minimum amount or percentage for services related to access, in-home services, and legal assistance (42 USC 3026(a)(2)).

**H. Period of Performance**

Funds are made available to the State annually and must be obligated by the State by the end of the Federal fiscal year in which they were awarded. The State has an additional 2 years to liquidate all obligations for its administration of the State Plan and for awards to the Area Agencies consistent with its intrastate allocation formula. Therefore, in any given year, multiple years of funding are being used to provide services statewide.

Whenever the Assistant Secretary for Aging determines that any amount allotted to a State under Parts B or C for a fiscal year will not be used to carry out the purpose for which the allotment was made, the funds may be reallocated to one or more other States. Any amount made available to a State as the result of a reallocation shall be regarded as part of the State’s allotment for the same fiscal year in which the funds were appropriated, but shall remain available for obligation by the State until the end of the succeeding fiscal year (42 USC 3024 (b)).

**J. Program Income**

1. Service providers are required to provide an opportunity to individuals being served under all Part B and C services program to make voluntary contributions for services received. These voluntary contributions are to be added to the amounts made available by the State or Area Agency and must be used to expand the service from which they are collected (42 USC 3030c-2(b)).

2. Cost-sharing fees may be collected from Title III-B services except information and assistance, outreach, benefits counseling, or case management services. Cost sharing is not allowed for Title III-C services or Title VII Elder Rights Services.
(ombudsman, legal services, elder abuse prevention or other consumer protection services) (42 USC 3030c-2(a)(2)).

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

M. Subrecipient Monitoring

1. State Agency
   The State Agency is required to develop policies governing all aspects of programs operated under the State Plan and to monitor their implementation, including assessing performance for quality and effectiveness and specifying data system requirements to collect necessary and appropriate data (45 CFR sections 1321.11 and 1321.17(f)(9)).

2. Area Agencies
   Area Agencies are required to oversee the activities of service providers with respect to provision of services, reporting, voluntary contributions, and coordination of services (45 CFR section 1321.65).

N. Special Tests and Provisions

Distribution of Cash

Compliance Requirement – States are required to promptly and equitably distribute NSIP cash to recipients of grants or contracts under OAA Title C1 and C2 (42 USC 3030a(d)(4)).

Audit Objective – Determine whether States are distributing cash promptly and equitably.

Suggested Audit Procedures
   a. Review the State’s procedures for handling NSIP cash to determine whether there is a documented process for distributing cash, including established time frames.
b. Review a sample of transactions during the audit period in which the State received NSIP cash and determine whether the State complied with its established process, including time frames.

IV. OTHER INFORMATION

The NSIP program may include both cash payments to States and use of cash to purchase commodities from USDA and for USDA administrative expenses. Assistance in the form of commodities is considered Federal awards expended in accordance with 2 CFR section 200.40 definition of “Federal financial assistance” and should be valued in accordance with 2 CFR section 200.502(g). Therefore, both cash expenditures for the purchase of food and the value of commodities received from the State Distribution Agencies should be (1) used when determining Type A programs and (2) included in the Schedule of Expenditures of Federal Awards in accordance with 2 CFR section 200.510(b).
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.090 GUARDIANSHIP ASSISTANCE

I. PROGRAM OBJECTIVES

The objective of the Guardianship Assistance Program is to help agencies authorized to administer Title IV-E programs to provide kinship guardianship assistance payments under Title IV-E of the Social Security Act, as amended, for relatives taking legal guardianship of children who have been in foster care.

II. PROGRAM PROCEDURES

Administration and Services

The Guardianship Assistance program is administered at the Federal level by the Children’s Bureau, Administration on Children, Youth and Families, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Funding is available (at the option of the Title IV-E agency) to the 50 States, the District of Columbia, Puerto Rico and federally recognized Indian tribes, Indian tribal organizations, and tribal consortia (hereinafter referred to as tribes) with approved Title IV-E plans, based on a Title IV-E plan and amendments, as required by changes in statutes, rules, and regulations submitted to and approved by the ACF Children’s Bureau Associate Commissioner.

The Guardianship Assistance program provides Federal matching funds to Title IV-E agencies with approved Title IV-E plans that provide ongoing assistance and/or non-recurring payments to relatives who have assumed legal guardianship of eligible children for whom they previously cared for as foster parents and enter into a guardianship assistance agreement. This funding became available beginning on October 7, 2008, with the enactment of amendments to the Social Security Act through the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351). The State or tribal Title IV-E agency may implement and claim allowable guardianship assistance program costs beginning on the first day of the quarter in which an approvable Title IV-E plan amendment is submitted to ACF to implement the Guardianship Assistance program (45 CFR section 1356.20(d)(8)). The program is considered an open-ended entitlement program and allows the State (including the District of Columbia and Puerto Rico) or tribe to be funded at a specified percentage (Federal financial participation (FFP)) for program costs for eligible children.

The designated Title IV-E agency for this program also administers ACF funding provided for other Title IV-E programs, e.g., Adoption Assistance (CFDA 93.659); Foster Care (CFDA 93.658) and Independent Living Services (CFDA 93.674), as well as the Child Welfare Services (CFDA 93.645) and Promoting Safe and Stable Families (CFDA 93.556) programs (Title IV-B of the Social Security Act, as amended) (CFDA 93.556 funds available to States and those tribes qualifying for at least a minimum grant of $10,000), and the Social Services Block Grant program (CFDA 93.667) (Title XX of the Social Security Act, as amended) (States only). The Title IV-E agency may either directly administer the Guardianship Assistance program or supervise its administration by local level agencies. Where the program is administered by a State, in accordance with the approved Title IV-E plan, it must be in effect in all political
subdivisions of the State, and, if administered by them, program requirements must be mandatory upon them. Where the program is administered by a tribe, it must be in effect in all political subdivisions within the tribal service area(s) and for all populations to be served under the plan. If the program is administered by a political subdivision of a tribe, program requirements must be mandatory upon them (42 USC 671(a)(1-4) and 42 USC 679B(c)(1)(B)).

Source of Governing Requirements

The Guardianship Assistance program is authorized by Title IV-E of the Social Security Act, as amended (42 USC 670 et seq.). Implementing regulations are at 45 CFR parts 1355, 1356, and 1357.

States and tribes are required to adopt and adhere to their own statutes and regulations for program implementation, consistent with the requirements of Title IV-E and an approved Title IV-E plan.

Availability of Other Program Information

The Children’s Bureau manages a policy issuance system that provides further clarification of the law and guides States and tribes in implementing the Guardianship Assistance program. This information may be accessed at http://www.acf.hhs.gov/programs/cb/laws_policies/index.htm.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. Kinship Guardianship Assistance Payments – Funds may be expended for kinship guardianship assistance payments made on behalf of eligible children (see III.E.1, “Eligibility – Eligibility for Individuals”) in the amount (subject to limitations in this paragraph) and manner prescribed in a negotiated, written and binding kinship guardianship assistance agreement entered into with the prospective relative guardian (42 USC 673(d)(1)(A)(i)). Kinship guardianship assistance payments are made to relative guardians (as defined in an approved Title IV-E plan) based on the circumstances of the relative guardian and the needs of the child (42 USC 673(d)(1)(B)(i)). Kinship guardianship assistance payments cannot exceed the amount of the foster care maintenance payment the child would have received in a foster family home; however, the amount of the payments may be up to 100 percent of the foster care maintenance payment rate which would have been paid on behalf of the child if the child had remained in a foster family home (42 USC 673(d)(2)).

2. Administrative Costs
a. Program Administration – Funds may be expended for costs directly related to the administration of the program. Approved public assistance cost allocation plans (States) or approved cost allocation methodologies (tribes) will identify which costs are allocated and claimed under this program (45 CFR section 1356.60(c)).

b. Nonrecurring Costs – Funds may be expended as specified in a kinship guardianship assistance agreement for the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child (if the child meets program eligibility requirements), to the extent the total cost does not exceed $2,000 (42 USC 673(d)(1)(B)(iv)).

c. Guardianship Placement Costs – Funds expended by the Title IV-E agency for guardianship placements (including nonrecurring costs) are considered an administrative expenditure and are subject to the matching requirements in III.G.1.e (42 USC 674(a)(3)(E)).

3. Training
a. Funds may be expended for training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the agency administering the plan (42 USC 674(a)(3)(A)).

b. Funds may be expended for short-term training of relative guardians; State/tribe-licensed or State/tribe-approved child welfare agencies providing services to children receiving Title IV-E assistance; child abuse
4. *Demonstration Projects*

Under Section 1130 of the Social Security Act, Title IV-E agencies may be granted authority to operate a demonstration project as set forth in ACF-approved terms and conditions. Any such terms and conditions identify the specific provisions of the Social Security Act that are waived, the additional activities that are allowable, the scope and duration (which may not exceed a maximum of 5 total years unless specifically approved for further continuation) of the demonstration project and the methodology for determining cost neutrality (either a matched comparison group or a capped allocation) (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

B. *Allowable Costs/Cost Principles*

Both States and tribes are subject to the requirements of OMB Circular A-87 (2 CFR part 225)/2 CFR part 200, subpart E, as implemented by HHS at 45 CFR part 75. States also are subject to the cost allocation provisions and rules governing allowable costs of equipment of 45 CFR part 95 (45 CFR sections 1355.57, 95.503, and 95.705).

E. *Eligibility*

1. **Eligibility for Individuals**

   Kinship guardianship assistance payments may be paid on behalf of a child only if program eligibility is established through one of the following methods:

   a. **General Eligibility**

   All of the following requirements must be met to establish general eligibility:

   (1) *Removal from Home* – The child was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child (42 USC 673(d)(3)(A)(i)(I)).

   (2) *Title IV-E Foster Care Connection* – The child was eligible for foster care maintenance payments under 42 USC 672 while residing for at least 6 consecutive months in the home of the prospective relative guardian (42 USC 673(d)(3)(A)(i)(II)).
(3) **Non-Availability of Other Permanency Options** – The Title IV-E agency determined that being returned home or adopted are not appropriate permanency options for the child (42 USC 673(d)(3)(A)(ii)).

(4) **Family Dynamics** – The Title IV-E agency determined that the child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child (42 USC 673(d)(3)(A)(iii)).

(5) **Child Consultation** – With respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement (42 USC 673(d)(3)(A)(iv)).

(6) **Kinship Guardianship Assistance Agreement** – The kinship guardianship assistance agreement must be a written and binding document entered into through negotiations with the prospective relative guardian and contain information concerning; the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child (42 USC 673(d)(1)(A)(i) and 673(d)(1)(B)(i)).

(7) **Legal Guardianship** – A kinship guardianship assistance agreement that meets, or is amended to meet, all the requirements of 42 USC 673(d)(1) must be in place with a prospective relative guardian prior to the establishment of the legal guardianship. Payments may only begin once the relative guardian has committed to care for the child and has assumed legal guardianship for the child for whom they have cared as foster parents and for whom they have committed to care on a permanent basis (42 USC 671(a)(28) and 675(7)).

(8) **Safety Requirements** – Any relative guardian must satisfactorily have met a criminal records check, including a fingerprint-based checks of national crime information databases (as defined in 28 USC 534(e)(3)(A)), and for checks described in 42 USC 671(a)(20)(B) on any relative guardian and any other adult living in the home of any relative guardian, before the relative guardian may receive kinship guardianship assistance payments on behalf of the child (42 USC 671(a)(20)(C)).
(9) **Age of Child** – Once a child is determined eligible to receive Title IV-E kinship guardianship assistance payments, he or she remains eligible in accordance with the terms of the kinship guardianship assistance agreement and the payments can continue until:

(a) attainment of the age of 18 (or attainment of age 21 if the Title IV-E agency determines that the child has a mental or physical disability which warrants the continuation of assistance); (b) the Title IV-E agency determines that the relative guardian(s) is no longer legally responsible for the support of the child; (c) the Title IV-E agency determines the child is no longer receiving any support from the relative guardian(s); or (d) the occurrence of an event described in the kinship guardianship assistance agreement which requires suspension or discontinuation of kinship guardianship assistance payments (42 USC 673(a)(4)(A) and (B); 42 USC 673(d)(1) and Child Welfare Policy Manual section 8.5A Q/A#3).

Beginning on October 1, 2010, a Title IV-E agency may amend its Title IV-E plan to provide for a definition of a “child” as an individual who has not attained 19, 20, or 21 years old (as the Title IV-E agency may elect) (42 USC 675(8)(B)(iii)). This definition of a child will then permit payment of kinship guardianship assistance for a child who is over age 18 (where the Title IV-E agency does not determine that the child has a mental or physical disability which warrants the continuation of assistance up to age 21) only if such a youth is part of an kinship guardianship assistance agreement that is in effect under Section 473 of the Social Security Act and the youth had attained 16 years of age before the agreement became effective. As an additional requirement, a youth over age 18 must also (as elected by the Title IV-E agency) be (a) completing secondary school (or equivalent); (b) enrolled in post-secondary or vocational school; (c) participating in a program or activity that promotes or removes barriers to employment; (d) employed 80 hours a month; or (e) incapable of any of these due to a documented medical condition (42 USC 675(8)(B)).

b. **Sibling Eligibility**

(1) The child and any sibling of the eligible child (established under the General Eligibility requirements listed in paragraph E.1.a) may be placed in the same kinship guardianship arrangement if the State/tribal agency and the relative agree on the appropriateness of the arrangement for the siblings (42 USC 673(d)(3)(B)(i) and 42 USC 671(a)(31)).
(2) Kinship guardianship assistance payments may be paid pursuant to a kinship guardianship assistance agreement (in accordance with requirements in paragraph E.1.a.(6)) on behalf of each sibling so placed. If kinship guardianship assistance payments are paid on behalf of the sibling, the Title IV-E agency must pay (in accordance with a kinship guardianship assistance agreement) the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed $2,000. The sibling does not have to meet the eligibility criteria in 42 USC 673(d)(3)(A) to receive kinship guardianship assistance payments or for the legal guardian to be reimbursed for the nonrecurring expenses related to costs of the legal guardianship (42 USC 673(d)(3)(B)(ii)).

(3) Siblings of an eligible child must also individually meet the requirements specified in paragraphs E.1.a.(7) and (9) (42 USC 671(a)(28); 675(7) 42 USC 673(a)(4)(A) and (B); and 42 USC 675(8)(B)).

c. Title IV-E Guardianship Waiver Post-Demonstration Projects

(1) After the termination of a demonstration project relating to guardianship conducted by a State under Section 1130 of the Social Security Act, children who, as of September 30, 2008, were receiving assistance or services under the project are deemed to be eligible under the approved Title IV-E State plan for the same assistance and services under the same terms and conditions that applied during the conduct of the project (42 USC 674(g)).

(2) Post-demonstration assistance and services to eligible children assisted in accordance with terminated guardianship related demonstration projects as noted in paragraph E.1.c.(1) is eligible for Title IV-E claiming whether or not the State opts to operate a Guardianship Assistance program pursuant to 42 USC 673(d) (42 USC 674(g)).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

3. Eligibility for Subrecipients – Not Applicable

F. Equipment and Real Property Management

Equipment that is capitalized and depreciated or is claimed in the period acquired and charged to more than one program is subject to 45 CFR section 95.707(b) in lieu of the requirements of the A-102 Common Rule/the HHS implementation of 2 CFR part 200 (applies to States only).
G. Matching, Level of Effort, Earmarking

1. Matching

The percentage of required State/tribal funding and associated Federal funding (“Federal financial participation”) varies by type of expenditure as follows:

a. Third party in-kind contributions cannot be used to meet the State’s cost sharing requirements (Child Welfare Policy Manual Section 8.1F.Q#2 8/16/02). 45 CFR section 92.24 is not applicable to this program (45 CFR sections 1355.30(c) and 1355.30(n)(1); 45 CFR section 201.5(e)). However, for program expenditures made in FY 2012 and thereafter, tribes directly operating a Title IV-E program are permitted to use in-kind funds from any allowable third-party sources to provide up to the full required non-Federal share of administrative or training costs (42 USC 679c(c)(1)(D); 45 CFR section 1356.68(c)).

b. Kinship Guardianship Assistance Payments – The percentage of Title IV-E funding in kinship guardianship assistance payments will be the FMAP percentage. This percentage varies by State and is available at [http://www.aspe.hhs.gov/health/fmap.htm](http://www.aspe.hhs.gov/health/fmap.htm) (42 USC 674(a)(1); 45 CFR section 1356.60(a)). Effective October 1, 2009, separate tribal FMAP rates, which are based upon the tribe’s service area and population, apply to Guardianship Assistance program assistance payments incurred by tribes that are participating in Title IV-E programs through either direct operation of an approved Title IV-E plan or through operation of a Title IV-E agreement or contract with a State Title IV-E agency. The methodology for calculating tribal FMAP rates was provided through a final notice in the Federal Register that is available at [http://www.gpo.gov/fdsys/pkg/FR-2011-08-01/pdf/2011-19358.pdf](http://www.gpo.gov/fdsys/pkg/FR-2011-08-01/pdf/2011-19358.pdf). Information on specific tribal FMAP rates for many tribes applicable for each FY and a table where such rates can be calculated for unlisted tribes is posted on the Children’s Bureau’s website and is available at [http://www.acf.hhs.gov/programs/cb/focus-areas/tribes](http://www.acf.hhs.gov/programs/cb/focus-areas/tribes). The calculated FMAP rate for each tribe applies unless it is exceeded by the FMAP rate for any State in which the tribe is located (42 USC 679B(d) and 42 USC 679B(e)).

c. Staff Training – The percentage of Federal funding in expenditures for short- and long-term training at educational institutions of employees or prospective employees (including travel and per diem) is 75 percent (42 USC 674(a)(3)(A) and (B); 45 CFR section 1356.60(b)).

d. Professional Partner Training – The percentage of Federal funding in expenditures for short-term training of relative guardians; State/tribe-licensed or State/tribe-approved child welfare agencies providing services...
to children receiving Title IV-E assistance; child abuse and neglect court personnel; agency, child or parent attorneys; guardians ad litem; and, court appointed special advocates is subject to an increasing FFP rate for these additional trainee groups as follows: 55 percent in FY 2009; 60 percent in FY 2010; 65 percent in FY 2011; 70 percent in FY 2012; 75 percent in FY 2013 and thereafter (42 USC 674(a)(3)(B)).

e. Administrative Costs

(1) The percentage of Federal funding for non-recurring Title IV-E agency kinship guardianship placement expenditures (not to exceed $2,000 for each kinship guardianship) is 50 percent (42 USC 674(a)(3)(E)).

(2) The percentage of Federal funding of all other allowable administrative expenditures is 50 percent (42 USC 674(a)(3)(E)).

2. Level of Effort – Not Applicable

3. Earmarking – Not Applicable

H. Period of Performance

This program operates on a cash accounting basis and each year’s funding and accounting is discrete. To be eligible for Federal funding, claims must be submitted to ACF within 2 years after the calendar quarter in which the Title IV-E agency made the expenditure. This limitation does not apply to prior period decreasing adjustments and any claim qualifying for a time limits exception in accordance with 45 CFR section 95.19 (42 USC 1320b–2; 45 CFR sections 95.7, 95.13, and 95.19).

L. Reporting

1. Financial Reporting

a. SF-270, Request for Advance or Reimbursement – Not Applicable

b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable


d. Form CB-496, Title IV-E Programs Quarterly Financial Report (OMB No. 0970-0205) – Title IV-E agencies report current expenditures and information on children assisted for the quarter that has just ended and estimates of expenditures and children to be assisted for the next quarter. Prior quarter adjustment (increasing and decreasing) expenditures applicable to earlier quarters must also be separately reported on this form.
Key Line Items – The following line items contain critical information:

Part 1, Expenditures, Estimates and Caseload Data, columns (a) through (d) (Sections C and D (Guardianship Assistance Program))

Part 2, Prior Quarter Expenditure Adjustments – Guardianship Assistance, columns (a) through (d)

Part 3, Foster Care, Adoption Assistance and Guardianship Assistance Demonstration Projects, columns (a) through (e)

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.095  HHS PROGRAMS FOR DISASTER RELIEF APPROPRIATIONS
ACT–NON-CONSTRUCTION
CFDA 93.096  HHS PROGRAMS FOR DISASTER RELIEF APPROPRIATIONS
ACT-CONSTRUCTION

I. PROGRAM OBJECTIVES

The objectives of these programs are to assist in disaster response and recovery and other activities directly related to Hurricane Sandy.

II. PROGRAM PROCEDURES

Covered Programs and Eligibility

As described in the terms and conditions of the award, programs in this cluster may be used for purposes consistent with the following Department of Health and Human Services (HHS) programs:

a. Head Start

b. Social Services Block Grant

c. Health services (including mental health services)

d. Repair or rebuilding of non-federal biomedical or behavioral research facilities

HHS may award grants, cooperative agreements, or contracts to eligible organizations in New York and New Jersey and, as applicable, in other States that were declared as major disaster jurisdictions by the Federal Emergency Management Agency (FEMA). These are as follows:


Source of Governing Requirements

This funding is authorized by the Disaster Relief Appropriations Act, Division A (Pub. L. No. 113-2), Title VI and Title X, Chapter 8.

Availability of Other Program Information

Additional program information is available from the following websites:


http://www.acf.hhs.gov/programs/ocs/programs/ssbg/hurricane-sandy-supplemental-funds (Social Services Block Grant)
III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. The terms and conditions of the award will provide the allowable uses of these funds.

2. Funds provided under CFDA 93.095 and 93.096 may not result in duplication of benefits. If costs are reimbursed by FEMA, under a contract for insurance, or by self-insurance, they cannot be charged to the award (Pub. L. No. 113-2, Division A, 127 Stat. 11, 127 Stat. 34).

3. Funding subject to the Social Services Block Grant (SSBG) requirements may be used for health services, including mental health services and for costs of renovating, repairing, and rebuilding health care facilities, child care facilities, or other social services facilities (Pub. L. No. 113-2, Division A, 127 Stat. 33).
F. Equipment and Real Property Management

The following specific requirements apply only to awards where the terms and conditions of the award identify funding subject to Head Start requirements found in 45 CFR part 1309:

1. Head Start grantees are required to operate and maintain facilities, real property, modular units, and related assets to ensure their use for the funded project purpose(s) and to adequately protect the Federal interest in such facilities, real property, and related assets (45 CFR part 1309).

2. Real property acquired or constructed with Head Start funds or which has undergone major renovation with Head Start funds may not be conveyed, transferred, assigned, mortgaged, leased, or otherwise encumbered or subordinated unless approved by ACF (45 CFR section 1309.21(b)).

3. A Head Start grantee must file a Notice of Federal Interest (also referred to as “reversionary interest”) when construction or major renovation begins or when an existing facility or land is acquired on which a facility will be built. The Notice of Federal Interest, meeting the requirements of 45 CFR section 1309.21(d)(2), must be filed in the appropriate public records of the jurisdiction in which the property is located (45 CFR section 1309.21(d)(2)). For modular units, the Notice of Federal Interest must be posted in a conspicuous place on the modular unit (45 CFR section 1309.31).

G. Matching, Level of Effort, Earmarking

1. **Matching** – Any matching requirements will be indicated in the terms and conditions of the award.

2. **Level of Effort** – Not Applicable

3. **Earmarking** – Any earmarking requirements will be indicated in the terms and conditions of the award.

H. Period of Performance

Unless otherwise provided by statute or a waiver has been granted by the Office of Management and Budget (OMB), funds must be expended within 24 months of the beginning date of the period of performance (Pub. L. No. 113-2, Section 904(c)).

1. Funding subject to the SSBG requirements must be spent by September 30, 2017 (Pub. L. No. 113-2, 127 Stat. 33).

Period: “The total project period may not exceed 5 years. Funds will be provided in a single award with a 60-month budget and project period.”

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

IV. OTHER INFORMATION

Although funding for programs in this Hurricane Sandy Relief Cluster may be subject to the requirements of the Head Start (CFDA 93.600) or SSBG (CFDA 93.667) programs, they are separate from and, therefore, are not clustered with the Head Start or SSBG programs.

Awards from CFDA 93.095 and 93.096 that are identified in the notice of award as Research and Development (R&D) should be shown on the Schedule of Expenditures of Federal Awards as R&D and should be audited with the R&D cluster rather than this Hurricane Sandy Relief Cluster.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.153 COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH (Ryan White HIV/AIDS Program Part D Women, Infants, Children and Youth WICY Program)

I. PROGRAM OBJECTIVES

The objective of this program is to improve access to family-centered primary medical care, research, and support services for low-income, uninsured, or underinsured women, infants, children and youth living with Human Immunodeficiency Virus (HIV), and affected family members, through the provision of coordinated, comprehensive, culturally and linguistically competent services.

II. PROGRAM PROCEDURES

Administration and Services

The Department of Health and Human Services (HHS) administers the Ryan White HIV/AIDS Program (RWHAP) Part D Coordinated Services for Women, Infants, Children, and Youth (WICY) through the Health Resources and Services Administration (HRSA)’s HIV/AIDS Bureau (HAB). The RWHAP Part D WICY networks of healthcare and support services programs provide family-centered outpatient ambulatory healthcare to low-income, uninsured, or underinsured women, infants, children and youth living with HIV. Recipients can also provide additional support services to patients and affected family members.

Grants under the RWHAP Part D WICY are awarded to public and non-profit private entities, including health facilities operated by or pursuant to a contract with the Indian Health Service (42 USC 300ff-71(a)). Services may be provided directly by the recipient or through contractual agreements or memoranda of understanding with other service providers.

Source of Governing Requirements

The RWHAP Part D WICY is authorized under Section 2671 of Title XXVI of the PHS Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. No. 111-87), and is codified at 42 USC 300ff-71. The Minority AIDS Initiative (MAI) is authorized under Section 2693(b)(2)(D) of the PHS Act (42 USC 300ff-121(b)(2)(D)).

The RWHAP Part D WICY has no program-specific program regulations.

Availability of Other Program Information

Further information about the RWHAP Part D WICY is available at http://www.hab.hrsa.gov/.

Additional information on allowable uses of funds under the RWHAP Part D WICY is contained in policy notices and standards found at http://www.hab.hrsa.gov/manageyourgrant/policiesletters.html.
III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. Activities Allowed

   a. Funds may be used for family-centered care involving outpatient or ambulatory care, directly or through contracts or memoranda of understanding, for women, infants, children and youth living with HIV. This includes provision of professional, diagnostic and therapeutic services by a primary care provider or a referral to and provision of specialty care; and services that sustain program activity and contribute to or help improve those services (42 USC 300ff-71(a) and (h)(3)).

Funds are not required to be used for primary care services when payments are available for such services from other sources (including Titles XVIII, XIX and XXI of the Social Security Act) (42 USC 300ff-71(i)).
b. Funds may be used for the following support services for patients and affected family members: (1) family-centered care, including case management; (2) referrals for additional services, including inpatient hospital services, treatment for substance abuse and mental health services, and other social and support services as appropriate; (3) additional services necessary to enable the patient and the family to participate in the RWHAP Part D WICY, including services to recruit and retain youth living with HIV; and (4) provision of information and education on opportunities to participate in HIV/AIDS-related clinical research (42 USC 300ff-71(b)).

c. Funds may be used for the establishment of a clinical quality management program to assess the extent to which HIV health services are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infections, and, as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services (42 USC 300ff-71(f)(2)).

d. Funds may be used for administrative expenses, which are defined as funds used by recipients for grant management and monitoring activities, including costs related to any staff or activity other than provision of services. Indirect costs included in a federally negotiated indirect rate are considered part of administrative costs (See III.G.3, “Matching, Level of Effort, Earmarking - Earmarking,” for a limitation on expenditures for administrative costs) (42 USC 300ff-71(f)(1), (h)(1), and (h)(2)).

2. *Activities Unallowed*

a. Funds may not be used for AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug abuse or sexual activity, whether homosexual or heterosexual (42 USC 300ff-84).

b. Funds may not be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug (Consolidated Appropriations Act, 2016 (Pub. L. No. 114-113), Division H, Title V, Section 520, and subsequent appropriations, as applicable). Other elements of syringe services programs may be allowable if in compliance with applicable HHS and HRSA-specific guidance.

c. Funds may not be used to purchase or improve land or to purchase, construct, or make permanent improvement to any building (Funding Opportunity Announcement, Section IV.6).
d. Funds may not be used to make cash payments to intended recipients of RWHAP services (Policy Clarification Notice #16-02, Ryan White HIV/AIDS Program Services: Eligible Individuals and Allowable Uses of Funds (https://hab.hrsa.gov/sites/default/files/hab/program-grants-management/ServiceCategoryPCN_16-02Final.pdf)).

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2. Level of Effort – Not Applicable

3. Earmarking

Not more than 10 percent of the amount awarded may be used for administrative expenses. Costs related to provision of services and amounts for indirect costs included in a federally negotiated indirect rate are considered administrative expenses for purposes of this limitation (42 USC 300ff-71(f)(1), (h)(1), and (h)(2)).

J. Program Income

The Notice of Award provides guidance on the use of program income. The addition method is used for the Ryan White HIV/AIDS Program Part D. Program income must be used for activities described in III.A.1, “Activities Allowed.”

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable
I. PROGRAM OBJECTIVES

The objective of this program is to “improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management” by enabling tribes to assume programs, services, functions, and activities (or portions thereof) (PSFAs) of the Indian Health Service (IHS), Department of Health and Human Services (HHS) that are otherwise available to Indian tribes (tribes) or Indians.

II. PROGRAM PROCEDURES

Title V of the Indian Self-Determination and Education Act (ISDEAA) (Pub. L. No. 106-260), which was signed into law August 18, 2000, provided permanent self-governance authority within IHS. A Self-Governance compact is a legally binding and mutually enforceable written agreement, including such terms as the parties intend shall control year after year, that affirms the government-to-government relationship between a Self-Governance Tribe and the United States. As a result, the provisions of compacts vary significantly, with only minimal cross-cutting compliance requirements.

A funding agreement (FA) is a legally binding and mutually enforceable written agreement that identifies the PSFAs that the Self-Governance Tribe will carry out, the funds being transferred from Service Unit, Area and Headquarters levels in support of those PSFAs, and such other terms as are required, or may be agreed upon, pursuant to Title V. Funding under FAs may be multi-year agreements.

Tribal compactors may provide health care services directly at facilities operated by the compactor or by operating a contract health services program as part of the FA. Contract health services are services provided to IHS-eligible beneficiaries by private sector health-care providers, such as hospitals and physicians, under contract with the tribal compactor.

Source of Governing Requirements

Title V of the ISDEAA, as amended, is codified at 25 USC 458aaa.

Regulations concerning the general administration of Indian health programs are found at 42 CFR part 136. Regulations implementing ISDEAA Title V and establishing the IHS Tribal Self-Governance Program are found at 42 CFR part 137.
III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. Funds may be used to carry out and deliver the health services PSFA. The FA generally identifies the PSFAs to be performed or administered by the tribe (25 USC 458aaa-4(d)).

2. A Self-Governance Tribe may incur costs that are reasonable in amount and appropriate to the investment responsibilities of the Self-Governance Tribe (42 CFR section 137.101(c)).

3. Funds may be used to meet matching or cost participation requirements under any other Federal or non-Federal program; when used in this manner they are considered non-Federal funds (42 CFR section 137.217).
B. Allowable Costs/Cost Principles

1. A Self-Governance Tribe must apply the applicable OMB cost principles, except as modified by 25 U.S.C. 450j–1, other provisions of law, or any exemptions to applicable OMB circulars subsequently granted by OMB (42 CFR section 137.167).

2. For contract health services, the tribal compactor is the payer of last resort. Before seeking payment from the tribal compactor, the contract provider must first seek payment from all alternate resources, such as health care providers and institutions; health care programs including programs under the Social Security Act (i.e., Medicare or Medicaid); State or local health care programs; and, private insurance. Where a third-party liability is established after the claim is paid, reimbursement from the third party should be sought (42 CFR section 136.61).

C. Cash Management

A Self-Governance Tribe may retain and spend interest earned on any funds paid under a compact or FA (25 USC 458aaa–7(h); 42 CFR section 137.100).

E. Eligibility

1. Eligibility for Individuals
   
   a. Eligibility for services within facilities operated by the IHS (which are billed by IHS to the tribe) or run by a tribal organization for the Federal Government

   (1) Individuals of Indian descent belonging to the Indian community served by the local facilities and program are eligible to receive services. An individual may be regarded as within the scope of the Indian health and medical service if he/she is regarded as an Indian by the community in which he/she lives as evidenced by such factors as tribal membership, enrollment, residence on tax-exempt land, ownership of restricted property, active participation in Indian affairs, or other relevant factors in keeping with the general Bureau of Indian Affairs practices in the jurisdiction (42 CFR section 136.12(a)(2)).

   (2) Non-Indian women pregnant with an eligible Indian’s child are eligible for services. In cases where the woman is not married to the eligible Indian under applicable state or tribal law, paternity must be acknowledged in writing by the Indian or determined by order of a court of competent jurisdiction. Services may be provided only during the period of her pregnancy through postpartum (generally 6 weeks after delivery) (42 CFR section 136.12(a)).
(3) Services may be provided to non-Indian members of an eligible Indian’s household if a medical officer in charge determines that such services are needed to control an acute infectious disease or a public health hazard (42 CFR section 136.12(a)).

(4) Otherwise ineligible individuals may receive temporary care and treatment in case of an emergency, as an act of humanity (42 CFR section 136.14(a)).

(5) Services may be provided on a cost basis to otherwise ineligible persons in accordance with the criteria in Section 813 of the Indian Health Care Improvement Act (25 USC 1621e).

b. **Eligibility for services in the Contract Health Services component of IHS**

(1) In order to qualify for the Contract Health Services component of IHS:

   (a) An individual must meet the requirements outlined in paragraph III.E.1.a, above (42 CFR section 136.23(a)); and

   (b) Must either reside in the United States and on a reservation located within a Contract Health Service Delivery Area (CHSDA) as defined under 42 CFR section 136.22; or, if he/she does not reside on a reservation, reside within a CHSDA; and

   (c) Be a member of the tribe or tribes located on that reservation or of the tribes or tribes for which the reservation was established; or maintain close economic and social ties with said tribe or tribes (42 CFR section 136.23(a)).

(2) **Students** – Students continue to be eligible for contract health services during their full-time attendance at programs of vocational, technical, or academic education, including normal school breaks and for a period not to exceed 180 days after the completion of their studies (42 CFR section 136.23(b)).

(3) **Transients** – Transient persons, such as those who are in travel or are temporarily employed, remain eligible for contract health services during their absence (42 CFR section 136.23(b)).

(4) **Other Persons** – Other persons who leave the CHSDA in which they are eligible and are neither transients nor students remain eligible for contract health services for a period not to exceed 180 days from such departure (42 CFR section 136.23(c)).
(5) **Foster Children** – Indian children who are placed in foster care outside a CHSDA by order of a court of competent jurisdiction and who were eligible for contract health services at the time of the court order shall continue to be eligible for contract health services while in foster care (42 CFR section 136.23(d)).

2. **Eligibility for Group of Individuals or Area of Service Delivery** – Not Applicable

3. **Eligibility for Subrecipients** – Not Applicable

H. **Period of Performance**

1. An FA shall have the term mutually agreed to by the parties. Absent notification from a tribe that it is withdrawing or retroceding the operation of one or more PSFAs identified in the FA, the FA shall remain in full force and effect until a subsequent FA is executed (42 CFR section 137.55).

2. All funds paid to an Indian tribe in accordance with a compact or FA shall remain available until expended (25 USC 458aaa-7(i)).

J. **Program Income**

1. For direct care services, the tribal compactor is eligible to pursue reimbursement from all applicable sources (25 USC 1621e, 42 USC 1395qq, and 42 USC 1396j).

2. All Medicare, Medicaid, or other program income earned by a tribe shall be treated as supplemental funding to that negotiated in the FA. The tribe may retain all such income and expend such funds in the current year or in future years except to the extent that the Indian Health Care Improvement Act (25 USC 1601 et seq.) provides otherwise for Medicare and Medicaid receipts (25 USC 450j-1 and 25 USC 458aaa-7(j)). Such funds shall not result in any offset or reduction in the amount of funds the Self-Governance Tribe is authorized to receive under its FA in the year the program income is received or for any subsequent fiscal year (42 CFR section 137.110).

3. **Use of Funds Collected through HHS** – Tribes electing to receive Medicare and Medicaid reimbursement through HHS shall first use such income for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under Medicare or Medicaid programs. (Pub. L. No. 106-291, 114 Stat. 978; 42 USC 1395qq; and 25 USC 1642).
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.217  FAMILY PLANNING – SERVICES

I. PROGRAM OBJECTIVES

The purpose of the Family Planning – Services Project Grant (FPSPG) program is to provide funds for education, counseling, and comprehensive medical and social services necessary to enable individuals to freely determine the number and spacing of their children; and, by doing so, to help improve pregnancy outcomes, reduce infertility and promote the health of females, males and their families.

II. PROGRAM PROCEDURES

The FPSPG program is administered by the Office of the Secretary (OS)/Office of the Assistant Secretary for Health (OASH), a component of the Department of Health and Human Services (HHS). Within OS, the Office of Population Affairs is responsible for the program. The program has no statutory funds allocation formula; HHS makes discretionary grant awards whose amounts are based on estimates of the amounts necessary for successful project performance.

Any public or non-profit private entity in a State (which includes each of the 50 States, District of Columbia, Commonwealth of Puerto Rico, U.S. Virgin Islands, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federated States of Micronesia, and the Republic of the Marshall Islands) may apply for a project grant under the program. The entity applying for the grant must follow Public Health System Reporting Requirements and submit to the State a plan for a coordinated and comprehensive program of family planning services.

Family planning services under the FPSPG program must be voluntary and must be made available without coercion and with respect for the privacy, dignity, and social and religious beliefs of the individuals being served. To the extent possible, entities that receive grants shall encourage family participation in projects assisted under this program.

Source of Governing Requirements

The FPSPG is authorized under Title X of the Public Health Service Act, as amended (42 USC 300 et seq.). The implementing regulations are at 42 CFR part 59.

Availability of Other Program Information

Additional information is available on the HHS Office of Population Affairs website at http://www.hhs.gov/opa/.
III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. Activities Allowed

   a. Provision of services – A project supported by the FPSPG must provide a broad range of family planning methods and services, including infertility services and services for adolescents. Services that may be funded for a particular project are identified in the grant application. They may include:

      (1) Medical services – These include providing information on all FDA-approved methods of contraception (including natural family planning methods); counseling services; physical examinations, including cancer detection and laboratory tests; issuance of contraceptive supplies; periodic follow-up examinations; and referral to other medical facilities when medically indicated.
(2) **Social services** – These include counseling, referral to and from other social and medical service agencies, and such ancillary services as are necessary to facilitate clinic attendance.

(3) **Information and education** – These activities are designed to achieve community understanding of the program’s objectives, inform the community of the availability of program services, and promote continued participation in the project by persons likely to benefit from its services (42 CFR sections 59.5(a)(1) and (b)).

b. **Purchase of services** – If the grantee obtains services for its clients by contract or other arrangements with service providers, it must do so according to agreements with the providers that specify payment rates and procedures (42 CFR section 59.5(b)(9)).

2. **Activities Unallowed** – No Title X funds shall be used in programs where abortion is a method of family planning (42 CFR section 59.5(a)(5)).

G. **Matching, Level of Effort, Earmarking**

1. **Matching**

   The Federal share of a FPSPG project’s costs may never equal 100 percent nor be less than 90 percent (with certain exceptions). The Federal and non-Federal shares are stated in the Notice of Grant Award issued to the grantee (42 CFR sections 59.7(b) and (c)).

2. **Level of Effort** – Not Applicable

3. **Earmarking** – Not Applicable

J. **Program Income**

A grantee must charge for family planning services according to the client’s ability to pay. A person’s inability to pay according to the prescribed fee schedule must not be a barrier to receiving services. A person from a low-income family may not be charged, except to the extent that payment will be made by a third party (such as an insurer or a government agency) which is authorized or under legal obligation to pay such charge. Individuals from other than low-income families are charged according to an established fee schedule which is based on the cost of services. For individuals from families with incomes between 101 and 250 percent of the published Poverty Guidelines, such a schedule must provide discounts based on ability to pay. Fees for individuals from families with higher incomes are set to recover the reasonable cost of providing the services (42 CFR sections 59.5(a)(7) and (8)).

A “low-income family” is one whose total annual family income does not exceed 100 percent of the most recent Poverty Guidelines published by HHS in the Federal Register. These guidelines may be found on the HHS website at [http://aspe.hhs.gov/poverty/](http://aspe.hhs.gov/poverty/).
“Low-income family” also includes members of families whose annual family income exceeds the poverty level, but who the project director has determined are unable, for good reasons, to pay for family planning services. For example, unemancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own resources (42 CFR sections 59.2 and 59.5(a)(6)).

The Notice of Grant Award provides guidance on the use of program income. Generally the addition method is used for this program.

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable
I. PROGRAM OBJECTIVES

The purpose of the Health Center Program (HCP) is to improve the health of the Nation’s underserved communities and vulnerable populations by assuring continued access to comprehensive, culturally competent, quality primary health care services. HCP grants support a variety of community-based and patient-directed public and private nonprofit organizations that provide primary and preventive health care services to the Nation’s underserved.

II. PROGRAM PROCEDURES

The purpose of the HCP grants is to support the costs of operating health centers that serve medically underserved populations.

Administration and Services

HCP grants (Section 330 grants) are awarded and administered at the Federal level by the Bureau of Primary Health Care (BPHC), HRSA, HHS. Based on applications submitted to and approved by HRSA, grants are provided to public and private non-profit organizations including tribal, faith-based and community-based organizations. Factors considered include the population to be served and the current availability of services in the geographical area to be served. Grantees may enter into service and care arrangements via contracts or other formal referral arrangements.

The authorizing statute for the HCP requires health centers to annually develop and submit to HRSA a budget that reflects expenses and revenues (including the Section 330 grant) necessary to accomplish the health center project service delivery plan. As such, the total budget must include projections from all revenue sources, including fees, premiums, and third-party reimbursements reasonably expected to be received to support operations, and State, local, private and other operational funding provided to the health center. The amount of the Section 330 grant funding to be provided by HRSA may not exceed the amount by which the projected cost of operations exceeds the projected non-grant revenue sources (42 USC 254(e)(5)(A), (k)(3)(D), and (k)(3)(I)(i) and 42 CFR section 51c.106).

Source of Governing Requirements

The HCP is authorized under Section 330 of the Public Health Service Act, as amended by Section 10503 of The Patient Protection and Affordable Care Act (Pub. L. No. 111-148). The statutory provisions are codified at 42 USC 254b. The implementing program regulations for Community Health Centers (CHCs) and Migrant Health Centers (MHCs) are codified at 42 CFR parts 51c and 56, respectively. The Health Care for the Homeless (HCH) and Public Housing Primary Care (PHPC) components do not have program-specific regulations.
Availability of Other Program Information


III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

### Compliance Requirements

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<td>Activities Allowed or Unallowed</td>
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A. Activities Allowed or Unallowed

1. Activities Allowed
   
   a. Required primary health services include:
      
      (1) Basic health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and, where appropriate, by physician assistants, nurse practitioners, and nurse midwives (42 USC 254b(b)(1)(A)(i)(I)).
      
      (2) Diagnostic laboratory and radiological services (42 USC 254b(b)(1)(A)(i)(II)).
(3) Preventive health services, including prenatal and perinatal services; appropriate cancer screening; well-child services; immunizations against vaccine-preventable diseases; screenings for elevated blood lead levels, communicable diseases and cholesterol; pediatric eye, ear, and dental screenings; voluntary family planning services; and preventive dental services (42 USC 254b(b)(1)(A)(i)(III)).

(4) Emergency medical services (42 USC 254b(b)(1)(A)(i)(IV)).

(5) Pharmaceutical services, as may be appropriate for particular centers (42 USC 254b(b)(1)(A)(i)(V)).

(6) Referrals to providers of medical services, (including specialty referral when medically indicated) and other health-related services (including substance abuse and mental health services) (42 USC 254b(b)(1)(A)(ii)).

(7) Patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, educational, housing, or other related services (42 USC 254b(b)(1)(A)(iii)).

(8) Services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population served by the center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals) (42 USC 254b(b)(1)(A)(iv)).

(9) Education of patients and the general population served by the health center regarding the availability and proper use of health services (42 USC 254b(b)(1)(A)(v)).

(10) Substance abuse services for grantees with HCH grants (42 USC 254b(h)(2)).

b. Additional health services that may be provided as appropriate to meet the health needs of the population to be served include:

(1) Behavioral and mental health and substance abuse services 42 USC 254b(2)(A).

(2) Recuperative care services (42 USC 254b(b)(2)(B)).
(3) Environmental health services, including the detection and alleviation of unhealthful conditions associated with water supply, chemical and pesticide exposures, air quality, or exposure to lead; sewage treatment; solid waste disposal; rodent and parasitic infestation; field sanitation; housing; and other environmental factors related to health (42 USC 254b(b)(2)(C)).

(4) For MHCs, special occupation-related health services for migratory and seasonal agricultural workers, including screening for and control of infectious diseases (including parasitic diseases) and injury prevention programs (including prevention of exposure to unsafe levels of agricultural chemicals including pesticides) (42 USC 254b(b)(2)(D)).

c. Funds may be used for the reimbursement of members of the grantee’s governing board, if any, for reasonable expenses incurred by reason of their participation in board activities (42 CFR sections 51c.107(b)(3) and 56.108(b)(3)).

d. Funds may be used for the cost of insurance for medical emergency and out-of-area coverage (42 CFR section 51c.107(b)(6)).

e. Funds may be used for the acquisition and lease of buildings and equipment (including the costs of amortizing the principal of, and paying the interest on, loans for equipment) (42 USC 254b(e)(2)).

f. Funds may be used for the costs of providing training related to the provision of required primary health care services and additional health services and to the management of health center programs (42 USC 254b(e)(2)).

2. Activities Unallowed

a. Federal funds awarded under the HCP may not be expended for any abortion. These limitations do not apply to an abortion (1) if the pregnancy is the result of an act of rape or incest; or (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed (Consolidated Appropriations Act, 2016 (Pub. L. No. 114-113), Division H, Title V, Sections 506 and 507).

b. Federal funds awarded under the HCP may not be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug, provided that this limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant State or local health department, in consultation with the Centers for Disease Control and
Prevention, determines that the State or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with State and local law (Consolidated Appropriations Act, 2016 (Pub. L. No. 114-113), Division H, Title V, Section 520, and subsequent appropriations, as applicable).

B. Allowable Costs/Cost Principles

Costs charged to Federal funds under the HCP award funds must comply with the cost principles at 45 CFR part 75, subpart E, and any other requirements or restrictions on the use of Federal funding.

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Uniform Data System (UDS) (OMB No. 0915-0193) – This system is comprised of two separate sets of reports, the Universal Report and Grant Reports. The conditions for their use are:
   a. Grantees that receive a single grant under the HCP or that receive CHC funding only are required to complete the Universal Report only.
   b. Grantees that receive multiple awards (in addition to or other than CHC funding) must complete a Universal Report for the combined grants and individual Grant Reports for their HCH, MCH, and PHPC funding, if applicable.

Key Line Items – The following line items contain critical information:


Total accrued cost before donations and after allocation of overhead (Table 8A Line 17 Column c)

Total number of patients (Table 4 Line 6 Column a)
Total accrued medical staff and other medical cost after allocation of overhead excluding medical lab and x-ray cost (Table 8A, Line 1, Column c and Table 8A, Line 3, Column c)

Non-nursing medical visits (excludes nursing (RN) visits) (Table 5, Line 15, Column b and Table 5, Line 11, Column b)

Total accrued BPHC section 330 grants drawn-down for the period from January 1 to December 31, of the calendar measurement year (Table 9E, Line 1g, Column a)

Total number of patients (Table 4, Line 6, Column a)

N. Special Tests and Provisions

Sliding Fee Discounts

Compliance Requirement

Health centers must prepare and apply a sliding fee discount schedule (SFDS) so that the amounts owed for health center services by eligible patients are adjusted (discounted) based on the patient’s ability to pay as follows:

a. Sliding fee discounts are applied to fees for health center services provided to all individuals and families with annual incomes at or below 200 percent of the Federal Poverty Guidelines (FPG);

b. A full discount is applied to fees for health center services provided to individuals and families with annual incomes at or below 100 percent of the FPG, or the health center applies only a nominal charge;

c. Fees for health center services are discounted based on gradations in family size and income for individuals and families with incomes above 100 and at or below 200 percent of the FPG; and

d. No sliding fee discount is applied to fees for health center services provided to individuals and families with annual incomes above 200 percent of the FPG

(42 USC 254(k)(3)(E), (F), and (G); 42 CFR sections 51c.303(e), (f), and (g); and 42 CFR sections 56.303(e), (f), and (g)).

Audit Objective

Determine whether the health center has applied sliding fee discounts to patient charges consistent with its sliding fee discount schedule.
Suggested Audit Procedures

a. Review the health center’s sliding fee discount schedule(s).

b. Review a sample of financial records for patients treated during the audit period to determine whether patient charges were appropriately adjusted based on income and family size by applying the health center’s sliding fee discount schedule. (Note: Auditors are not required to test any documentation used to establish or verify income.)
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.268    IMMUNIZATION COOPERATIVE AGREEMENTS

I. PROGRAM OBJECTIVES

The objective of the Immunization Cooperative Agreement program is to reduce and ultimately eliminate vaccine preventable diseases (VPDs) by increasing and maintaining high immunization coverage. Emphasis is placed on populations at highest risk for under-immunization and disease, including children eligible under the Vaccines for Children (VFC) program.

II. PROGRAM PROCEDURES

The Immunization Cooperative Agreements program consists of two parts: discretionary Section 317 immunization funding and VFC financed with mandatory Medicaid (CFDA 93.778) funding.

The objective of the discretionary Section 317 Immunization Cooperative Agreement program is to reduce and ultimately eliminate VPDs by increasing and maintaining high immunization coverage. Emphasis is placed on populations at highest risk for under-immunization and disease, which includes VFC-eligible children. The statute refers to development of programs for all individuals for whom vaccines are recommended, including infants, children, adolescents and adults. The intent of the discretionary Section 317 funding is to supplement, not supplant, each grantee’s immunization effort at the State/local level. The Centers for Disease Control and Prevention (CDC), through its cooperative agreement guidance, has identified the following areas of activity for programmatic emphasis and funding prioritization: reduce the number of indigenous cases of VPDs; ensure that all children are appropriately vaccinated; improve vaccine safety surveillance; increase routine vaccination coverage levels for adolescents; and increase the proportion of adults who are vaccinated annually against influenza and who have ever been vaccinated against pneumococcal disease.

VFC, which is authorized by and financed through Title XIX of the Social Security Act (Medicaid), is activity-based financial assistance and direct assistance in the form of vaccine-purchase funds and program operations funds to support implementation of the VFC program. VFC is administered by CDC and is funded entirely by the Federal Government. VFC funds are provided to eligible organizations to develop and operate programs designed to ensure effective delivery of vaccination services to eligible children through enrolled providers of medical care. Grantees are required to encourage a variety of providers to participate in the VFC program and to administer vaccines in an appropriate cultural context. Grantees also are required to ensure that providers comply with the requirements of the VFC program. Other criteria, detailed in annual cooperative agreement application guidance documents, may also apply.

Under VFC, children from birth through 18 years of age are eligible for VFC-purchased vaccine if they are Medicaid-eligible, American Indian/Alaskan Native, or without health insurance. Children who are insured but whose insurance does not cover vaccination also are eligible to receive VFC vaccine at Federally Qualified Health Centers or Rural Health Clinics. The intent of the VFC program is to increase vaccination coverage levels by reducing financial barriers to vaccination. The VFC program ensures that all eligible children receive the benefits of all
recommended vaccines, thus strengthening immunity levels in their communities. The program also ensures that access to newly recommended vaccines for children in low-income and uninsured families does not lag behind that for children in middle- and upper-income families. In addition, the program helps to ensure that there is an adequate supply of routinely recommended vaccines when public health emergencies occur, including vaccine supply shortages.

VFC and Section 317 financial assistance (FA) is provided/obligated directly to immunization grantees for administrative and operations costs. Similarly, Section 317 FA is obligated to grantees for the purchase of vaccines not available through Federal contracts. Funds for direct assistance (DA) vaccines are maintained at CDC, and are periodically obligated to manufacturer contracts. Grantees are given estimated target budgets for their DA vaccine purchase needs. CDC uses these budgets as a control mechanism for vaccine orders.

Vaccines will be maintained by a federally contracted third-party distributor that receives orders from and ships vaccine to providers. Periodically, when the Federal distributors’ inventory reaches certain minimum thresholds, the distributor makes a request to CDC for replenishment vaccines. CDC reviews these requests and assigns funding sources to them (VFC or 317) based on the aggregate of grantee-submitted spend plans. Orders for the vaccines are processed and sent to the appropriate manufacturer(s), referencing funds that were previously obligated to the manufacturer contracts. The manufacturer fulfills the order and ships the vaccines to the federally contracted distributor.

Source of Governing Requirements

These programs are authorized under 42 USC 247b, 42 USC 243, 42 USC 300aa-3, 300aa-25, and 300aa-26, 42 USC 1396s. Regulations specific to discretionary Section 317 grants may be found at 42 CFR part 51b.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.
A. Activities Allowed or Unallowed

1. Discretionary Section 317 cooperative agreements funds may be used to establish and maintain a preventive health service program, including:
   a. Research into the prevention and control of diseases that may be prevented through vaccination;
   b. Demonstration projects for the prevention and control of such diseases;
   c. Public information and education programs for the prevention and control of such diseases;
   d. Education, training, and clinical skills improvement activities in the prevention and control of such diseases for health professionals; and
   e. Operational activities associated with the conduct of a successful immunization program (42 USC 247b(k)(1)).

2. The VFC program is intended primarily as a vaccine purchase and supply program for eligible children. VFC funds may be expended to support costs associated with the following:
   a. VFC vaccine ordering;
   b. VFC vaccine distribution for grantees that have not transitioned to a federally contracted vaccine distributor; and
c. Direct VFC program operations, such as provider recruitment and enrollment, overall VFC program coordination, vaccine management and accountability, VFC provider accountability and site visit assessments, and VFC program evaluation (42 USC 1396s).

J. Program Income

Grantees providing direct immunization services may generate program income from fees or donations. Vaccine administration fees may be charged under VFC; however, they may not exceed the maximum reimbursement schedule established by the Centers for Medicare and Medicaid Services, the delegated authority. This cap does not apply to discretionary Section 317 funds. However, no one may be denied immunization services due to the inability to pay a fee or donation (42 USC 1396s(c)(2)(C)).

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

N. Special Tests and Provisions

1. Control, Accountability, and Safeguarding of Vaccine

Compliance Requirement – Effective control and accountability must be maintained for all vaccine under the VFC program. Vaccine must be adequately safeguarded and used solely for authorized purposes (42 USC 1396s). This includes administration only to VFC program-eligible children, as defined in 42 USC 1396s(b)(2)(A)(i) through (A)(iv), regardless of the child’s parent’s ability to pay (42 USC 1396s(c)(2)(C)(iii)).

Audit Objectives – Determine whether the grantee provides oversight of program-enrolled providers to ensure that proper control and accountability is maintained for vaccine, vaccine is properly safeguarded (based on guidance provided by CDC), and VFC-eligibility screening is conducted.
Suggested Audit Procedures

a. Determine if the grantee has a written procedure for overseeing program-enrolled providers that allows for sampling of provider’s inventory records and assessment of storage procedures. Grantees are not required to sample the records of all providers.

b. Determine if the grantee sampled the provider’s inventory records to ensure proper recording of receipt, transfer, and usage of vaccine.

c. Determine if the grantee reviewed the provider’s storage of vaccine for proper safeguarding, including risks of loss from theft, expiration, or improper storage temperature.

d. Determine if the grantee reviewed a sample of provider medical records for documentation of eligibility screening.

e. Determine if necessary follow-up procedures were followed if any deficiencies were identified.

2. Record of Immunization

Compliance Requirement – A record of vaccine administered shall be made in each person’s permanent medical record (or in a permanent office log or file to which a legal representative shall have access upon request) (42 USC 300aa-25), which includes:

a. Date of administration of the vaccine;

b. Vaccine manufacturer and lot number of the vaccine; and

c. Name and address and, if appropriate, the title of the health care provider administering the vaccine.

Audit Objective – Determine whether the grantee provides oversight of vaccinating providers to ensure that the required information has been recorded for vaccine recipients.

Suggested Audit Procedures

a. Determine if the grantee has a written procedure for ensuring that the required information has been recorded for vaccine recipients.

b. Determine if the grantee tested a sample of vaccination records to ascertain if the required information was maintained.

c. Determine if the grantee took any follow-up action if the required records and information were not maintained.
IV. OTHER INFORMATION

After the end of each month and after the end of each Federal fiscal year, CDC advises each grantee of the value of all federally funded vaccine which was distributed, in lieu of cash, directly to the grantee and/or on behalf of the grantee to vaccinating providers located in the grantee’s geographical area. The annual dollar value of federally funded vaccine should be treated by the grantee as expenditures under a Federal award for purposes of determining audit coverage and reporting on the Schedule of Expenditures of Federal Awards. Vaccinating providers and vaccinated individuals are not considered subrecipients; therefore, the value of vaccine received is not considered as expenditures under a Federal award for purposes of determining audit coverage and reporting for those entities.
I. PROGRAM OBJECTIVES

The goals of the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) programs are to (1) strengthen and improve the programs and activities carried out under Title V of the Social Security Act, (2) improve coordination of services for at-risk communities, and (3) identify and provide comprehensive services to improve outcomes for families who reside in at-risk communities.

The MIECHV programs include grants to States and six jurisdictions (District of Columbia, Puerto Rico, US Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). Per Section 511(h)(2)(B) of the Social Security Act (42 USC 711(h)(2)(B)), nonprofit organizations with an established record of providing early childhood home visiting programs or initiatives in a State or several States are eligible for funding to provide services in States that are not participating in the programs. The legislation requires that grantees demonstrate improvement in six benchmark areas: improved maternal and newborn health; prevention of child injuries, child abuse, neglect, or maltreatment, and reduction of emergency department visits; improvement in school readiness and achievement; reduction in crime or domestic violence; improvement in family economic self-sufficiency; and improvements in the coordination and referrals for other community resources and supports.

These programs are intended to support and strengthen cooperation and coordination and promote linkages among various programs that serve pregnant women, expectant fathers, young children, and families in tribal communities and result in high-quality, comprehensive early childhood systems in every community.

II. PROGRAM PROCEDURES

The Health Resources and Services Administration (HRSA) administers the MIECHV programs in collaboration with the Administration for Children and Families (ACF), with awards under this CFDA number made by HRSA (ACF awards are made under CFDA 93.508). HRSA and ACF are Operating Divisions of the Department of Health and Human Services (HHS).

Grants are awarded to States, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, and America Samoa to conduct needs assessments, and to those entities and nonprofit organizations providing services in States that are not participating in the programs, to develop the infrastructure needed for the widespread planning, adopting, implementing, and sustaining of evidence-based maternal, infant, and early childhood home visiting programs; and provide high-quality, voluntary, evidence-based home visiting services to pregnant women and families with young children from birth to age 5. Nonprofit organizations are required to carry out the program based on the needs assessment conducted by the State.
Also, to the greatest extent practicable, nonprofit organizations are subject to the program requirements that apply to States (e.g., coordination with other programs under Title V of the Social Security Act and the 10 percent limitation on costs associated with administering the award).

**Source of Governing Requirements**

These programs are authorized under the Social Security Act, Title V, Section 511 (42 USC 711), as amended.

**Availability of Other Program Information**


The funding opportunity announcements (FOAs) for under CFDA 93.505 are: HRSA-11-187, HRSA-13-278, HRSA-14-081, and HRSA-15-101, (formula grants); HRSA-11-179, HRSA-12-156, HRSA-13-215, and HRSA-15-102 (competitive development and expansion grants); and HRSA-12-163, HRSA-12-255, and HRSA-14-101 (nonprofit program). The most recent awards under CFDA 93.505 will end by September 30, 2017. The FOAs under CFDA 93.870 include HRSA-16-172 (formula grants) and HRSA-16-025 (competitive innovation awards). These may be found online at [https://grants.hrsa.gov/webexternal/fundingOpp.asp](https://grants.hrsa.gov/webexternal/fundingOpp.asp). The FOAs are available in the archives at Grants.gov through an advanced search using CFDA 93.505 or 93.870.

HHS launched Home Visiting Evidence of Effectiveness (HomVEE) to conduct a thorough and transparent review of the home visiting research literature and provide an assessment of the evidence of effectiveness for home visiting programs models that target families with pregnant women and children from birth to age 5. Information on this process and a list of the 17 evidence-based models can be found at [http://homvee.acf.hhs.gov/HRSA/11/Models_Eligible_MIECHV_Grantees/69/](http://homvee.acf.hhs.gov/HRSA/11/Models_Eligible_MIECHV_Grantees/69/).

**III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.
A. Activities Allowed or Unallowed

1. Activities Allowed

   As specified in the FOAs, funds may be used to

   1. based on the coordinated needs assessment developed in 2010, or as updated, identify unmet needs and target at-risk communities;

   2. develop the infrastructure and capacity needed to implement and sustain evidence-based maternal, infant, and early childhood home visiting programs in those communities; and

   3. provide home visiting services to eligible families (home visiting is defined as an evidence-based program, implemented in response to findings from a needs assessment, that includes home visiting as a primary service delivery strategy (excluding programs with infrequent or supplemental home visiting), and is offered on a voluntary basis to pregnant women or children birth to age five targeting the participant outcomes in the legislation which include improved maternal and child health, prevention of child injuries, child abuse, or maltreatment, and reduction of emergency department visits, improvement in school readiness and achievement, reduction in crime or domestic violence, improvements in family economic self-sufficiency, and improvements in the coordination and referrals for other community resources and supports).

2. **Activities Unallowed**

As stated in the FOAs, funds may not be used to support the delivery or costs of direct medical, dental, mental health, or legal services; however, some limited direct services may be provided (typically by the home visitor) to the extent required in fidelity to an evidence-based model approved for use.

**E. Eligibility**

1. **Eligibility for Individuals**

Services must be provided to families residing in at-risk communities as identified in the statewide needs assessment conducted by the State. Eligible families include pregnant women; expectant fathers; parents; and primary caregivers of children aged birth through age 5, including grandparents or other relatives of the child, foster parents who are serving as the child's primary caregiver, and non-custodial parents who have an ongoing relationship with, and at times provide physical care for, the child (Section 511(d)(4) of the Social Security Act (42 USC 711(d)(4)), as added by Section 2951 of Pub. L. No. 111-148).

2. **Eligibility for Group of Individuals or Area of Service Delivery** – Not Applicable

3. **Eligibility for Subrecipients** – Not Applicable

**G. Matching, Level of Effort, Earmarking**

1. **Matching** – Not Applicable

2.1 **Level of Effort** – *Maintenance of Effort* – Not Applicable

2.2 **Level of Effort** – *Supplement Not Supplant*

Funds provided to an eligible entity receiving a grant shall supplement, and not supplant, funds from other sources for early childhood home visitation programs or initiatives. The grantee must agree to maintain non-Federal funding (State General Funds) for grant activities at a level which is not less than expenditures for such activities as of the entity’s most recently completed fiscal year (home visiting is defined as an evidence-based program, implemented in response to findings from a needs assessment, that includes home visiting as a primary service delivery strategy, excluding programs with infrequent or supplemental home visiting), and is offered on a voluntary basis to pregnant women or children birth to age 5 targeting the participant outcomes in the legislation which include improved maternal and child health, prevention of child injuries, child abuse, or maltreatment, and reduction of emergency department visits, improvement in school readiness and achievement, reduction in crime or domestic violence, improvements in family economic self-sufficiency, and improvements in the coordination and referrals for other community resources and supports.)
(Section 511(f) of the Social Security Act, as added by Section 2951 of Pub. L. No. 111-148; FOAs Section III.3).

3. **Earmarking**
   
a. No more than 25 percent of grant funds may be spent on conducting a program using a service delivery model based on a promising and new approach to the benchmark areas (a model that does not meet the HHS criteria for an approved evidence-based home visiting model per [http://homvee.acf.hhs.gov/programs.aspx](http://homvee.acf.hhs.gov/programs.aspx)) (Section 511(d)(3)(A)(ii) of the Social Security Act, as added by Section 2951 of Pub. L. No. 111-148 (42 USC 711(d)(3)(A)(ii)). The 25 percent limitation pertains to the total funds awarded to the grantee for the fiscal year, i.e., the amount equal to the State’s formula grant plus the amount of the competitive grant award, if any. **(Note:** there currently are 17 home visiting models that meet the HHS criteria for evidence-based home visiting models: Child FIRST, Durham Connects/Family Connects, Early Head Start-Home-Based Option, Early Intervention Program for Adolescent Mothers, Early Start (New Zealand), Family Check-Up for Children, Family Spirit, Healthy Access Nurturing Development Services (HANDS) Program, Healthy Beginnings, Healthy Families America, Home Instruction for Parents of Preschool Youngsters, Maternal Early Childhood Sustained Home-Visiting Program, Minding the Baby, Nurse-Family Partnership, Parents as Teachers, Play and Learning Strategies—Infant, and SafeCare Augmented).

b. Not more than 10 percent of the award amount may be spent on costs associated with administering the award (Section 511(i)(2) of the Social Security Act, as added by Section 2951 of Pub. L. No. 111-148 (42 USC 711(i)(2)(C); 42 USC 704(d)).

H. **Period of Performance**

Funds are available for expenditure by the grantee through the end of the second succeeding fiscal year after award (Section 511(j)(3) of the Social Security Act, as added by Section 2951 of Pub. L. No. 111-148 (42 USC 711(j)(3))).

L. **Reporting**

1. **Financial Reporting**
   
a. SF-270, *Request for Advance or Reimbursement* – Not Applicable

b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

2. **Performance Reporting**


*Key Line Items* – The following line items contain critical information:

Section A: Unduplicated Count of Enrollees by Type and by Primary Insurance Coverage, Table A.1, Total Numbers Newly Enrolled and Served During Reporting Period.

3. **Special Reporting** – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.508 AFFORDABLE CARE ACT – TRIBAL MATERNAL, INFANT, AND EARLY CHILDHOOD HOME VISITING GRANT PROGRAM

I. PROGRAM OBJECTIVES

The goals of the Tribal Maternal, Infant, and Early Childhood Home Visiting (Tribal MIECHV) Grant Program include both supporting the development of healthy, happy, successful American Indian and Alaska Native (AIAN) children and families through a coordinated, high-quality, evidence-based home visiting strategy and expanding the evidence base around home visiting programs for AIAN populations. Home visiting programs are intended to promote outcomes such as improvements in maternal and prenatal health, infant health, and child health and development; reduced child maltreatment; improved parenting practices related to child development outcomes; improved school readiness; improved family socio-economic status; improved coordination of referrals to community resources and supports; and reduced incidence of injuries, crime, and domestic violence. It is envisioned that this program will support and strengthen cooperation and coordination and promote linkages among various programs that serve pregnant women, expectant fathers, young children, and families in tribal communities and result in high-quality, comprehensive early childhood systems in every community.

The Tribal MIECHV program supports critical maternal, infant, and early childhood home visiting services for AIANs in tribal communities, including Indian tribes or urban Indian centers (as defined by Section 4 of the Indian Health Care Improvement Act, Pub. L. No. 94-437).

II. PROGRAM PROCEDURES

Agency Administration and Services

The Administration for Children and Families (ACF) and the Health Resources and Services Administration (HRSA) are jointly funding this program, with awards made by ACF.

Phase 1: Needs Assessment, Planning, and Capacity-Building (Year 1)

Grantees must (1) conduct a comprehensive community needs assessment, and (2) develop a plan and begin to build capacity to respond to identified needs through an evidence-based home visiting program (including a plan for measuring and reporting on program participants’ progress toward meeting legislatively mandated benchmarks and a plan for rigorous evaluation of the home visiting program).

Phase 2: Implementation Phase (Years 2-5 or 6)

Grantees will implement the various components of their approved plan to respond to identified needs (submitted at the end of Phase 1 and work closely with ACF and HRSA to ensure high-quality, evidence-based home visiting programs in their community.
Cooperative Agreements

Cooperative agreements are awarded to tribes (or a consortium of tribes), tribal organizations, or urban Indian organizations to conduct needs assessments; develop the infrastructure needed for the widespread planning, adopting, implementing, and sustaining of evidence-based maternal, infant, and early childhood home visiting programs; provide high-quality, evidence-based home visiting services to pregnant women and families with young children aged birth to kindergarten entry; measure program participants’ progress toward meeting legislatively mandated benchmarks; and conduct a rigorous evaluation of the implemented home visiting program. The project period for these cooperative agreements is 5-6 years.

Source of Governing Requirements

This program is authorized under Section 511(h)(2)(A) of Title V of the Social Security Act, as added by Section 2951 of the Patient Protection and Affordable Care Act (Affordable Care Act) (Pub. L. No. 111-148), extended by the Protecting Access to Medicare Act of 2014 (Pub. L. No. 113-93), as amended by the Medicare Access and CHIP Reauthorization Act of 2015 (Pub. L. No. 114-10).

Availability of Other Program Information


The ACF website provides general information on this program at http://www.acf.hhs.gov/programs/ecd/home-visiting/tribal-home-visiting.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.
### Compliance Requirements

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### A. Activities Allowed or Unallowed

1. **Activities Allowed**

   Funds may be used to

   a. conduct a needs and readiness assessment of the tribal community (or communities) that considers community characteristics and the quality and capacity of existing home visiting programs and other supportive services, examines community readiness to implement a quality home visiting program, is coordinated with other relevant needs assessments, and involves community stakeholders as appropriate;

   b. engage in collaborative planning efforts to address identified needs by developing capacity and infrastructure to fully plan for, adopt, implement, and sustain high-quality home visiting programs that have strong fidelity to evidence-based models;

   c. provide evidence-based home visiting services to pregnant women, expectant fathers, and parents and primary caregivers of young children aged birth to kindergarten entry;

   d. develop a data system and mechanism to measure, track, and report on progress toward meeting legislatively mandated benchmarks for participating children and families with reliability and validity; and

   e. conduct rigorous local program evaluation activities that may include examining effectiveness of home visiting models in serving tribal populations, adaptations of home visiting models for tribal communities, or questions regarding implementation or infrastructure necessary to support implementation of home visiting programs in tribal communities.

   (FY 2012 Funding Opportunity Announcements for the Affordable Care Act (ACA) Tribal Maternal, Infant, and Early Childhood Home Visiting Program)
2. **Activities Unallowed**
   
a. Pre-award costs may not be paid under this program.

b. Construction is not an allowable activity.

c. Purchase of real property is not an allowable activity

(FY 2012 Funding Opportunity Announcements, Section IV.5).

E. **Eligibility**

1. **Eligibility for Individuals** – Not Applicable

2. **Eligibility for Group of Individuals or Area of Service Delivery**

   a. Eligible families in at-risk AIAN communities include pregnant women, expectant fathers, parents, and primary caregivers of children aged birth through kindergarten entry, including grandparents or other relatives of the child, foster parents who are serving as the child's primary caregiver, and non-custodial parents who have an ongoing relationship with, and at times provide physical care for, the child (Section 511(k)(2) of Title V of the Social Security Act, as added by Section 2951 of the Affordable Care Act).

   b. Grantees are required to give priority to serving high-risk groups, including (1) eligible families who reside in communities in need of such services, as identified in the needs assessment; (2) low-income eligible families; (3) eligible families who are pregnant women who have not attained age 21; (4) eligible families that have a history of child abuse or neglect or have had interactions with child welfare services; (5) eligible families that have a history of substance abuse or need substance abuse treatment; (6) eligible families that have users of tobacco products in the home; (7) eligible families that are or have children with low student achievement; (8) eligible families with children with developmental delays or disabilities; and (9) eligible families who, or that include individuals who, are serving or formerly served in the Armed Forces, including such families that have members of the Armed Forces who have had multiple deployments outside of the United States (Section 511(d)(4) of Title V, as added by Section 2951 of the Affordable Care Act).

   c. For the purposes of this program, in order to reflect the diverse circumstances of tribal populations, ACF and HRSA take a broad and inclusive view of the definition of “at-risk community.” Grantees may define an at-risk community in the following ways (and each of these
possible definitions has implications for the type and quality of data that will be available for the purposes of the needs assessment):

(1) An entire tribe within a discrete geographic region (i.e., on a reservation) could be considered an at-risk community;

(2) Subgroups of a tribe within a discrete geographic region (i.e., on a reservation) could be considered at-risk communities; or

(3) Members of a tribe(s) could live scattered throughout a larger, non-tribal geographic area interspersed with non-tribal members (i.e., Indians living in an urban environment) and be considered an at-risk community.

d. The award of home visiting funds to an Indian tribe, tribal organization, or urban Indian organization shall not affect the eligibility of any eligible families in at-risk AIAN communities to receive home visiting services in the State or States in which the grantee is located.

3. **Eligibility for Subrecipients** – Not Applicable

**H. Period of Performance**

Funds are available for expenditure by a grantee through the end of the second succeeding fiscal year after award (Section 511(j)(3) of the Social Security Act, as added by Section 2951 of Pub. L. No. 111-148) (42 USC 711(j)(3)).

**L. Reporting**

1. **Financial Reporting**

   a. **SF-270, Request for Advance or Reimbursement** – Not Applicable

   b. **SF-271, Outlay Report and Request for Reimbursement for Construction Programs** – Not Applicable

   c. **SF-425, Federal Financial Report** – Applicable

2. **Performance Reporting** – Not Applicable

3. **Special Reporting** – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.525  STATE PLANNING AND ESTABLISHMENT GRANTS FOR THE AFFORDABLE CARE ACT (ACA)’S EXCHANGES

I.  PROGRAM OBJECTIVES

The purpose of the State Planning and Establishment Grants for the Affordable Care Act’s Exchanges (Exchange Program) is to provide States, the District of Columbia, and consortia of States with financial assistance for the establishment of Exchanges. “Exchanges” are new competitive private health insurance marketplaces that will give qualified individuals and qualified small employers access to affordable health care coverage.

II.  PROGRAM PROCEDURES

Administration and Services

At the Federal level, the Exchange Program is administered by the Department of Health and Human Services, through the Centers for Medicare and Medicaid Services (CMS)/Center for Consumer Information and Insurance Oversight (CCIIIO).

Section 1311(a)(1) of the Affordable Care Act (ACA) authorizes assistance to States to plan for, and establish, American Health Benefit Exchanges (42 USC 18031(a)). The ACA provides that each State may elect to establish an Exchange that would (1) facilitate the purchase of qualified health plans (QHPs), (2) provide for the establishment of a Small Business Health Options Program (“SHOP Exchange”) designed to assist qualified employers in facilitating the enrollment of their employees in QHPs offered in the SHOP Exchange, and (3) meet other requirements specified by CMS.

The ACA provides each State with the option to establish a State-Based Health Insurance Exchange or have the Federal government operate a Federally-Facilitated Exchange in the State. This latter option includes those States choosing to partner with the Federal government to operate an Exchange in the State (State Partnership Exchange). The ACA collectively refers to these approaches as “American Health Benefit Exchanges” or “Exchanges.” However, more recently, these approaches have been referred to as “Marketplaces.”

The Exchange Program provides funds, in the form of cooperative agreements, for States to complete activities needed to achieve approval of their State-Based Exchange in accordance with Section 1321 (42 USC 18041) of the ACA and the requirements of 45 CFR section 155.105 (March 27, 2012, Federal Register (77 FR 18446)), or for State activities to support the establishment of a Federally Facilitated Exchange or State Partnership Exchange. For example, to meet the requirements set forth in the ACA, many States are making investments in eligibility systems.

Although all States must have an Exchange in operation by January 1, 2014, Exchanges do not have to be self-sustaining until January 1, 2015. CMS may, therefore, issue cooperative agreement awards through December 31, 2014 for all types of Exchanges.
If a State elects not to operate an Exchange, or if CMS determines that the State will not be able to have an Exchange operational by 2014 that meets the statute’s requirements, CMS will (directly or through an agreement with a not-for-profit entity) establish and operate an Exchange within the State (42 USC 18041).

Source of Governing Requirements

The Exchange program is authorized by the ACA (Pub. L. No. 111-148) (March 23, 2010), which was amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152). Exchanges are specifically addressed in Section 1311(d) of the ACA (42 USC 18031(d)), as implemented in the Exchange final rule at 45 CFR parts 155, 156 and 157. http://www.gpo.gov/fdsys/pkg/FR-2012-03-27/pdf/2012-6125.pdf (March 27, 2012, Federal Register, 77 FR 18310), Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers; Final Rule and Interim Final Rule.

Availability of Other Program Information:

CMS provided guidance to States about how eligibility systems should be developed and deployed to meet the goals of the ACA, Guidance for Exchange and Medicaid Information Technology (IT) Systems, Version 2.0, located at http://www.cms.gov/CCIIO/Resources/Files/Downloads/exchange_medicaid_it_guidance_05312011.pdf.

Additional information is available on the CCIIO website at http://cciio.cms.gov/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.
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### A. Activities Allowed or Unallowed

1. **Activities Allowed** – States may use amounts awarded only for activities related to planning and establishing an American Health Benefit Exchange (42 USC 18031(a)(3) and (b)). In accordance with the Funding Opportunity Announcement ([http://www.cms.gov/CCIIO/Resources/Funding-Opportunities/Downloads/amended-spring-2012-establishment-foa.pdf](http://www.cms.gov/CCIIO/Resources/Funding-Opportunities/Downloads/amended-spring-2012-establishment-foa.pdf)), these include the following Exchange Activity categories:

   a. Legal authority and governance
   b. Consumer and stakeholder engagement and support
   c. Eligibility and enrollment
   d. Plan management
   e. Financial management, as well as planning and establishment of risk adjustment and reinsurance programs
   f. Establishment of a SHOP Exchange
   g. Organization and human resources
   h. Finance and accounting
   i. Technology
   j. Privacy and security
   k. Oversight, monitoring, and reporting
   l. Contracting, outsourcing, and agreements.
2. **Activities Unallowed**

   a. States cannot use funds for continued maintenance and operations of their Exchanges beginning January 1, 2015 (42 USC 18031(d)(5)(A)).

   b. States shall not use funds for staff retreats, promotional giveaways, excessive executive compensation, or promotion of Federal or State legislative and regulatory modifications (42 USC 18031(d)(5)(B)).

   c. States shall not use funds for consumer assistance activities funded by the Consumer Assistance Program (CFDA 93.519), as authorized by 42 USC 300gg-93.

   d. States without legal authority to establish a State-Based Exchange shall not use funds to develop an All Payer Claims Database for their risk adjustment program.

B. **Allowable Costs/Cost Principles**

CMS sought and received an exception to 2 CFR part 225 (OMB Circular A-87) from the Office of Management and Budget to allow human services programs (including, but not limited to, Temporary Assistance for Needy Families (CFDA 93.558), Child Care and Development Fund (CFDA 93.575 and CFDA 93.596), and the Supplemental Nutrition Assistance Program (CFDA 10.551)) to use systems designed specifically for determining a person’s eligibility for Medicaid, the Children’s Health Insurance Program (CHIP), and premium tax credits and cost sharing benefits through the Exchange without sharing in the common system development costs, as long as those costs would have been incurred to develop systems for the Exchanges, Medicaid, and CHIP. Incremental costs for additional requirements needed for the inclusion of human services programs, whether they are added to those projects at initial or later stages, must be charged entirely to the benefitting program. This exception applies only to development costs for eligibility determination systems, and terminates on December 18, 2016 (http://www.medicaid.gov/Federal-Policy-Guidance/Downloads/SMD-01-23-12.pdf).

E. **Eligibility**

1. **Eligibility for Individuals** – Not Applicable

2. **Eligibility for Group of Individuals or Area of Service Delivery** – Not Applicable

3. **Eligibility for Subrecipients**

   Eligible entities include an entity (a) incorporated under, and subject to the laws of, one or more States; (b) that has demonstrated experience on a State or regional basis in the individual and small group health insurance markets and in benefits coverage; and (c) that is not a health insurance issuer or that is treated under the Internal Revenue Code of 1986, as amended, (26 USC 52(a) or (b)) as a member
of the same controlled group of corporations (or under common control with) as a health insurance issuer (42 USC 18031(f)(3); 45 CFR section 155.110(a)(1)).

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

IV. OTHER INFORMATION

As part of the efforts to become self-sustaining by January 1, 2015, an Exchange may charge assessment or user fees to participating health insurance issuers, or otherwise generate funding to support its operations (42 USC 18031). States approved as State Based Exchanges in 2014 may decide to collect assessment fees beginning in 2014 for operations in 2015. However, the money collected from assessment fees is not considered program income and grant recipients are not required to report this information to CMS.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.545 CONSUMER OPERATED AND ORIENTED PLAN [CO-OP] PROGRAM

I. PROGRAM OBJECTIVES

The purpose of the Consumer Operated and Oriented Plan (CO-OP) program is to foster the creation of qualified nonprofit health insurance issuers to offer qualified health plans in the individual and small group markets in the States in which the issuers are licensed to offer such plans. These CO-OPs are consumer-governed, private, nonprofit health insurers.

II. PROGRAM PROCEDURES

Administration and Services

At the Federal level, the CO-OP Program is administered by the Department of Health and Human Services, through the Centers for Medicare and Medicaid Services (CMS)/Center for Consumer Information and Insurance Oversight (CCIIO). In addition to improving consumer choice and plan accountability, the CO-OP program also seeks to promote integrated models of care and enhance competition in the Health Insurance Exchanges established under Sections 1311 and 1321 of the Affordable Care Act (ACA).

Established under Section 1322 of the ACA, the CO-OP Program provides loans to capitalize eligible prospective CO-OPs with a goal of having at least one CO-OP in each State, although the statute permits the funding of multiple CO-OPs in any State, provided that there is sufficient funding to capitalize at least one CO-OP in each State.

Solvency loans are loans provided by CMS to a loan recipient in order to meet State solvency and reserve requirements, and start-up loans are loans provided by CMS to a loan recipient for costs associated with establishing a CO-OP. Both types of loans must be used consistent with the loan agreement and applicable statutory and regulatory requirements. Solvency loans are structured in a manner that ensures that the loan amount is recognized by State insurance regulators as contributing to the State-determined reserve requirements or other solvency requirements (rather than debt) as specified in the insurance regulations for the State in which the loan recipient will offer a CO-OP qualified health plan. For both types of loans, the loan recipient must make loan payments in accordance with the approved repayment schedule in the loan agreement until the loan is paid in full consistent with State reserve requirements, solvency regulations, and requisite surplus note arrangements. For the Start-up Loans, interest accrues from the date of drawdown on the loan amounts that have been drawn down and not yet repaid by the loan recipient. The interest rate for each loan is determined based on the date of award. Information on what happens when loan recipients fail to make loan payments and conversions can be found in 45 CFR section 156.520 or under 42 USC 18042.
Source of Governing Requirements

The CO-OP program is authorized by the Patient Protection and Affordable Care Act (Public Law No. 111-148, which was enacted on March 23, 2010), which was amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152). The two laws are collectively referred to as the “Affordable Care Act.” Section 1322 of the ACA created the Consumer Operated and Oriented Plan program, which is codified at 42 USC 18042, and program regulations are found at 45 CFR sections 156.500 through .520 (45 CFR part 156, subpart F—Consumer Operated and Oriented Plan Program).

Availability of Other Program Information:


III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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Compliance Supplement 4-93.545-2
A. **Activities Allowed or Unallowed**

1. **Activities Allowed** – In accordance with the loan agreement, these include the following categories and specified limitations:

   a. Start-up loan funds must only be used in accordance with the Business Plan and the Start-Up Loan Disbursement Plan.

   b. For both types of loans, the borrower must use the loan funds only for the following purposes: costs identified in the Business Plan and Disbursement Plans, and costs associated with establishing the CO-OP as an operating business.

   c. Costs associated with the initial operations of a CO-OP, including the following:

      (1) Renting space for issuer administrative operations.

      (2) Renting or developing information technology systems.

      (3) Renting or developing provider networks.

      (4) Hiring a management team with adequate insurance expertise and other administrative personnel.

      (5) Hiring counsel and consultants to assist with State insurance laws and other licensure requirements.

      (6) Negotiating and contracting with providers and vendors.

      (7) Hiring actuaries.

      (8) Conducting community and prospective member education and educating CO-OP members on the rights and responsibilities of member governance.

      (9) Developing strategic plans to build enrollment.

      (10) Establishing and participating in a private purchasing council.

      (11) Paying for the initial costs of operational and administrative staff.

   d. Cost associated with establishing and maintaining capital reserves for Borrower (including Risk-Based Capital Reserves) consistent with State Reserve Requirements.

   e. Costs associated with providing information to members regarding their coverage, rights, and responsibilities.
2. **Activities Unallowed**

a. Start-up loan funds cannot be used to pay for costs associated with purchase of land and construction of facilities, including clinical facilities.

b. Start-up loan funds cannot be used for clinical expenses, such as medical services providers’ salaries or payments; provider clinical space; clinical equipment; administrative staff associated with clinical functions; and clinical equipment (excluding clinical information technology).

c. Borrowers cannot use any part of the loan funds for any of the following purposes or activities:

   (1) To carry on propaganda or other activities attempting to influence legislation at the Federal, State, or local level of government.

   (2) To conduct marketing. “Marketing” for this purpose means activities that promote the purchase of a specific health care plan or explain a product’s benefit structure to a specific customer. However “marketing” does not include activities related to community outreach, membership development, and membership education.

   (3) To meet the matching requirements of any other Federal program.

   (4) To cover or pay excessive executive compensation as determined by the lender in its sole but reasonable discretion.

   (5) To fund activities unrelated to CO-OP planning and establishment, including, but not limited to, staff retreats and promotional giveaways.

   (6) To pay for services described in Section 1303(b)(1)(B)(i) of the ACA, which states “Abortions for which public funding is prohibited…. The services described in this clause are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is not permitted, based on the law as in effect as of the date that is 6 months before the beginning of the plan year involved.”

L. **Reporting**

1. **Financial Reporting**

a. SF-270, *Request for Advance or Reimbursement* – Not Applicable

b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

d. CMS-10392, *Monthly Reporting Requirements (OMB No. 0938-1139)*

e. CMS-10392, *Quarterly Financial Statement or Annual Financial Statement (OMB No. 0938-1139)* – Attachment 4, National Association of Insurance Commissioners (NAIC) Quarterly Statement and Annual Statement: Financial Statement Underwriting and Investment Exhibit Part 3 – Analysis of Expenses


*Key Line Items* – The following sections contain critical information:

1-Changes to the Bylaws

2-Licensure and Accreditation

3-Member Control and Board Elections

4-Ethics, Conflict of Interest, and Disclosure Standards for Board of Directors and Executive Officers; Limitation on Government and Issuer Participation

5-Consumer Focus

6-Standards for Health Plan Issuance and Plan Management

9-Updated Business Plan

10-Financial Information

11-Agents and Brokers

3. **Special Reporting** – Not Applicable

IV. **OTHER INFORMATION**

CO-OPs are required to execute promissory notes for both the start-up and solvency loans. Prior loans have continuing compliance requirements. Therefore, the full outstanding balance on the notes must be considered Federal awards expended, included in determining Type A programs, and reported as loans on the Schedule of Expenditures of Federal Awards in accordance with 2 CFR part 200, subpart F. Since the loan agreements require audited financial statements, CO-OPs may not elect a program-specific audit and must have an annual single audit.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.556  PROMOTING SAFE AND STABLE FAMILIES

I. PROGRAM OBJECTIVES

The Promoting Safe and Stable Families (PSSF) program provides funds to States and federally recognized Indian tribes, tribal organizations, and tribal consortia (hereafter “tribe”) to prevent the unnecessary separation of children from their families, improve the quality of care and services to children and their families, and ensure permanency for children by reuniting them with their parents, by adoption or by another permanent living arrangement. The program includes family support, family preservation, time-limited family reunification, and adoption promotion and support services.

II. PROGRAM PROCEDURES

Administration and Services

The Children’s Bureau, Administration on Children, Youth and Families, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS), administers the PSSF. To be eligible for funds, each State and tribe must submit a 5-year comprehensive plan, the Child and Family Services Plan (CFSP). This plan encompasses planning and service delivery for the full child welfare services spectrum. This includes (1) child welfare services under Title IV-B, subparts 1 and 2; (2) a child welfare staff development and training plan; (3) a diligent recruitment of foster and adoptive families plan that reflects the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed; and (4) child abuse and neglect prevention, foster care, adoption, and foster care independence services, including an education and training voucher program for foster care youth. An Annual Progress and Services Report (APSR) is required that identifies the specific accomplishments and progress made in the past fiscal year toward meeting each goal and objective in the 5-year comprehensive plan and any revisions in the statement of goals and objectives or to the training plan, if necessary, to reflect changed circumstances.

The Associate Commissioner of the ACF Children’s Bureau has approval authority for the Title IV-B plans. Following ACF approval, allotments to States are based on the number of children in the States who received supplemental nutrition assistance program benefits in the previous 3 years. Grants may also be made to tribes that qualify from reserved funds under the allotment formula; no tribe may be funded if its allotment is less than $10,000. PSSF services are based on several key principles. The welfare and safety of children and of all family members should be maintained while strengthening and preserving the family. It is advantageous for the family as a whole to receive services, which identify and enhance its strengths while meeting individual and family needs. Services should be easily accessible, often delivered in the home or in community-based settings, and respect cultural and community differences. In addition, they should be flexible, responsive to real family needs, and linked to other supports and services outside the child welfare system. Services should involve community organizations and residents, including parents, in their design and delivery. They should be intensive enough to keep children safe and meet family needs, varying between preventive and crisis services.
Source of Governing Requirements

PSSF is authorized under Title IV-B, subpart 2 of the Social Security Act, as amended, and is codified at 42 USC 629a through 629f. Implementing program regulations are published at 45 CFR parts 1355 and 1357.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. *Community-Based Services* – Programs delivered in accessible settings in the community and responsive to the needs of the community and the individuals and families residing therein. These services may be provided under public or private non-profit auspices (45 CFR section 1357.10(c)).

2. *Family Preservation Services* – Services for children and families designed to protect children from harm and help families (including foster, adoptive, and extended families) at risk or in crisis, including (42 USC 629a(a)(1)):
a. Pre-placement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain with their families, where possible;

b. Service programs designed to help children, where appropriate, return to families from which they have been removed; or be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

c. Service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement;

d. Respite care of children to provide temporary relief for parents and other caregivers (including foster parents);

e. Services designed to improve parenting skills (by reinforcing parents’ confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition;

f. Infant safe haven programs to provide a way for a parent to safely relinquish a newborn infant at a safe haven designated pursuant to a State law; and

g. Case management services designed to stabilize families in crisis such as transportation, assistance with housing and utility payments, and access to adequate health care.

3. *Family Support Services* – Community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families); increase parents’ confidence and competence in their parenting abilities; afford children a stable and supportive family environment; strengthen parental relationships and promote healthy marriages; and otherwise enhance child development, including through mentoring. Family support services may include (42 USC 629a(a)(2); 45 CFR section 1357.10(c)):

a. Services, including in-home visits, parent support groups, and other programs designed to improve parenting skills (by reinforcing parents’ confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition;

b. Respite care of children to provide temporary relief for parents and other caregivers;
c. Structured activities involving parents and children to strengthen the parent-child relationship;

d. Drop-in centers to afford families opportunities for informal interaction with other families and with program staff;

e. Transportation, information, and referral services to afford families access to other community services, including child care, health care, nutrition programs, adult education literacy programs, legal services, and counseling and mentoring services; and

f. Early developmental screening of children to assess the needs of such children, and assistance to families in securing specific services to meet these needs.

4. **Time-Limited Family Reunification Services** – Services and activities that are provided to a child who is removed from his/her home and placed in a foster family home or a child care institution and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion. These services are provided only during the 15-month period that begins on the date that the child, pursuant to 42 USC 675(5)(F), is considered to have entered foster care. The services and activities are the following (42 USC 629a(a)(7)):

a. Individual, group, and family counseling;

b. Inpatient, residential, or outpatient substance abuse treatment services;

c. Mental health services;

d. Assistance to address domestic violence;

e. Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries;

f. Peer-to-peer mentoring and support groups for parents and primary caregivers;

g. Services and activities designed to facilitate access to and visitation of children by parents and siblings; and

h. Transportation to or from any of the services and activities described above.

5. **Adoption Promotion and Support Service** – Services and activities designed to encourage more adoptions out of the foster care system, when adoption promotes the best interest of the child, including such activities as pre- and post-adoption
services and activities designed to expedite the adoption process and support adoptive families (42 USC 629a(a)(8)).

6. **Administrative Costs**—Administrative costs (defined as costs of auxiliary functions as identified through an agency’s accounting system that are allocable, in accordance with the agency’s approved cost allocation plan, to the Title IV-B, subpart 2 program cost centers; necessary to sustain the direct effort involved in administering the State plan or an activity providing service to the programs, and centralized in the grantee department or in some other agency) are allowable. Administrative costs include, but are not limited to, the following: procurement; payroll; personnel functions; management; maintenance and operation of space and property; data processing and computer services; accounting; budgeting; and auditing (45 CFR sections 1357.32(h)(1) and (2)). See III.G.3, “Matching, Level of Effort, Earmarking – Earmarking,” for a limitation on the amount of administrative costs.

7. **Program Costs**—Program costs are costs, other than administrative costs, incurred in connection with developing and implementing the CFSP (e.g., delivery of services, planning, consultation, coordination, training, quality assurance measures, data collection, evaluations, and supervision) (45 CFR section 1357.32(h)(3)).

8. Funds awarded under Title IV-B, subpart 2, may not be used for the purchase or construction of facilities (45 CFR section 1357.32(e)).

G. **Matching, Level of Effort, Earmarking**

1. **Matching**

   Funds are federally reimbursed at 75 percent of allowable expenditures. The Title IV-B agency’s contribution may be in cash, donated funds, and non-public third party in-kind contributions (45 CFR section 1357.32(d)).

2.1 **Level of Effort – Maintenance of Effort – Not Applicable**

2.2 **Level of Effort – Supplement Not Supplant**

   a. States and tribes (42 USC 629c) may not use Federal funds under Title IV-B, subpart 2, to supplant Federal or non-Federal funds for existing services.

   (1) “Non-Federal” funds are defined at 42 USC 629a(a)(9) as “State funds, or at the option of a State, State and local funds.” Although State matching may be in the form of cash, donated funds, or non-public third party in-kind contributions, the “supplement not supplant” requirement is limited to non-Federal funds as defined in 42 USC 629a(a)(9).
(2) The base year for determining compliance with this requirement is the amount of funds that the State expended for services in the State’s fiscal year 1992 (42 USC 629b(a)(7); 45 CFR section 1357.32(f)). The regulations have not been updated to reflect the amendments to the Social Security Act made by the Adoption and Safe Families Act (ASFA) that added two new service categories (i.e., time-limited family and reunification services and adoption promotion and support services) to those specified in 45 CFR section 1357.32(f); however, the base year (1992) remains the same for all four service areas under Title IV-B, subpart 2 (42 USC 629b(a) and (b)(1); ACYF-CB-PI-99-07).

b. The State may not use the amount specified in III.G.3.c, “Matching, Level of Effort, Earmarking – Earmarking,” to supplant any Federal funds paid to the State under part E that could be used for monthly caseworker visitation with children who are in foster care and activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology (42 USC 629f(4)(B)(ii)).

3. Earmarking

a. Unless approved by ACF, States must expend a significant portion of their grant, defined as 20 percent, on each of the following: (1) programs of family preservation services, (2) community-based family support services, (3) time-limited family reunification services, and (4) adoption promotion and support services (42 USC 629b(a)(4); 45 CFR section 1357.15(s); ACYF-CB-PI-10-09 (found at http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2010/pi1009.htm). This provision is not applicable to tribes per exemption authority (42 USC 629b(b)(2)(A)); 45 CFR section 1357.50(f)(1)(iii)).

b. States may not expend more than 10 percent of Federal funds for administrative costs (42 USC 629b(a)(4)). There is no limitation on the percentage of administrative costs that may be reported as State match. This provision is not applicable to tribes per exemption authority (42 USC 629b(b)(2)(A)); 45 CFR section 1357.50(f)(1)(i)).

c. A State shall use the special allocation provided pursuant to Pub. L. No. 112-34 to support monthly caseworker visits with children who are in foster care with a primary emphasis on activities designed to improving caseworker decision making on the safety, permanency, and well-being of foster children and on activities designed to increase retention, recruitment and training of caseworkers (42 USC 629f(b)(4)(B)(i)). The limitation on the use of Federal funds for administrative costs described in paragraph G.3.b also applies to this special allocation.
H. **Period of Performance**

Funds under Title IV-B, subpart 1, must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded (45 CFR section 1357.30(i)).

L. **Reporting**

1. **Financial Reporting**
   a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
   c. SF-425, *Federal Financial Report* – Applicable (expenditure reporting only)

2. **Performance Reporting** – Not Applicable

3. **Special Reporting** – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.558 TEMPERARY ASSISTANCE FOR NEEDY FAMILIES (TANF)
CFDA 93.714 ARRA – EMERGENCY CONTINGENCY FUND FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) STATE PROGRAMS

I. PROGRAM OBJECTIVES

The objectives of the State and Tribal TANF programs are to provide time-limited assistance to needy families with children so that the children can be cared for in their own homes or in the homes of relatives; end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; prevent and reduce out-of-wedlock pregnancies, including establishing prevention and reduction goals; and encourage the formation and maintenance of two-parent families. This program replaced the Aid to Families with Dependent Children (AFDC), Job Opportunities and Basic Skills Training (JOBS), and Emergency Assistance (EA) programs.

II. PROGRAM PROCEDURES

Administration and Services

The Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS), administers the TANF program on behalf of the Federal Government. To be eligible for the TANF block grant, a State (including the District of Columbia, the Commonwealth of Puerto Rico, the United States (U.S.) Virgin Islands, Guam, and American Samoa) must periodically submit a State plan containing specified information and assurances.

States

Following ACF review of the State Plan and determination that it is complete, ACF awards the basic “State Family Assistance Grant” (SFAG) to the State using a formula allocation derived from funding levels under the superseded programs. The SFAG is a fixed amount to the State subject to reductions based on any penalties assessed. In addition, amounts may be adjusted on the basis of separate Federal funding of counterpart Indian Tribal programs within the State. As long as the minimum requirements are met, States have significant flexibility in designing programs and determining eligibility requirements. While States have flexibility and discretion, there are provisions to ensure accountability for results, including requirements for data about expenditures and individuals receiving benefits under the program, and monetary penalties for failure to meet programmatic requirements such as work participation.

The Federal TANF block grant program also has an annual cost-sharing requirement, known as maintenance-of-effort (MOE). If a State fails to meet the required minimum all-family or two-parent work participation rate for a Federal fiscal year (FFY), then the State must spend at least 80 percent of its fiscal year historic State expenditures to provide benefits and services to eligible clientele. If the State meets both minimum work participation rate requirements, then the required spending level decreases to 75 percent of its FFY 1994 historic State expenditures. “Historic State expenditures” means the State’s FFY 1994 share of expenditures in the former...
Aid to Families with Dependent Children (AFDC), EA, AFDC-Related Child Care, Transitional Child Care, At-Risk Child Care, and JOBS programs. States may not use more than 15 percent of the total amount of countable expenditures for the fiscal year for administrative activities.

**Tribes**

Tribal Family Assistance Plans (TFAP) are developed for a 3-year period and submitted to ACF for review and approval. The Tribal Family Assistance Grant (TFAG) is derived from an amount equal to the Federal share of expenditures, other than child care costs, by the State or States under the former AFDC, EA, and JOBS programs for FFY 1994 for all American Indian families residing in the service area identified in the TFAP. The TFAG is a fixed amount, subject to reductions based on any penalties assessed. As long as the minimum requirements are met, Indian tribes (tribes) have significant flexibility in designing programs and determining eligibility requirements and may use grant funds to provide cash or non-cash assistance, including direct services, and for administrative activities.

See IV, “Other Information - Tribal TANF Grantees under a Pub. L. No. 102-477 Demonstration Project (477),” for guidance on whether this TANF Cluster or the 477 Cluster is applicable for an audit of a TANF program included in an Indian tribal government’s approved 477 Plan.

Tribal TANF grantees may operate the program under a consolidated Pub. L. No. 102-477 demonstration project. Pub. L. No. 102-477 refers to the Indian Employment, Training and Related Services Demonstration Act of 1992, the purpose of which is to provide for the integration of employment, training and related services to improve the effectiveness of those services. Tribes operating a consolidated Pub. L. No. 102-477 project must still submit a TFAP to the Secretary of HHS for review and approval prior to consolidation of the Tribal TANF program into a Pub. L. No. 102-477 Plan. Tribal TANF data collection and performance reporting requirements identified or referenced elsewhere in this program supplement apply. However, tribes that integrate their Tribal TANF program into the Pub. L. No. 102-477 project may submit TANF financial reports annually as an attachment to their Pub. L. No. 102-477 financial report, the Tribal TANF Financial Addendum Report (12g). Under Pub. L. No. 102-477, funds received from a program must be used and spent in accordance with the applicable rules for that program, subject to any waivers granted by the Secretary of HHS. The auditing of these funds should be based on determining that the funds were spent in compliance with the applicable approved plan.

**Other Considerations**

**Funding Methods – States**

States have different funding options to expend Federal grant funds and State maintenance-of-effort (MOE) funds. These include the following:

1. **Federal Only** – Under this option, Federal grant funds are segregated from MOE funds that are expended in the TANF program operated by the State.

2. **Commingled Federal/State** – Under this option, States commingle their MOE funds with Federal grant funds expended in the TANF program operated by the State. A
commingled funding structure means that all expenditures are subject to all Federal funding restrictions, TANF requirements, and MOE limitations.

3. **Segregated State** – Under this option, MOE funds are segregated from the Federal grant funds and expended in the TANF program operated by the State.

4. **Separate State Program** – Under this option, States spend their MOE funds in separate State programs, operated outside of the TANF program operated by the State.

Federal grant funds and MOE funds must both be used for “expenditures.” A definition of the term “expenditure” is found in 45 CFR section 260.30. In addition, 45 CFR section 260.33 explains the circumstances under which certain State tax relief provisions would count as expenditures.

**Funding Methods – Tribes**

Tribes have different funding options under which to expend Federal grant funds and, where applicable, State MOE funds as follows:

1. **Federal Only** – Under this option, Federal grant funds are segregated from any State-donated MOE funds or tribal funds that are expended in the TANF program operated by the tribe.

2. **Commingled Federal/State-donated MOE** – Under this option, tribes commingle their State-donated MOE funds with Federal grant funds expended in the TANF program operated by the tribe. A commingled funding structure means that all expenditures are subject to all Federal funding restrictions and MOE limitations.

3. **Segregated Tribal** – Under this option, MOE funds are segregated from the Federal grant funds and expended separately in the TANF program operated by the tribe. See IV, “Other Information,” for guidance on State MOE expended by tribes.

**American Recovery and Reinvestment Act**

Section 2101 of Subtitle B of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5) established the Emergency Contingency Fund (Emergency Fund) for the State TANF (CFDA 93.714) Program at section 403(c) of the Social Security Act. In accordance with section 2101(c)(6) of ARRA, for **qualifying States, tribes, and Territories**, Emergency Fund awards may be used for the same types of expenditures as SFAG or TFAG funds.

ARRA made additional changes to TANF, such as expanding flexibility in the use of TANF funds carried over from one fiscal year to the next (Section 2103 of Subtitle B of Pub. L. No. 111-5) and adding a hold-harmless provision to the caseload reduction credit for States and Territories serving more TANF families.

Source of Governing Requirements

These programs are authorized under Title IV-A of the Social Security Act, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. No. 104-193), and subsequent amendments thereto, and ARRA, and are codified at 42 USC 601-619. PRWORA was signed into law on August 22, 1996, and required State implementation no later than July 1, 1997.

The governing regulations for States are those in 45 CFR parts 260 – 265. Regulations for Tribal TANF are in 45 CFR part 286.

State and all Tribal TANF programs (i.e., including Tribal TANF programs in Pub. L. No. 102-477 projects) are subject to the provisions in 45 CFR part 92, the HHS implementation of the A-102 common rule, and 2 CFR part 225 (Office of Management and Budget Circular A-87), Cost Principles for State, Local, and Indian Tribal Governments) or, as applicable, the HHS implementation of 2 CFR part 200 at 45 CFR part 75.

Availability of Other Program Information

TANF-ACF-PI-2007-08, dated November 28, 2007, on Using Federal TANF and State Maintenance-of-Effort (MOE) Funds for Families in Areas Covered by a Federal or State Disaster Declaration presents items to consider with respect to the current TANF program when addressing the needs of families affected by a federally or State-declared disaster. TANF-ACF-PI-2007-08 is available at http://www.acf.hhs.gov/programs/ofa/programs/tanf/policy.

Other general program information regarding the State and Tribal TANF programs is available from the Office of Family Assistance (OFA) website at http://www.acf.hhs.gov/programs/ofa/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.
### Compliance Requirements

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This program makes references to States, however, in some cases, subrecipients of States (e.g., local governments) may be responsible for compliance requirements that are referred to in this Supplement as “State.” The auditor should adjust accordingly for the entity being audited.

**A. Activities Allowed or Unallowed**

1. **Federal Only**

   a. Funds may be used for expenditures for activities that are not permissible under 42 USC 601, but for which the State was authorized to use Title IV-A or IV-F funds under prior law. The previously authorized activities must have been included in a State’s approved State AFDC plan, JOBS plan, or Supportive Services Plan, as in effect on September 30, 1995, or at the State’s option, on August 21, 1996. Examples of such activities are authorized juvenile justice and foster care activities (42 USC 604(a)(2); 45 CFR section 263.11(a)(2)).

   b. A State may transfer up to 30 percent of the combined total of current fiscal year funds (not prior fiscal year funds carried into the current fiscal year) received under the SFAG, and supplemental grant for population increases for a given fiscal year to carry out programs under the Social Services Block Grant (Title XX) (CFDA 93.667) and/or the Child Care and Development Block Grant (CFDA 93.575). However, no more than 10 percent may be transferred to Title XX, and such amounts may be used only for programs or services to children or their families whose income is less than 200 percent of the poverty level. Neither contingency funds under 42 USC 603(b) nor emergency funds under 42 USC 603(c) (Pub. L. No. 111-5) can be transferred under this authority (); (42 USC 604(d)). The poverty guidelines are issued each year in the *Federal*
Register and HHS maintains a website that provides the poverty guidelines ([http://aspe.hhs.gov/poverty/index.shtml](http://aspe.hhs.gov/poverty/index.shtml)).

2. **Federal Only and Commingled Federal/State** – Funds may not be used to provide medical services other than pre-pregnancy family planning services (42 USC 608(a)(6)).

3. **Federal Only, Commingled Federal/State, Segregated State, Separate State Program**
   
a. Funds may be used in any manner reasonably calculated to accomplish the purposes of the program, including providing low-income households with assistance in meeting home heating and cooling costs (42 USC 604(a)(1) and 45 CFR section 263.11(a)(1)). As specified in 42 USC 601 and 45 CFR section 260.20, the TANF program has the following purposes *(Note: In the following sections of this program supplement, these are referenced as TANF purposes 1, 2, 3, and/or 4):*

   (1) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

   (2) End dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

   (3) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

   (4) Encourage the formation and maintenance of two-parent families.

b. A State may use funds for programs to prevent and reduce the number of out-of-wedlock pregnancies, including programs targeted to law enforcement officials, the educational system, and counseling services that provide education and training of women and men on the problem of statutory rape (42 USC 602(a)(1)(A)(v) and (vi)).

c. Funds may be used to make payments or provide job placement vouchers to State-approved public and private job placement agencies providing employment placement services to individuals receiving assistance under TANF (42 USC 604(f)).

d. Funds may be used to implement an electronic benefits transfer system (42 USC 604(g)).

e. Funds may be used to carry out a program to fund individual development accounts (42 USC 604(h)(2); 45 CFR sections 263.20 through 263.23) established by individuals eligible to receive assistance under TANF (42 USC 604(h); 45 CFR part 263, subpart C).
f. A State may contract with charitable, religious, and private organizations to provide administrative and programmatic services and may provide beneficiaries of assistance with certificates, vouchers, or other forms of disbursement that are redeemable with such organization (42 USC 604(a), 42 USC 604a(k), and 45 CFR section 260.34). However, funds provided directly to participating organizations may not be used for inherently religious activities, such as worship, religious instruction, or proselytization (42 USC 604a(j); 45 CFR section 260.34(c)).

4. Tribes: Federal Only

a. Funds may be used for expenditures for activities that are not permissible under 42 USC 601, but for which the State or tribe was authorized to use Title IV-A or IV-F funds under prior law. The previously authorized activities must have been included in a State’s approved State AFDC plan, JOBS plan, or Supportive Services Plan, as in effect on September 30, 1995, or at the State’s option, on August 21, 1996. Examples of such activities are authorized juvenile justice and foster care activities (42 USC 604(a)(2); 45 CFR section 263.11(a)(2)). Use of such funds in the Tribal TANF program is allowed if the geographic area of the Tribal TANF program is within the State(s) having had an approved AFDC State plan(s) under Title IV-A that included these activities. If the tribe plans to exercise this option, these activities must be included in the approved tribal TFAP.

b. Tribes may not transfer any Federal TANF funds to the Social Services Block Grant (Title XX) (CFDA 93.667) or the Child Care and Development Block Grant (CFDA 93.575). Funds may not be used to contribute to or subsidize non-TANF programs (42 USC 604(d); 45 CFR section 286.45 (b)).

5. Tribes: Federal Only, Commingled Federal/State-donated MOE, Segregated Tribal

a. Funds may be used in any manner reasonably calculated to achieve the purposes of the Tribal TANF program, including providing low-income households with assistance in meeting home heating and cooling costs (42 USC 604(a)(1) and 45 CFR section 286.35(a)(1)). As specified in 42 USC 601 and 45 CFR section 286.35, the Tribal TANF program has the following purposes (Note: In the following sections of this program supplement, these are referenced as TANF purposes 1, 2, 3, and/or 4):

(1) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

(2) End dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
(3) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

(4) Encourage the formation and maintenance of two-parent families.

b. A tribe may use funds for programs to prevent and reduce the number of out-of-wedlock pregnancies, including programs targeted to law enforcement officials, the educational system, and counseling services that provide education and training of women and men on the problem of statutory rape (42 USC 602(a)(1)(A)(v) and (vi)).

c. Funds may be used to make payments or provide job placement vouchers to tribe-approved public and private job placement agencies providing employment placement services to individuals receiving assistance under TANF (42 USC 604(f)).

d. Funds may be used to implement an electronic benefits transfer system (42 USC 604(g)).

e. Funds may be used to carry out a program to fund individual development accounts (42 USC 604(h)(2)) established by individuals eligible to receive assistance under Tribal TANF (42 USC 604(h); 45 CFR section 286.40).

f. A tribe may contract with charitable, religious, and private organizations to provide administrative and programmatic services and may provide beneficiaries of assistance with certificates, vouchers, or other forms of disbursement which are redeemable with such organization (42 USC 604a(b) and 42 USC 604a(k)). However, tribes that operate their own TANF program under section 412 of the Social Security Act are not required to follow the Charitable Choice rules because the statutory provisions on Charitable Choice apply only to State and local governments (42 USC 604a(j); September 30, 2003, Federal Register, (68 FR 56450 and 56463)).

g. Tribal TANF grantees that expend Federal funds on economic development activities must adhere to the instructions contained in the TANF Program Instruction, TANF-ACF-PI-2005-02, dated April 19, 2005, pertaining to economic development expenditures. This program instruction is available at http://www.acf.hhs.gov/programs/ofa/programs/tanf/policy (45 CFR section 286.35(a)(1)).

h. Unlike States, tribes are not prohibited from expending funds for medical expenses, if the expenditure is in the context of removing barriers to employment, training, or job-related education. However, funds cannot be used for general medical expenses for families. The expenditure of TANF funds is not intended to subsidize, contribute to, or supplant other
available medical services or funding, i.e., Indian Health Service, Public Health Service, tribal health services, State, county, and local health services, or other services covered by Medicaid, Medicare, or private health insurance (42 USC 608(a)(6), 45 CFR section 286.45(b)).


C. **Cash Management**

Tribal TANF grantees are not eligible for any cash management provisions applicable to Pub. L. No. 93-638 Indian Self-Determination contracts or Self-Governance compacts, including the interest exemption. As described in Special Tests and Provisions, III.N.6, “Accountability, Deposit, and Investment of Lump-Sum Drawdowns,” special provisions apply to Tribal TANF grantees participating in Pub. L. No. 102-477 demonstration projects.

E. **Eligibility**

1. **Eligibility for Individuals**

   The State or Tribal Plan provides the specifics on the State or tribal area’s definition of financially needy which the State or tribal area uses in determining eligibility. Whenever used in this section, “assistance,” has the meaning in 45 CFR section 260.31(a) of the TANF regulations for States and 45 CFR section 286.10 of the Tribal TANF regulations for federally recognized tribes operating an approved Tribal TANF program. Plan and eligibility requirements must comply with the following Federal requirements:

   a. **Federal Only, Commingled Federal/State, Segregated State, and Separate State Program**

   
   (1) Only a financially needy family that consists of, at a minimum, a minor child living with a parent or other caretaker relative, or a pregnant woman may receive TANF “assistance” or most maintenance-of-effort (MOE)-funded benefits, services, or “assistance” regardless of the TANF purpose that the expenditure is reasonably calculated to accomplish (see III.A.3.a, “Activities Allowed or Unallowed – Federal Only, Commingled Federal/State, Segregated State, Separate State Program”). The child must be less than 18 years old, or, if a full-time student in a secondary school (or the equivalent level of vocational or technical training), less than 19 years old. (With respect to segregated or separate State MOE funds, the State could use the definition for minor child given in section 419(2) of the Act or some other definition applicable in State law provided the State can articulate a rational basis for the age it chooses.) Financially “needy” means
Only the financially “needy” are eligible for services, benefits, or “assistance” pursuant to TANF purpose 1 or 2 (see III.A.3.a, “Activities Allowed or Unallowed – Federal Only, Commingled Federal/State, Segregated State, Separate State Program”) (42 USC 601(a)(1) and (2); 45 CFR sections 260.20(a) and (b)). Financially “needy” for TANF and MOE purposes means financial deprivation, i.e., lacking adequate income and resources. For example, a needy family or a needy parent is one who is financially eligible according to the State’s quantified financial eligibility criteria (income and resource (if applicable) standards, April 12, 1999, Federal Register (64 FR 17825), 45 CFR section 263.2(b)(3)).

States may choose to use Federal only TANF funds to provide benefits that do not constitute “assistance” to the non-needy pursuant to TANF purpose 3 or 4 only (see III.A.3.a, “Activities Allowed or Unallowed – Federal Only, Commingled Federal/State, Segregated State, Separate State Program”) (42 USC 601(a)(3) and (4); 45 CFR sections 260.20(c) and (d)). States may also choose to use MOE funds to provide certain pro-family non-assistance benefits to the non-needy under TANF purpose 3 or 4 (see III.G.2.1, “Matching, Level of Effort, Earmarking – Level of Effort – Maintenance of Effort,” for the limited MOE pro-family exception to this requirement).

(2) Qualified aliens, as defined in 8 USC 1641(b), are the only non-citizens who may receive a TANF public benefit, as defined in 8 USC 1611(c)), using Federal TANF or commingled funds. Qualified aliens are lawful permanent residents, asylees, refugees, aliens paroled into the U.S. for at least one year, aliens whose
deportations are being withheld, aliens granted conditional entry, Cuban/Haitian entrants, and certain battered aliens. Victims of severe forms of trafficking and certain family members are also eligible for federally funded or administered public benefits and services to the same extent as refugees.

Qualified aliens, nonimmigrants under the Immigration and Nationality Act, and individuals paroled into the U.S. for less than a year are the only noncitizen groups that are eligible for a non-commingled State or local MOE-funded public benefit, as defined in 8 USC 1621(c). Aliens that are not lawfully present in the U.S. may also be eligible for a State or local MOE-funded public benefit if the State has enacted a law after August 22, 1996, affirmatively providing for such eligibility. (8 USC 1621(d)) All expenditures must meet all MOE requirements at 45 CFR part 263, subpart A. See III.G.2.1, “Matching, Level of Effort, Earmarking – Level of Effort – Maintenance of Effort.”

States have the authority to decide whether or not to provide a Federal TANF public benefit or a MOE-funded public benefit to otherwise qualified aliens (including nonimmigrants and individuals paroled in the U.S. for less than a year in the case of a noncommingled State or local MOE-funded public benefit) (8 USC 1612(b)(1) and 8 USC 1622(a)). If a State has decided not to help eligible aliens, then the State may not deny eligibility to refugees, asylees, aliens whose deportation has been withheld, Amerasians, and Cuban/Haitian entrants for a period of 5 years after the date of entry into the U.S. or the date asylum or withholding of deportation was granted. Also, such States may never deny eligibility to legal permanent residents who have worked 40 qualifying quarters after December 31, 1996, and have not received any Federal means-tested public benefit during such period (once the 5-year bar has expired for a qualified alien entering the U.S. on or after August 22, 1996 as described in the next paragraph), or to aliens who are veterans, members of the military on active duty, and their spouses and unmarried dependents (8 USC 1612(b)(2)(A)(ii) 8 USC 1621(2)(B) and (C), 8 USC 1622(b)(1)-(3)). In other words, Congress did not give States the authority to deny eligibility to all eligible aliens. If the State elects to help all otherwise eligible aliens (as described in the preceding two paragraphs), then this paragraph does not apply.

Unless exempt under 8 USC 1613(b), qualified aliens, as defined in 8 USC 1641(b), entering the U.S. on or after August 22, 1996, are not eligible for a Federal means-test public benefit (e.g., federally funded TANF assistance), as defined in 8 USC 1611(c), for a period of 5 years (8 USC 1613(a)). The 5-year bar begins
either on the date of the alien’s entry into the U.S. as a qualified alien or on the date the alien residing in the U.S. becomes a qualified alien, whichever is later. If the alien entered the U.S. on or after August 22, 1996, but does not have an immigration status that qualifies (as defined in 8 USC 1641(b)), the individual is not eligible for a Federal public benefit (as defined in 8 USC 1611(c)). The following qualified aliens are exempt from the 5-year bar: refugees, asylees, aliens whose deportation is being withheld, Amerasians, Cuban/Haitian entrants, as well as veterans, members of the military on active duty, and their spouses and unmarried dependent children (8 USC 1613(b)).

If a noncash Federal or State and local public benefit meets the specifications in the Attorney General’s Final Order (Order No. 2353-2001 published January 16, 2001 at 66 FR 3613), then the State may provide the benefit regardless of immigration status (8 USC 1611 (b)(1)(D) and 8 USC 1621(b)(4)).

b. Federal Only and Commingled Federal/State

(1) Any family that includes an adult or minor child head of household or a spouse of the head of household who has received assistance under any State program funded by Federal TANF funds for 60 months (whether or not consecutive) is ineligible for additional federally funded TANF assistance. However, the State may extend assistance to a family on the basis of hardship, as defined by the State, or if a family member has been battered or subjected to extreme cruelty. In determining the number of months for which the head of household or the spouse of the head of household has received assistance, the State must not count any month during which the adult received the assistance while living in Indian country or in an Alaskan Native Village and the most reliable data available with respect to that month (or a period including that month) indicate at least 50 percent of the adults living in Indian country or in the village were not employed (42 USC 608(a)(7); 45 CFR sections 264.1(a), (b), and (c)).

(See III.G.3, “Matching, Level of Effort, Earmarking – Earmarking,” for testing the limits related to the number of exemptions.)

(2) A State may not provide assistance to an individual who is under age 18, is unmarried, has a minor child at least 12 weeks old, and has not successfully completed high school or its equivalent unless the individual either participates in education activities directed toward attainment of a high school diploma or its equivalent, or participates in an alternative education or training program.
approved by the State (42 USC 608(a)(4); 45 CFR section 263.11(b)).

(3) A State may not provide assistance to an unmarried individual under 18 caring for a child, if the minor parent and child are not residing with a parent, legal guardian, or other adult relative, unless one of the statutory exceptions applies (42 USC 608(a)(5)).

(4) A State may not provide assistance for a minor child who has been or is expected to be absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 180 consecutive days unless the State grants a good cause exception, as provided in its State Plan (42 USC 608(a)(10)).

(5) A State may not provide assistance for an individual who is a parent (or other caretaker relative) of a minor child who fails to notify the State agency of the absence of the minor child from the home within 5 days of the date that it becomes clear to that individual that the child will be absent for the specified period of time (42 USC 608(a)(10)(C)).

(6) A State may not use funds to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to place of residence in order to simultaneously receive assistance from two or more States under TANF, Title XIX, or the Food Stamp Act of 1977, or benefits in two or more States under the Supplemental Security Income program under Title XVI of the Social Security Act. If the President of the United States grants a pardon with respect to the conduct that was the subject of the conviction, this prohibition will not apply for any month beginning after the date of the pardon (42 USC 608(a)(8)).

(7) A State may not provide assistance to any individual who is fleeing to avoid prosecution, or custody or confinement after conviction, for a felony or attempt to commit a felony (or in the State of New Jersey, a high misdemeanor), or who is violating a condition of probation or parole imposed under Federal or State law (42 USC 608(a)(9)(A)).
c. **Federal Only, Commingled Federal/State, Segregated State**

(1) A State shall require, as a condition of providing assistance, that a member of the family assign to the State the rights the family member may have for support from any other person. This assignment does not exceed the amount of assistance provided (42 USC 608(a)(3)).

(2) An individual convicted under Federal or State law of any offense which is classified as a felony and which involves the possession, use, or distribution of a controlled substance (as defined in the Controlled Substances Act (21 USC 802(6))) is ineligible for assistance if the conviction was based on conduct occurring after August 22, 1996. A State shall require each individual applying for TANF assistance to state in writing whether the individual or any member of their household has been convicted of such a felony involving a controlled substance. However, a State may by law enacted after August 22, 1996, exempt any or all individuals from this prohibition or limit the time period that this prohibition applies to any or all individuals 21 USC 862a).

(3) If an individual in a family receiving assistance refuses to engage in required work, a State must reduce assistance to the family, at least pro rata, with respect to any period during the month in which the individual so refuses, or may terminate assistance. Any reduction or termination is subject to good cause or other exceptions as the State may establish (42 USC 607(e)(1); 45 CFR sections 261.13 and 261.14(a) and (b)). However, a State may not reduce or terminate assistance based on a refusal to work if the individual is a single custodial parent caring for a child who is less than 6 years of age if the individual can demonstrate the inability (as determined by the State) to obtain child care for one or more of the following reasons: (a) the unavailability of appropriate care within a reasonable distance of the individual’s work or home; (b) unavailability or unsuitability of informal child care; or (c) unavailability of appropriate and affordable formal child care (42 USC 607(e)(2); 45 CFR sections 261.15(a), 261.56, and 261.57).

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**d. Tribes: Federal Only, Commingled Federal/State-Donated MOE**

Eligibility for Tribal TANF is defined in the approved TFAP. See IV, “Other Information,” for guidance on State MOE expended by tribes.

The approved TFAP includes the tribe’s proposal for time limits for the receipt of TANF assistance (45 CFR section 286.115), as well as the
percentage of the caseload to be exempted from the time limit. These proposed time limits must be approved by ACF (45 CFR section 286.115).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

3. Eligibility for Subrecipients – Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2.1 Level of Effort – Maintenance of Effort

See IV, “Other Information,” for guidance on State MOE expended by tribes.

The following MOE provisions apply to any State funds that are counted towards the maintenance-of-effort requirements for TANF, whether such State funds are expended under the *Commingled Federal/State, Segregated State, or Separate State Program* funding options.

a. *State MOE* – Every fiscal year, a State must maintain an amount of “qualified State expenditures” (as defined in 42 USC 609(a)(7)(B) and 45 CFR section 263.2) for eligible families (as defined in 42 USC 609(a)(7)(B)(i)(IV) and 45 CFR section 263.2(b)) at least at the applicable percentage of the State’s historic State expenditures. Therefore, all amounts claimed for or on behalf of eligible families, including amounts that result from State tax provisions, must be the result of expenditure (42 USC 609(a)(7)(A) and (B)(i)(I); 45 CFR sections 260.30 (“expenditure”) and 260.33, 45 CFR section 92.3, and 45 CFR section 92.24). States may claim qualified expenditures for eligible family members who are citizens or aliens. However, the particular aliens for whom a State may claim qualified expenditures will depend on the State funds used to provide the benefit or service (see III.E.1.a.(2), “Eligibility – Eligibility for Individuals, *Federal only, Commingled Federal/State, Segregated State, or Separate State Program*”) and whether the benefit or service is a Federal, State, or local public benefit (8 USC 1611, 1612(b), 1613, 1621-1622, and 1641(b)).

The applicable percentage for each fiscal year is 80 percent of the amount of non-Federal funds the State spent in FY 1994 on AFDC or 75 percent if the State meets the Act’s work participation rate requirements (42 USC 607(a)) for the fiscal year. This is termed “basic MOE” and the requirement is based on the Federal fiscal year. Any MOE expenditures above this required amount are referred to as “excess MOE”.
Except as provided in paragraph b, immediately below, qualified expenditures with respect to eligible families may come from all programs, i.e., the State’s TANF program as well as programs separate from the State’s TANF program. This requirement may be met through allowable State or local cash expenditures for goods and services, cash donations by non-governmental third parties (e.g., a non-profit organization, corporation, or other private party), or the value of third-party in-kind contributions. A State’s records must show that all the costs are verifiable and meet all applicable requirements in 45 CFR sections 263.2 through 263.6. Third parties must be aware of and agree with the State’s intentions and, accordingly, the State’s records must include an agreement between the State and the third party permitting the State to count the expenditure toward its MOE requirement (42 USC 609(a)(7)(A) and 609(a)(7)(B)(i)(I); 45 CFR sections 263.1 and 263.2(e)).

Effective October 1, 2008 (i.e., FY 2009 awards), States may claim only certain pro-family non-assistance expenditures that are reasonably calculated to accomplish TANF purpose 3 or TANF purpose 4. These pro-family expenditures consist of the allowable healthy marriage promotion and responsible fatherhood non-assistance activities enumerated in Title IV-A of the Social Security Act, sections 403(a)(2)(A)(iii) and 403(a)(2)(C)(ii), unless a limitation, restriction, or prohibition under 45 CFR part 263, subpart A applies (45 CFR section 263.2(a)(4)(ii); TANF-ACF-PI-2008-10, dated October 23, 2008, available at http://www.acf.hhs.gov/programs/ofa/programs/tanf/policy). States may claim for MOE purposes the qualified pro-family healthy marriage and responsible fatherhood expenditures for non-assistance benefits and services provided to or on behalf an individual or family, regardless of financial need or family composition. States must limit the provision of all other qualified MOE-funded assistance and non-assistance benefits to eligible families as defined at 45 CFR section 263.2(b), regardless of the TANF purpose that the expenditure is reasonably calculated to accomplish.

Section 409(a)(7)(B)(iv)(IV) of the Social Security Act prohibits States from counting toward their MOE requirement expenditures made as a condition of receiving Federal funds, unless allowed under Title IV, part A of the Social Security Act.

If a State does not meet the basic MOE requirement, a penalty results. The penalty consists of a reduction of the State’s Federal TANF grant for the following fiscal year in the amount of the difference between the State’s qualified expenditures and the State’s basic MOE (42 USC 609(a)(7)(A) and 45 CFR section 263.8). If application of a penalty results in a reduction of Federal TANF funding, a State is required in the immediately succeeding fiscal year to spend from State funds an amount equal to the total amount of the reduction, in addition to the otherwise
required basic MOE. The additional funds must be spent in the TANF program, not under “separate State programs.” Such expenditures may not be claimed toward the basic MOE (42 USC 609(a)(12); 45 CFR sections 263.6(f) and 264.50).

b. **Limitations on “Qualified State Expenditures”** – Expenditures under pre-existing programs, other than those that would have been previously authorized and allowable under the former AFDC, JOBS, Emergency Assistance, Child Care for AFDC recipients, At-Risk Child Care, or Transitional Child Programs may not count toward the State’s MOE requirement for the current year except to the extent that the current year’s expenditures with respect to eligible families exceed the expenditures made under the State or local program in FY 1995.

**Exception:** If the expenditures are for non-assistance pro-family activities as addressed in paragraph a., then current year expenditures are not limited to those made with respect to eligible families. If total current fiscal year expenditures for allowable pro-family activities within TANF purpose three or TANF purpose 4 exceed total State expenditures in the program during FY 1995, then the State may claim the excess toward the State’s MOE requirement. Thus, to be considered as “exceeding” the FY 1995 level, the expenditures must be new or additional expenditures. (42 USC 609(a)(7)(B)(i)(II)(aa) and 45 CFR section 263.5). Additional information on application of the “new spending test” for new or additional expenditures may be found in TANF-ACF-PI-2016-04 (http://www.acf.hhs.gov/ofa/resource/tanf-acf-pi-2016-04).

In addition, expenditures by the State from amounts that originated from Federal funds may not count toward meeting a MOE requirement even if the expenditures “qualify” (42 USC 609(a)(7)(B)(iv)(I)).

Except for child-care expenditures, double-counting of expenditures to meet the basic MOE requirement is prohibited (42 USC 609(a)(7)(B)(iv)(II-IV); 45 CFR section 263.6). States may count State funds expended to meet the requirements of the Child Care Development Fund Matching Fund (CFDA 93.596) as basic MOE expenditures, as long as such expenditures meet the requirements of 42 USC 609(a)(7). The maximum amount of child care expenditures that a State may double-count under this provision is the State’s Matching Fund MOE amount under CFDA 93.596 (42 USC 609(a)(7)(B)(iv); 45 CFR sections 263.3 and 263.6).
Expenditures for educational services/activities for eligible families to increase self-sufficiency, job training, and work count if the activities or services are not generally available to other State residents without cost and without regard to their income (42 USC 609(a)(7)(B)(i)(I)(cc); 45 CFR section 263.4, TANF-ACF-PI-2005-01, dated April 14, 2005, at http://www.acf.hhs.gov/programs/ofa/programs/tanf/policy).

Administrative costs in connection with the activities that correspond to the qualified expenditures may not exceed 15 percent of the total amount of countable expenditures for the fiscal year (42 USC 609(a)(7)(B)(i)(I)(dd); 45 CFR section 263.2(a)(5)).

The basic MOE requirement expressly does not count expenditures for services or activities that only fall under 42 USC 604 (a)(2) (see III.A.1.a, “Activities Allowed or Unallowed”). Such expenditures are not considered “qualified expenditures” (42 USC 609(a)(7)(B)(i)(I); 45 CFR section 263.2(a)(4)).

c. **Contingency Fund MOE** – A State must spend more than 100 percent of its historic State expenditures for FY 1994 to keep any of the Federal contingency funds it received (42 USC 603(b), and 45 CFR sections 264.72(a)(2) and 264.70 through 77). This is termed “Contingency Fund MOE.” The Contingency Fund MOE requirement may be met only through qualified expenditures under the State’s TANF program. Qualified expenditures consist of those defined and provided under 42 USC 609(a)(7)(B)(i) and 45 CFR sections 263.2 (a)(1),(a)(3) through (a)(5), and 263.2(b), but excludes those expenditures described in 42 USC 609(a)(7)(B)(i)(I)(bb) and 45 CFR section 263.2(a)(2) (42 USC 603(b)(6)(B)(ii)(I) and 609(a)(10)).

d. **1108(b) Territorial Matching Fund MOE Requirement** – See IV, “Other Information,” for guidance on the spending requirements applicable to the receipt of Matching Grant funds under section 1108(b) of the Social Security Act (section 1108(b)) (42 USC 1308(b)).

e. **Prohibition on Use of Federal TANF and State MOE funds for Juvenile Justice Services** – See IV, “Other Information” for area of risk of non-compliance for juvenile justice services.

2.2 **Level of Effort** – *Supplement Not Supplant* – Not Applicable
3. **Earmarking**

   a. *Federal Only and Commingled Federal/State*

      A State may not spend more than 15 percent for administrative purposes, excluding expenditures for information technology and computerization needed for required tracking and monitoring, of the total combined amounts available under the State family assistance grant, supplemental grant for population increases, contingency funds, and emergency funds (42 USC 604(b)(1) and (2); 45 CFR sections 263.0 and 263.13).

   b. *Federal Only and Commingled Federal/State*

      The average monthly number of families that include an adult or minor child head of household, or the spouse of the head of household, who has received assistance under any State program funded by Federal TANF funds for more than 60 countable months (whether or not consecutive) may not exceed 20 percent of the average monthly number of all families to which the State provided assistance during the fiscal year or the immediately preceding fiscal year (but not both), as the State may elect. To make this determination for a fiscal year, the average monthly number of families with a head of household or spouse of a head of household who received assistance for more than 60 months would be divided by the average monthly number of families that received assistance in that fiscal year, or, if the State chooses, in the previous fiscal year (42 USC 608(a)(7)(C)(ii); 45 CFR sections 264.1(c) and (e)).

      (See III.E.1, “Eligibility – Eligibility for Individuals,” for related eligibility testing.)

   c. *Tribes: Federal Only and Commingled Federal/State-donated MOE*

      The approved TFAP includes a negotiated administrative cost rate for that tribe for that particular year. As approved in the TFAP, no Tribal TANF grantee may expend more than 35 percent of the total combined Federal TANF funds—i.e., TFAG plus any emergency funds received by the tribe for FY 2009 and FY 2010—for administrative costs during the first year, 30 percent during the second year, and 25 percent for the third and all subsequent grant periods. The approved tribal administrative cost rate may be found in a letter of approval issued by the ACF/Division of Tribal Services and/or in the approved TFAP. The tribal administrative cost cap is determined by multiplying the TFAG by the negotiated administrative rate for the fiscal year being tested (45 CFR section 286.50).

      Indirect costs may be applied to the Federal TANF funds based on the indirect cost rate negotiated by the Bureau of Indian Affairs, the Department of Health and Human Services’ Division of Cost Allocation, or another Federal agency. However, indirect costs applied to TANF
funding are subject to and included within the administrative cap limits (45 CFR section 285.55(d)).

H. Period of Performance

1. States

Prior to October 1, 2008, a State could reserve amounts awarded to it, without fiscal year limitation, to provide assistance under the State TANF program. However, a State could only expend such funds beyond the fiscal year in which they were awarded on benefits that met the definition of “assistance” at 45 CFR section 260.31 or on the administrative costs directly associated with providing that assistance. Effective October 1, 2008, States may use Federal TANF funds carried forward into a fiscal year from a prior fiscal year to provide any benefit or service provided under the State’s TANF program. By contrast a State may only use contingency funds for qualified expenditures in the fiscal year for which the funds were awarded (42 USC 603(b) and 604(e); 45 CFR sections 263.11(b) and 265.3(c)).

a. Unobligated Balances Reported on a State Fourth Quarter Financial Report for the Immediately Preceding Fiscal Year

States may use any Federal TANF funds carried forward into a fiscal year from a prior fiscal year to provide, without fiscal year limitation, any benefit or service provided under the State’s TANF program (42 USC 604(e), as amended by ARRA).

States have several options for claiming administrative costs when providing assistance with prior year unobligated balances. The State may charge administrative costs related to providing the assistance to the prior year grant if the State has not expended 15 percent of the prior year’s Adjusted SFAG on administrative costs previously. If the State has an unobligated balance and has expended the maximum 15 percent on administrative cost previously, the State may charge the administrative costs associated with providing the assistance to current year administrative costs. If the State chooses this option, the administrative costs associated with providing assistance with prior year unobligated balances will be included within the 15 percent administrative cost cap for the current fiscal year.

The Federal TANF 15 percent administrative cost cap is based on:

(1) For the administrative expenditure cap applicable to State Family Assistance Grant (SFAG) funds (Column A), cumulative Administrative Costs (reported on Line 22.a. of the ACF-196R and Line 6.j. of the ACF-196) may not exceed 15 percent of the Adjusted Award on Line 4 (Column A);
(2) For the administrative expenditure cap applicable to Contingency Funds the State may have received (Column D), Administrative Costs (reported on Line 22.a. of the ACF-196R) may not exceed 15 percent of the Total Expenditures on Line 24 (Column D);

(3) For the Administrative Cost cap applicable to Emergency Contingency Funds the State may have received (Column E), cumulative Administrative Costs (reported on Line 22.a. of the ACF-196R and Line 6.j. of the ACF-196) may not exceed 15 percent of the amount Awarded on Line 1 (Column E); and

(4) For Territories, the Adjusted SFAG (reported in Line 4, Columns (A) and (G) on the ACF-196-TR) if a Territory receives Federal emergency TANF funds for FYs 2009 and 2010 divided by the total amount entered in Line 6j, Columns (A) and (G).

The administrative cost cap is tracked by the fiscal year for which the funds were awarded and not by the total the State expends on administrative costs in a given fiscal year.

b. Current Fiscal Year Federal Expenditures on Non-Assistance—Prior to October 1, 2008, the State must obligate by September 30 of the current fiscal year any funds for expenditures on non-assistance. Non-assistance expenditures are reported on Line 6 categories on the ACF-196 TANF Financial Report and the ACF-196-TR, Territorial Financial Report. The State must liquidate these obligations by September 30 of the immediately succeeding Federal fiscal year for which the funds were awarded. If the final liquidation amounts are lower than the original amount obligated, this difference must be included in the Unobligated Balance Line Item for the year in which they were awarded. Unobligated balances from previous fiscal years may only be expended on benefits that meet the definition of assistance at 45 CFR section 260.31(a) and related administrative costs associated with providing such assistance.

Effective October 1, 2008, States may use Federal TANF funds carried forward into a fiscal year from a prior fiscal year to provide, without fiscal year limitation, any benefit or service provided under the State’s TANF program (42 USC 604(e), as amended by ARRA).

2. Tribes

Prior to October 1, 2008, a tribe could reserve amounts awarded to it, without fiscal year limitation, to provide assistance under the Tribal TANF program. However, a tribe could only expend such funds beyond the fiscal year in which they were awarded on benefits that met the definition of “assistance” at 45 CFR section 286.10 or on the administrative costs directly associated with providing that assistance (45 CFR section 286.60). Effective October 1, 2008, tribes may
use Federal TANF funds carried forward into a fiscal year from a prior fiscal year to provide, without fiscal year limitation, any benefit or service provided under the tribe’s TANF program (42 USC 604(e), as amended by ARRA).

a. **Unobligated Balances Reported on a Tribal Quarterly ACF-196T Financial Report For the Immediately Preceding Fiscal Year** – Pursuant to section 404(e) of the Act (as amended by Pub. L. No. 106-169, the Foster Care Independence Act of 1999), a tribe may reserve amounts awarded to the tribe under section 412, without fiscal year limitation, to provide assistance under the Tribal TANF program. Tribes have several options for claiming administrative costs when providing assistance with prior year unobligated balances. The tribe may charge administrative costs related to providing the assistance to the prior year grant if the tribe has not exceeded its negotiated administrative cap for that fiscal year, on administrative costs previously. If the tribe has an unobligated balance and has exceeded the negotiated administrative cap for the previous fiscal year, the tribe may charge the administrative costs associated with providing the assistance to current year administrative costs. If the tribe chooses this option, the administrative costs associated with providing assistance with prior year unobligated balances will be included within the negotiated administrative cost cap for the current fiscal year.

b. **Current Fiscal Year Federal Expenditures on Non-Assistance** – Prior to October 1, 2008, a tribe must obligate by September 30 of the current fiscal year any funds for expenditures on non-assistance. The tribe must liquidate these obligations by September 30 of the immediately succeeding Federal fiscal year for which the funds were awarded. If the final liquidation amounts are lower than the original amount obligated, this difference must be included in the Unobligated Balance Line Item for the year in which they were awarded, on the SF-269 report.

Effective October 1, 2008, tribes may use Federal TANF funds carried forward into a fiscal year from a prior fiscal year to provide, without fiscal year limitation, any benefit or service provided under the tribe’s TANF program (42 USC 604(e), as amended by ARRA).

**ARRA Emergency Contingency Funds** – Once a jurisdiction receives emergency funds for which it has qualified, the funds are available until expended and may be used in the same manner as Federal TANF funds, except that they may not be transferred to the Social Services Block Grant (Title XX) (CFDA 93.667) or the Child Care and Development Block Grant (CFDA 93.575).
L. Reporting

1. Financial Reporting

a. SF-270, Request for Advance or Reimbursement – Not Applicable

b. SF-271, Outlay Report and Request from Reimbursement for Construction Programs – Not Applicable

c. SF-425, Federal Financial Report – Applicable to States (cash status only)

d. ACF-196T, Tribal TANF Financial Report Form (OMB No. 0970-0345) – Applicable to tribes; Not Applicable to States. This form is applicable to tribes not administering TANF programs under a Pub. L. No. 102-477 demonstration project. Beginning with the FY 2009 award, tribes must use this form to report TANF expenditures quarterly. This form must be used for reporting both regular TANF grant funds and ARRA-Emergency Fund for TANF Tribal Programs funds.

e. Tribal Temporary Assistance for Needy Families (TANF) ACF P.L. 102-477 Financial Report 12g (OMB Control No. 1076-0135) – Applicable to Tribal TANF grantees administering TANF programs under a Pub. L. No. 102-477 demonstration project. Not applicable to States. This report must be filed with the tribe’s annual Pub. L. No. 102-477 financial report (OMB Control No. 1076-0135). This report is required to be submitted annually and the information must be reported on a FY basis, which runs from October 1 through September 30. The report must cover the entire immediately preceding FY and include all expenditures, obligations, and unliquidated obligations of Federal funds for the period. In addition, the report must be based on and account for the entire Federal Tribal TANF award that was issued for the fiscal year. A separate 12g report is to be submitted for each fiscal year where Federal funds have not been completely expended. For example, tribes must submit a report regarding the expenditure of FY 2013 funds in FY 2014 separately from the report on the use of FY 2013 funds in FY 2013. Until the tribe reports that all of the Federal funds awarded for a given fiscal year have been expended, tribes must continue to submit reports on the use of funds from that fiscal year. Further, a narrative report is to be prepared that describes the activities and services covered under the category “Total Non-Assistance Expenditures” (see line 4 of the report). This 12g report is not used after the tribe begins Version 2 reporting (see IV, “Other Information – Tribal TANF Grantees under a Pub. L. No. 102-477 Demonstration Project (477.”))

f. ACF-196R, TANF Financial Report (OMB No. 0970-0446) – States are required to submit this report quarterly, beginning in FFY 2015, in lieu of


h. ACF-196-TR, *Territorial Financial Report* – Territories report their expenditures and other fiscal data in this report (45 CFR section 265.3(c)). The Territories must report quarterly on their use of Federal TANF funds, Territorial TANF MOE expenditures, expenditures of MOE funds in separate “State” programs, expenditures made as a result of receiving matching grant funds under 42 USC 1308(b), and expenditures made under the Federal Adult Assistance Programs (Titles I, X, XIV, and XVI of the Social Security Act) (42 USC subchapters I, X, XIV, and XVI and 42 USC 1308(a)). This form must be used for reporting both regular TANF grant funds and ARRA-Emergency Fund for TANF Territorial Program funds.


2. **Performance Reporting**


One of the critical areas of this reporting is the work participation data, which serve as the basis for ACF to determine whether States and tribes have met the required work participation rates. A penalty may apply for failure to meet the required rates.
State Work Participation Rates

State agencies must meet or exceed their minimum annual work participation rates. The minimum work participation rates are 50 percent for the overall rate and 90 percent for the two-parent rate. A State’s minimum work participation rate may be reduced by its caseload reduction credit. HHS may penalize the State by an amount of up to 21 percent of the SFAG for violation of this provision (42 USC 609(a)(4); 45 CFR section 262.1(a)(4)).

Key Line Items – The following ACF-199 (TANF Data Report) line items contain critical information for making the preceding determinations and for other program purposes. Compare the data entered on the file for the key line items below to the documentation in the case file for completeness, accuracy, and consistency:

Section One – Family-Level Data
Item 12  Type of Family for Work Participation
Item 17  Receives Subsidized Child Care
Item 28  Is the TANF family exempt from the Federal time limit provisions

Section One – Person-Level Data
Item 30  Family Affiliation Code
Item 32  Date of Birth
Item 38  Relationship to Head-of-Household
Item 39  Parents with a Minor Child
Item 44  Number of months countable toward the Federal time limit
Item 48  Work-Eligible Individual Indicator
Item 49  Work Participation Status

Section One – Adult Work Participation Activities
Items 50 – 62  Work Participation Activities
Item 63  Number of Deemed Core Hours for Overall Rate
Item 64  Number of Deemed Core Hours for the Two-Parent Rate

Section Three – Active Cases
Item 8  Total Number of Families
**Tribal Work Participation Rates**

Tribal TANF agencies must meet or exceed their minimum annual work participation rates. The minimum work participation rates are contained in the respective Tribal TANF plans. Tribal TANF agencies have the option to negotiate and choose from among a number of work participation rates (e.g., separate rates for one- and two-parent families or an “all-families with parents” rate where one- and two-parent families are combined). HHS may penalize the tribe by a maximum of five percent of the TFAG for the first violation of this provision. The penalty increases by an additional two percent for each subsequent violation up to a maximum of 21 percent (42 USC 612(c) and 612(g)(2); 45 CFR sections 286.195(a)(3) and 286.205).

**Key Line Items** – The following ACF-343 (Tribal TANF Data Report) line items contain critical information used in making a determination of a tribe’s Work Participation Rates.

Review the tribe’s TANF plan for a fiscal year to identify the type of family required to participate in work activities and the minimum number of hours per week that the adults and minor heads of household in the family must participate in work activities (45 CFR section 286.80).

Compare the data entered on the file for the key line items below to the documentation in the case file for completeness, accuracy, and consistency:

- **Item 30** *Family Affiliation*
- **Item 48** *Work Participation Status*
- **Items 49–62** *Adult Work Participation Activities*

b. **ACF 209, SSP-MOE Data Report (OMB No. 0970-0338)** – This report is submitted quarterly beginning with the first quarter of FFY 2000.

**Key Line Items** – The following line items contain critical information:

**Section One – Family-Level Data**
- **Item 9** *Type of Family for Work Participation*
- **Item 15** *Receives Subsidized Child Care*

**Section One – Person-Level Data**
- **Item 28** *Date of Birth*
- **Item 34** *Relationship to Head-of-Household*
- **Item 41** *Work-Eligible Individual Indicator*
- **Item 42** *Work Participation Status*
Section One – Adult Work Participation Activities
Items 43 – 55 Work Participation Activities

Item 56 Number of Deemed Core Hours for Overall Rate

Item 57 Number of Deemed Core Hours for the Two-Parent Rate

Section Three – Active Cases
Item 3 Total Number of SSP-MOE Families

3. Special Reporting

a. ACF-204, Annual Report including the Annual Report on State Maintenance-of-Effort Programs (OMB No. 0970-0248) – Each State must file an annual report containing information on the TANF program and the State’s MOE program(s) for that year, including strategies to implement the Family Violence Option, State diversion programs, and other program characteristics. Each State must complete the ACF-204 for each program for which the State has claimed basic MOE expenditures for the fiscal year. States may submit this report as a freestanding report or as an addendum to the fourth quarter TANF Data Report.

Key Line Items – The following line items contain critical information:

(1) Program Name
(2) Description of Major Program Activities
(3) Program Purpose(s)
(4) Program Type
(5) Total State MOE Expenditures
(6) Number of Families Served with MOE Funds
(7) Eligibility Criteria
(8) Prior Program Authorization
(9) Total Program Expenditures in FY 1995

The total MOE expenditures reported in item 5 of the ACF-204 should equal the total MOE expenditures reported in line 24, columns (B) plus (C) of the 4th quarter ACF-196R TANF Financial Report; or line 17, column (B) of the ACF-196-TR, Territorial Financial Report.

b. An OFA-100, Emergency Fund Request Form (OMB 0970-0366) is submitted for each quarter for which a State, Territory or tribe operating a TANF program applied for and received funds under one or more of categories described below.

Grant Related to Caseload Increases: The jurisdiction’s average monthly assistance caseload in a quarter is higher than its average monthly assistance caseload for the corresponding quarter in the TANF Emergency Fund base year (FY 2007 or 2008, whichever year has lower average
monthly assistance caseloads), and its expenditures for basic assistance in a quarter are higher than its expenditures for such assistance in the corresponding quarter of the TANF Emergency Fund base year. “Basic assistance” is defined at 45 CFR sections 260.31(a)(1)-(2) for States and Territories, and at 45 CFR section 286.10(a)(1) for tribes.

**Grant Related to Increased Expenditures for Non-Recurrent Short-Term Benefits:** The jurisdiction’s expenditures for non-recurrent short-term benefits in a quarter are higher than its expenditures for such benefits in the corresponding quarter of the TANF Emergency Fund base year (FY 2007 or 2008, whichever year has lower non-recurrent short-term benefit expenditures). “Non-recurrent short-term benefits” are defined at 45 CFR section 260.31(b)(1) for States and Territories, and at 45 CFR section 286.10(b)(1) for tribes.

**Grant Related to Increased Expenditures for Subsidized Employment:** The jurisdiction’s expenditures for subsidized employment in a quarter are higher than such expenditures in the corresponding quarter of the TANF Emergency Fund base year (FY 2007 or 2008, whichever year has lower subsidized employment expenditures). Subsidized employment refers to “work subsidies,” as defined at 45 CFR section 260.31(b)(2) for States and Territories, and at 45 CFR section 286.10(b)(2) for tribes.

The qualifying expenditures may come from both Federal TANF funds and the jurisdiction’s MOE funds. (See II, “Program Procedures - Other Considerations, Funding Methods – States and Tribes.”)

TANF-ACF-PI-2009-05 and TANF-ACF-PI-2010-01 provide the OFA-100 and the revised OFA-100, as well as instructions for completion ([http://www.acf.hhs.gov/programs/ofa/programs/tanf/policy](http://www.acf.hhs.gov/programs/ofa/programs/tanf/policy)).

Jurisdictions are required to update data as necessary (in accordance with OFA-100 instructions) after the September 30, 2011 deadline for final reporting if they discover an error in a previous submission. ACF will use revisions after this date to recover overpayments of emergency funds (i.e., issue deobligations).

**Key Line Items** – The following sections contain critical information:

*Part 1, Request Quarter Data*

*Part 4, Base Years*
N. Special Tests and Provisions

Special Tests and Provisions 1 through 5 apply to a State’s TANF program, not to a Tribal TANF program.

1. Child Support Non-Cooperation

Compliance Requirement – If the State agency responsible for administering the State plan approved under Title IV-D of the Social Security Act determines that an individual is not cooperating with the State in establishing paternity, or in establishing, modifying or enforcing a support order with respect to a child of the individual, and reports that information to the State agency responsible for TANF, the State TANF agency must (1) deduct an amount equal to not less than 25 percent from the TANF assistance that would otherwise be provided to the family of the individual, and (2) may deny the family any TANF assistance. HHS may penalize a State for up to five percent of the SFAG for failure to substantially comply with this required State child support program (42 USC 608(a)(2) and 609(a)(8); 45 CFR sections 264.30 and 264.31).

Audit Objective – Determine whether, after notification by the State Title IV-D agency, the TANF agency has taken necessary action to reduce or deny TANF assistance.

Suggested Audit Procedures

a. Review the State’s TANF policies and operating procedures concerning this requirement.

b. Test a sample of cases referred by the Title IV-D agency to the TANF agency to ascertain if benefits were reduced or denied as required.

2. Income Eligibility and Verification System

Compliance Requirements – Each State shall participate in the Income Eligibility and Verification System (IEVS) required by section 1137 of the Social Security Act as amended. Under the State Plan the State is required to coordinate data exchanges with other federally assisted benefit programs, request and use income and benefit information when making eligibility determinations, and adhere to standardized formats and procedures in exchanging information with other programs and agencies. Specifically, the State is required to request and obtain information as follows (42 USC 1320b-7; 45 CFR section 205.55):

a. Wage information from the State Wage Information Collection Agency (SWICA) should be obtained for all applicants at the first opportunity following receipt of the application, and for all recipients on a quarterly basis.

b. Unemployment Compensation (UC) information should be obtained for all applicants at the first opportunity, and in each of the first 3 months in which the individual is receiving aid. This information should also be obtained in each of the first 3 months following any recipient-reported loss of employment. If an
individual is found to be receiving UC, the information should be requested until benefits are exhausted.

c. All available information from the Social Security Administration (SSA) for all applicants at the first opportunity (see Federal Tax Return Information below).

d. Information from the U.S. Citizenship and Immigration Services and any other information from other agencies in the State or in other States that might provide income or other useful information.

e. Unearned income from the Internal Revenue Service (IRS) (see Federal Tax Return Information below).

Federal Tax Return Information – Information from the IRS and some information from SSA is Federal tax return information and subject to use and disclosure restrictions by 26 USC 6103. Individual data received from the SSA’s Beneficiary Earnings Exchange Record (BEER), consisting of wage, self-employment, and certain other income information is considered Federal tax return information. However, benefits payments such as Supplemental Security Income (SSI) are SSA data and not Federal tax return information. Under 26 USC 6103, disclosure of Federal tax return information from IEVS is restricted to officers and employees of the receiving agency. Outside (non-agency) personnel (including auditors) are not authorized to access this information either directly or by disclosure from receiving agency personnel.

The State is required to review and compare the information obtained from each data exchange against information contained in the case record to determine whether it affects the individual’s eligibility or level of assistance, benefits or services under the TANF program, with the following exceptions:

a. The State is permitted to exclude categories of information items from follow-up if it has received approval from ACF after having demonstrated that follow-up is not cost effective.

b. The State is permitted, with ACF approval, to exclude information items from certain data sources without written justification if it followed up previously through another source of information. However, information from these data sources that is not duplicative and provides new leads may not be excluded without written justification.

The State shall verify that the information is accurate and applicable to the case circumstances either through the applicant or recipient, or through a third party, if such determination is appropriate based on agency experience or is required before taking adverse action based on information from a Federal computer matching program subject to the Computer Matching and Privacy Protection Act (45 CFR section 205.56).

For applicants, if the information is received during the application process, the State must use the information, to the extent possible, to determine eligibility. For recipients or individuals for whom a decision could not be made prior to authorization of benefits, the
State must initiate a notice of case action or an entry in the case record that no case action is necessary within 45 days of its receipt of the information. Under certain circumstances, action may be delayed beyond 45 days for no more than 20 percent of the information items targeted for follow-up (45 CFR section 205.56).

HHS may penalize a State for up to two percent of the SFAG for failure to participate in IEVS (42 USC 609(a)(4) and 1320b-7; 45 CFR sections 264.10 and 264.11).

**Audit Objective** – Determine whether the State has established and implemented the required IEVS system for data matching, and verification and use of such data. (This audit objective does not include Federal tax return information, as discussed in the compliance requirements.)

**Suggested Audit Procedures**

a. Review State operating manuals and other instructions to gain an understanding of the State’s implementation of the IEVS system.

b. Test a sample of TANF cases subject to IEVS to ascertain if the State:
   
   (1) Used the IEVS to determine eligibility in accordance with the State Plan.

   (2) Requested and obtained the data from the State Wage Information Collection Agency, the State unemployment agency, SSA (excluding Federal tax return information, as discussed in the compliance requirements), the U.S. Citizenship and Immigration Services, and other agencies, as appropriate, and performed the required data matching.

   (3) Properly considered the information obtained from the data matching in determining eligibility and the amount of TANF benefits.

3. **Penalty for Refusal to Work**

**Compliance Requirement** – State agency must reduce or terminate the assistance payable to the family if an individual in a family receiving assistance refuses to work, subject to any good cause or other exemptions established by the State. HHS may penalize the State by an amount not less than one percent and not more than five percent of the SFAG for violation of this provision (42 USC 609(a)(14); 45 CFR sections 261.14, 261.16, and 261.54).

**Audit Objective** – Determine whether the State agency is reducing or terminating the assistance grant of those individuals who refuse to engage in work and are not subject to good cause or other exceptions established by the State.

**Suggested Audit Procedures**

a. Review the State’s TANF policies and operating procedures concerning this requirement.
b. Test a sample of TANF cases where the individual is not working, and ascertain if benefits were reduced or denied to individuals who are not exempt under State rules or do not meet State good cause criteria.

4. **Adult Custodial Parent of Child under Six When Child Care Not Available**

**Compliance Requirement** – If an individual is a single custodial parent caring for a child under the age of 6, the State may not reduce or terminate assistance for the individual’s refusal to engage in required work if the individual demonstrates to the State an inability to obtain needed child care for one or more of the following reasons: (a) unavailability of appropriate child care within a reasonable distance from the individual’s home or work site; (b) unavailability or unsuitability of informal child care by a relative or under other arrangements; or (c) unavailability of appropriate and affordable formal child care arrangements. The determination of inability to find child care is made by the State. HHS may penalize a State for up to five percent of the SFAG for violation of this provision (42 USC 607(e)(2) and 609(a)(11); 45 CFR sections 261.15, 261.56, and 261.57).

**Audit Objective** – Determine whether the State has improperly reduced or terminated assistance to single custodial parents who refused to work because of inability to obtain child care for a child under the age of 6.

**Suggested Audit Procedures**

a. Gain an understanding of the criteria established by the State to determine benefits for a single custodial parent who refused to work because of inability to obtain child care for a child who is under the age of 6.

b. Select a sample of single custodial parents caring for a child who is under 6 years of age whose benefits have been reduced or terminated.

c. Ascertain if the benefits were improperly reduced or terminated because of inability to obtain child care.

5. **Penalty for Failure to Comply with Work Verification Plan**

**Compliance Requirement** – The State agency must maintain adequate documentation, verification, and internal control procedures to ensure the accuracy of the data used in calculating work participation rates. In so doing, it must have in place procedures to (a) determine whether its work activities may count for participation rate purposes; (b) determine how to count and verify reported hours of work; (c) identify who is a work-eligible individual; and (d) control internal data transmission and accuracy. Each State agency must comply with its HHS-approved Work Verification Plan in effect for the period that is audited. HHS may penalize the State by an amount not less than one percent and not more than five percent of the SFAG for violation of this provision (42 USC 601, 602, 607, and 609); 45 CFR sections 261.60, 261.61, 261.62, 261.63, 261.64, and 261.65).
Audit Objective – Determine whether the State agency is complying with its Work Verification Plan, including adequate documentation, verification, and internal control procedures.

Suggested Audit Procedures

a. Review the State’s Work Verification Plan and operating procedures concerning this requirement.

b. Test a sample of TANF cases that have been reported to HHS under 45 CFR sections 265.3(b)(1) and 265.3(d)(1) and ascertain if the work participation rate data have been documented, verified, and reported in accordance with the State’s Work Verification Plan.

6. Accountability, Deposit, and Investment of Lump-Sum Drawdowns

Compliance Requirement – Effective October 1, 2011, once program funds are available, Tribal TANF grantees participating in a Pub. L. No. 102-477 demonstration project may draw down the full amount of available Pub. L. No. 102-477 TANF demonstration project funding. Lump-sum drawdown/payments must be retained in clearly identifiable cash or investment accounts which are readily accessible for payment of allowable expenditures in accordance with the approved Pub. L. No. 102-477 plan from which it was derived and in compliance with applicable requirements and, to the extent practical, earn interest. This does not require a Tribal TANF grantee to open a separate account with a financial institution or an investment manager. All eligible funds deposited in an appropriate account and earmarked as Pub. L. No. 102-477 demonstration funds must be identified as such. Investments of lump-sum payments must comply with 25 USC 450e-3, “Investment of Advance Payments: Restrictions.” All interest earned must be used on allowable expenditures in accordance with the approved Pub. L. No. 102-477 plan from which it was derived and in compliance with applicable requirements. (Tri-Agency 477 Tribal Leader Letter 9-30-11, Tri-Agency Letter to Committee on Appropriations 10-7-11, and Frequently Asked Questions Regarding P.L. 102-477 (Questions 2 through 4) found at http://www.indianaffairs.gov/WhoWeAre/AS-IA/IEED/DWD/index.htm)

Tribal TANF grantees receiving lump-sum drawdown/payments under a Pub. L. No. 102-477 demonstration project may invest these payments (some recipients refer to these advance payments as “deferred revenue”) before such funds are expended in accordance with the approved Pub. L. No. 102-477 plan, so long as such funds are (1) invested only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States, or (2) deposited only in accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the advance funds, even in the event of a bank failure (25 USC 450e-3).
Audit Objectives - Determine whether the Tribal TANF grantee participating in a Pub. L. No. 102-477 demonstration project has properly accounted for, deposited, and invested lump-sum drawdowns/payments received under a Pub. L. No. 102-477 demonstration project, and unexpended funds are identifiable and readily accessible for use to carry out the approved Pub. L. No. 102-477 plan.

Suggested Audit Procedures

a. Obtain and review the Tribal TANF grantee policies and procedures and verify that those procedures comply with the requirements for lump-sum drawdowns/payments under a Pub. L. No. 102-477 demonstration project.

b. Test lump-sum drawdowns/payments and ascertain if they were properly accounted for, deposited, and invested throughout the audit period.

c. Review unused/unexpended TANF lump-sum drawdowns/payments at year-end, and verify that they are properly invested/deposited and are identifiable and readily accessible to carry out the work outlined in the approved Pub. L. No. 102-477 plan.

IV. OTHER INFORMATION

Transfers out of TANF

As described in III.A.1.b, “Activities Allowed or Unallowed,” States (not tribes) may transfer a limited amount of Federal TANF funds into the Social Services Block Grant (Title XX) (CFDA 93.667) and the Child Care and Development Block Grant (CFDA 93.575). These transfers are reflected in lines 2 and 3 of both the quarterly TANF Financial Report ACF-196R, and the quarterly Territorial Financial Report ACF-196-TR. The amounts transferred out of TANF are subject to the requirements of the program into which they are transferred and should not be included in the audit universe and total expenditures of TANF when determining Type A programs. The amount transferred out should not be shown as TANF expenditures on the Schedule of Expenditures of Federal Awards, but should be shown as expenditures for the program into which they are transferred. ARRA TANF funds may not be transferred out of TANF.

State MOE Expended by Tribes

A State may provide a tribe State-donated MOE funds that are expended by the tribe. For the tribe, State-donated MOE funds are not Federal awards expended, shall not be considered in determining Type A programs, and shall not be shown as expenditures on the Schedule of Expenditures of Federal Awards. However, State-donated MOE funds expended by a tribe shall be included by the auditor of the State when testing III.G.2.1, “Matching, Level of Effort, Earmarking – Level of Effort – Maintenance of Effort.”
Under the Commingled Federal/State-donated MOE option, tribes may commingle their State-donated MOE funds with Federal grant funds. Because of the commingling, the audit of the tribe will include testing of the State-donated MOE and the auditor of the State should consider relying on this testing in accordance with auditing standards and 2 CFR part 200, subpart F. However, the State-donated MOE is not considered Federal awards expended by the tribe.

*Tribal TANF Grantees under a Pub. L. No. 102-477 Demonstration Project*(477)

Audits of Indian tribal governments with Tribal TANF in their approved 477 Plan with reporting under Version 2 forms (75 FR 57970 (September 26, 2014)) must follow the guidance in the 477 Cluster found in the Department of the Interior’s section of Part 4 of this Supplement. See the “Note” at the beginning of the 477 Cluster for additional information.

Audits of other Indian tribal governments with Tribal TANF in their approved 477 Plan with reporting under Version 1 forms must follow this TANF Cluster, including the following (per Tri-Agency 477 Tribal Leader Letter 9-30-11, Tri-Agency Letter to Committee on Appropriations 10-7-11, and Frequently Asked Questions Regarding P. L. 102-477 (Questions 5 through 9) found at [http://www.indianaffairs.gov/WhoWeAre/AS-IA/IEED/DWD/index.htm](http://www.indianaffairs.gov/WhoWeAre/AS-IA/IEED/DWD/index.htm):

1. the auditor should use the approved Pub. L. No. 102-477 Plan in determining compliance requirements to be tested;
2. the auditor is permitted to audit the Pub. L. No. 102-477 demonstration project as a cluster of programs;
3. the Tribal TANF grantee may present demonstration project expenditures in its Schedule of Expenditures of Federal Awards (SEFA) in the same manner in which it had been presenting these expenditures in the period immediately prior to this Supplement or in the same manner in which it had been presenting these expenditures in the period immediately prior to the 2009 Compliance Supplement.

*Spending Levels of the Territories*

A funding ceiling applies to Guam, the Virgin Islands, American Samoa and Puerto Rico. The programs subject to the funding ceiling are the Adult Assistance programs under Titles I, X, XIV, and XVI of the Social Security Act; TANF; Foster Care (CFDA 93.658); Adoption Assistance (CFDA 93.659) and Independent Living (CFDA 93.674) programs under Title IV-E of the Social Security Act; and the matching grant under section 1108(b). Total payments to each Territory may not exceed the following: Guam – $4,686,000; Virgin Islands – $3,554,000; Puerto Rico – $107,255,000; and American Samoa – $1,000,000. However, the TANF Family Assistance Grant cannot exceed the Territory’s fixed annual amount (42 USC 1308(a) and (c)).

*Territorial Matching Grant Funding Stream*

The Matching Grant under section 1108(b) of the Social Security Act (42 USC 1308(b)) is an optional funding stream for the Territories. Each fiscal year, Puerto Rico, the Virgin Islands, and Guam may receive a Matching Grant in an amount that equals 75 percent of the amount, if any, by which the Territory’s total expenditures during the fiscal year under the TANF program
(including transfers to the CCDF (CFDA 93.575 and 93.596) and SSBG (CFDA 93.667) programs) and the Foster Care program exceed the total of: (1) the amount that equals the Territory’s Federal TANF grant payable (without regard to any applicable penalties; and (2) the amount that equals the sum expended by the Territory during fiscal year 1995 in the AFDC and JOBS programs (other than for child care).

Thus, each Territory receiving a Matching Grant has two expenditure requirements: (1) expend an amount that equals the Territory’s Federal TANF block grant amount; and (2) expend an amount that equals the Territory’s share of expenditures in the AFDC and JOBS programs (other than for child care) during FY 1995. This latter requirement is the Territory’s Matching Grant MOE expenditure requirement. Territorial expenditures used to receive section 1108(b) Federal Matching Grant funds are expenditures that exceed the sum of these two expenditure requirements. Territorial expenditures in the TANF program in excess of the total spending requirement that are used to receive section 1108(b) Federal Matching Grant funds may be reported in either column (C) or column (D) of the ACF-196-TR, but not in both (45 CFR section 264.80(a)(1)).

The amounts of the two expenditure requirements are as follows:

<table>
<thead>
<tr>
<th>Territory</th>
<th>Federal TANF Block Grant Spending Amount (FGA)²</th>
<th>Matching Grant MOE Spending Amount³</th>
<th>Total Spending Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Puerto Rico</td>
<td>$71,562,501</td>
<td>$28,182,864</td>
<td>$99,745,365</td>
</tr>
<tr>
<td>Guam</td>
<td>$3,465,478</td>
<td>$974,517</td>
<td>$4,439,995</td>
</tr>
<tr>
<td>Virgin Islands</td>
<td>$2,846,564</td>
<td>$820,380</td>
<td>$3,666,944</td>
</tr>
<tr>
<td>American Samoa</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

² Amount reported in Column (C) of the ACF-196-TR.
³ Amount reported in Column (D) of the ACF-196-TR.
See 45 CFR section 264.82 for the types of expenditures using Federal and Territorial funds that may count toward meeting the required block grant spending amount. 45 CFR section 264.81 specifies the types of expenditures that may count toward meeting the Matching Grant MOE requirement. Territorial expenditures may count only once, i.e., to meet either expenditure requirement or as an excess expenditure to receive Federal Matching Grant funds under 1108(b). (45 CFR sections 264.80 through 264.85 include the requirements pertinent to receipt of matching funds under section 110(b).

Prohibition on Use of Federal TANF and State MOE funds for Juvenile Justice Services

ACF has identified juvenile justice services expenditures as an area of risk for non-compliance and issued a Program Instruction (TANF-ACF-PI-2015-02) (http://www.acf.hhs.gov/ofa/resource/tanf-acf-pi-2015-02) to remind TANF jurisdictions that Federal TANF and State MOE funds must not be used to provide juvenile justice services, except where authorized under prior law, as explained in the program instruction.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.563 CHILD SUPPORT ENFORCEMENT

I. PROGRAM OBJECTIVES

The objectives of the Child Support Enforcement programs are to (1) enforce support obligations owed by non-custodial parents, (2) locate absent parents, (3) establish paternity, and (4) obtain child and spousal support.

II. PROGRAM PROCEDURES

Administration and Services

The Child Support Enforcement programs are administered at the Federal level by the Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Under the State Child Support Enforcement program (State program), funding is provided to the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam, based on a State plan and amendments, as required by changes in statutes, rules, regulations, interpretations, and court decisions, submitted to and approved by OCSE. Under the Tribal Child Support Enforcement program (tribal program), funding is provided to federally recognized tribes and tribal organizations based on applications, plans, and amendments, as required by changes in statutes, rules, regulations, and interpretations, submitted to and approved by OCSE.

The State program is an open-ended entitlement program that allows the State to be funded at the Federal financial participation (FFP) rate of 66 percent for eligible program costs. Under the tribal program, tribes receive funding for a specified percentage of program costs (during the first 3-year period, Federal grant funds equal to 90 percent, and for all periods following the initial 3-year period 80 percent).

State child support agencies are required to conduct self-reviews of their programs. (42 USC 654(15) and 45 CFR part 308).

Source of Governing Requirements

The Child Support Enforcement programs are authorized under Title IV-D of the Social Security Act, as amended. This includes amendments as the result of the Deficit Reduction Act of 2005 (DRA) (Pub. L. No. 109-171). The State program is codified at 42 USC 651 through 669. Implementing program regulations for the State program are published at 45 CFR parts 301 through 308. In addition, with regard to eligibility and other provisions, these programs are closely related to programs authorized under other titles of the Social Security Act, including the Temporary Assistance for Needy Families (TANF) program (CFDA 93.558), the Medicaid program (CFDA 93.778), and the Foster Care (Title IV-E) program (CFDA 93.658).

The tribal program is authorized under Title IV-D of the Social Security Act, as amended, at 42 USC 655. Implementing program regulations are published at 45 CFR part 309.
Both the State and tribal programs are subject to the administrative requirements of 45 CFR part 92 or 2 CFR part 200, as implemented by HHS at 45 CFR part 75, depending on when the award was made. Both State and tribal programs also are subject to the OMB cost principles under 2 CFR part 225 – Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87) or 2 CFR part 200, subpart E, depending on when the award was made. However, with the exception of 45 CFR section 75.202, the guidance in subpart C of 45 CFR part 75 does not apply to Federal awards to carry out Title IV-D of the Social Security Act (45 CFR section 75.101(e)). The State program also is subject to 45 CFR part 95.

States and tribes are required to adopt and adhere to their own statutes and regulations for program implementation, consistent with the requirements of Title IV-D and the approved State plan/tribal plan and application.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

<table>
<thead>
<tr>
<th>Compliance Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
</tr>
<tr>
<td>Y</td>
</tr>
</tbody>
</table>
A. Activities Allowed or Unallowed

1. Activities Allowed

Consistent with the approved Title IV-D plan, allowable activities include the following. A more complete listing of allowable types of activities with examples, as appropriate, is included at 45 CFR sections 304.20 through 304.22 for the State program and 45 CFR sections 309.145(a) through (o) for the tribal program.

a. State and tribal programs

(1) Parent locator services for eligible individuals (45 CFR sections 304.20(a)(2), 304.20(b), and 302.35(c); 45 CFR section 309.145).

(2) Paternity and support services for eligible individuals (45 CFR section 304.20(a)(3); 45 CFR sections 309.145(b) and (c)).

(3) Program administration, including establishment and administration of the State plan/tribal plan, purchase of equipment, and development of a cost allocation system and other systems necessary for fiscal and program accountability (45 CFR sections 304.20(b)(1) and 304.24; 45 CFR sections 309.145(a)(1) and (a)(2), 309.145(h), 309.145(i), and 309.145(o)).

(4) Establishment of agreements with other State, tribal, and local agencies and private providers, including the costs of agreements with appropriate courts and law enforcement officials in accordance with the requirements of 45 CFR section 302.34, and associated administration and short-term training of staff (see paragraph A.2.b, below, for costs of agreements that are unallowable under State programs) (45 CFR section 304.21(a)(State programs); 45 CFR sections 309.145(a)(3)(iii)) and 309.145(m) (tribal programs)).

b. State programs

Necessary expenditures for support enforcement services and activities provided to individuals from whom an assignment of support rights (as defined in 45 CFR section 301.1) is obtained (45 CFR sections 304.20, 304.21, and 304.22).

c. Tribal programs

(1) The portion of salaries and expenses of a tribe’s chief executive and staff that is directly attributable to managing and operating a Tribal Title IV-D program (45 CFR section 309.145(j)).
(2) The portion of salaries and expenses of tribunals and staff that is directly related to required tribal Title IV-D program activities (45 CFR section 309.145(k)).

(3) Service of process (45 CFR section 309.145(l)).

(4) Costs associated with obtaining technical assistance from non-Federal third-party sources, including other tribes, tribal organizations, State agencies, and private organizations, that are directly related to operating a Title IV-D program, and costs associated with providing such technical assistance to public entities (45 CFR section 309.145(n)).

2. *Activities Unallowed*

   a. *State and tribal programs*

      The following costs and activities are unallowable pursuant to 45 CFR sections 304.23 and 309.155:

      (1) Activities related to administering other titles of the Social Security Act.

      (2) Construction and major renovations.

      (3) Any expenditures that have been reimbursed by fees or costs collected.

      (4) Any expenditures for jailing of parents in child support enforcement cases.

      (5) Costs of counsel for indigent defendants in Title IV-D actions.

      (6) Costs of guardians *ad litem* in Title IV-D actions.

   b. *State programs*

      The following costs and activities are unallowable pursuant to 45 CFR section 304.23:

      (1) Education and training programs other than those for Title IV-D agency staff or as described in 45 CFR section 304.20(b)(2)(viii).

      (2) Any expenditures related to carrying out an agreement under 45 CFR section 303.15.

      (3) Any costs of caseworkers (45 CFR section 303.20(e)).
(4) Medical support enforcement activities performed under cooperative arrangements in accordance with Section 1912(a)(2) of the Act (42 USC 1396k).

(5) The following costs associated with agreements with courts and law enforcement officials are unallowable: service of process and court filing fees unless the court or law enforcement agency would normally be required to pay the costs of such fees; costs of compensation (salary and fringe benefits) of judges; costs of training and travel related to the judicial determination process incurred by judges; office-related costs, such as space, equipment, furnishings and supplies incurred by judges; compensation (salary and fringe benefits), travel and training, and office-related costs incurred by administrative and support staffs of judges; and costs of agreements that do not meet the requirements of 45 CFR section 303.107 (45 CFR section 304.21(b)).

F. Equipment and Real Property Management

Under State programs, equipment that is capitalized or depreciated or is claimed in the period acquired and charged to more than one program is subject to 45 CFR section 95.707(b) in lieu of the requirements of the A-102 Common Rule/HHS implementation of 2 CFR part 200 (45 CFR section 95.707(b)).

G. Matching, Level of Effort, Earmarking

1. Matching

State programs

The Federal share of program costs related to determining paternity, including those related to the planning, design, development, installation and enhancement of the statewide computerized support enforcement system is 66 percent.

Tribal programs

The Federal share of program costs is 90 percent for the first 3 years and 80 percent thereafter. Unless waived by the Secretary, the tribe or tribal organization must provide the 10 percent and 20 percent share, respectively (45 CFR sections 309.130(c), (d), and (e)).

2. Level of Effort – Not Applicable

3. Earmarking – Not Applicable
H. Period of Performance

1. State programs – This program operates on a cash accounting basis and each year’s funding and accounting is discrete; i.e., there is no carry-forward of unobligated funds. To be eligible for Federal funding, claims must be submitted to ACF within 2 years after the calendar quarter in which the State made the expenditure. This limitation does not apply to any claim for an adjustment to prior year costs or resulting from a court-ordered retroactive adjustment (45 CFR sections 95.7, 95.13, and 95.19).

2. Tribal programs – A tribe or tribal organization must obligate its Federal Title IV-D grant funds no later than the last day of the funding period (equivalent to the Federal fiscal year) for which they were awarded (“obligation period”) or the funds must be returned to ACF. Unless an extension is granted by ACF, valid obligations must be liquidated no later than the last day of the 12-month period immediately following the obligation period or the funds must be returned to ACF (45 CFR sections 309.135(b), (c), and (e)).

L. Reporting

1. Financial Reporting

   a. SF-270, Request for Advance or Reimbursement – Not Applicable

   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

   c. SF-425, Federal Financial Report – Applicable for tribal programs only

   d. OCSE 34, Child Support Enforcement Program Quarterly Report of Collections (OMB No. 0970-0181)

   e. OCSE 396, Child Support Enforcement Program Quarterly Financial Report (OMB No. 0970-0181) – Applicable for State programs only

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.566  REFUGEE AND ENTRANT ASSISTANCE—STATE-ADMINISTERED PROGRAMS

I. PROGRAM OBJECTIVES

The objective of the Refugee and Entrant Assistance Program is to provide States with funds to assist refugees and Cuban/Haitian entrants in attaining economic and social self-sufficiency as soon as possible after their initial placement in United States (U.S.) communities. (The term “refugee” is used to mean an individual who meets the immigration status requirements under 45 CFR section 400.43.)

II. PROGRAM PROCEDURES

Administration and Services

The Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), administers the Refugee and Entrant Assistance Program on behalf of the Federal Government. ORR provides funds to States through two grant programs: (1) Cash and Medical Assistance (CMA) and (2) Refugee Social Services (RSS).

Cash and Medical Assistance Grants

CMA grants are made to States following submission of annual program estimates.

A State may administer the program as a publicly State-administered program, or may form a public/private partnership by engaging non-profit organizations to deliver program services and benefits. A State-administered program must follow the TANF rules on financial eligibility and payment levels unless the State receives an approved waiver under 45 CFR section 400.300 to continue administering RCA according to the rules of the former Aid to Families with Dependent Children (AFDC) Program. Subject to certain limitations, a public/private program may operate according to its own rules.

Refugee Social Services Grants

Refugee Social Services grants are made to States following submission of an Annual Services Plan. RSS grants are allocated to States by formula according to each State’s percentage of the national refugee and entrant population for up to the most recent 2 years. States are required to use these funds to help refugees become economically self-sufficient as quickly as possible, primarily through the provision of employment services.
Source of Governing Requirements

The Refugee and Entrant Assistance Program is governed under the following authorities:


- Section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act (as included in the fiscal year (FY) 1988 Continuing Resolution (Pub. L. No. 100-202)), insofar as it incorporates by reference with respect to certain Amerasians from Viet Nam the authorities pertaining to assistance for refugees established by Section 412(c)(2) of the Immigration and Nationality Act, as amended, including certain Amerasians from Viet Nam who are United States citizens; and, as provided under Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100-461), 1990 (Pub. L. No. 101-167), and 1991 (Pub. L. No. 101-513).

- Section 107(b)(1)(A) of the Trafficking Victims Protection Act of 2000 (Pub. L. No. 106-386) (22 USC 7101), as amended by the Trafficking Victims Protection Reauthorization Act of 2003 (Pub. L. No. 108-193) and 2005 (Pub. L. No. 109-164), and Section 107(b)(1)(F) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Pub. L. No. 110-457), insofar as they state that a victim of a severe form of trafficking in persons, potential child victims, and certain other specified family members shall be eligible for federally funded or administered benefits and services to the same extent as a refugee.

- Section 525, Title V, Division G, Pub. L. No. 110-161 in relation to Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act and their eligibility for resettlement assistance and other benefits available to refugees admitted under section 207 of the Immigration and Nationality Act; and Sections 1244, Pub. L. No. 110-181 Section 602(b), Title VI, Division F, Pub. L. No. 111-8, regarding the special immigrant status of certain Iraqis and certain Afghans, respectively, as amended by Section 8120, Title VIII, Pub. L. No. 111-118.

Program regulations are at 45 CFR part 400.

In addition to the HHS implementation of the A-102 Common Rule and the cost principles in 2 CFR part 225 (Office of Management and Budget Circular A-87) and 2 CFR part 200 at 45 CFR part 75, this program also is subject to 45 CFR part 95, subparts E (Cost Allocation Plans) and F (Automatic Data Processing Equipment and Services Conditions for Federal Financial Participation (FFP)).

Availability of Other Program Information

Additional information is available on the ORR website at http://www.acf.hhs.gov/programs/orr.
III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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<thead>
<tr>
<th>Compliance Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
</tr>
<tr>
<td>Y</td>
</tr>
</tbody>
</table>

A. Activities Allowed or Unallowed

Program funds are to be used to pay for:

1. *Refugee Cash Assistance (RCA)* – monthly cash benefits for refugees who do not meet the eligibility requirements of the Temporary Assistance for Needy Families (TANF) (CFDA 93.558) or Supplemental Security Income (SSI) CFDA 96.006 programs (45 CFR section 400.53) (see III.E.1, “Eligibility – Eligibility for Individuals”).

2. *Refugee Medical Assistance (RMA)* – medical assistance to refugees who do not meet all eligibility requirements for Medicaid (CFDA 93.778) and the Children’s Health Insurance Program (CHIP) (CFDA 93.767) and medical screening to all refugees if done within the refugees’ first 90 days upon arrival to the U.S. (45 CFR section 400.100 (see III.E.1, “Eligibility – Eligibility for Individuals”).

3. *Unaccompanied Refugee Minor (URM) Assistance* – child welfare services and foster care to unaccompanied refugee minors (until age 18 or higher age as the
State’s Title IV-B plan prescribes) (45 CFR section 400.116) (see III.E.1, “Eligibility – Eligibility for Individuals”).

4. **Refugee Medical Screening**

A State may charge refugee medical screening costs to RMA if part of the approved State plan (45 CFR section 400.107). If such screening is done during the first 90 days after a refugee’s initial date of entry into the U.S., it may be provided without prior determination of the refugee’s eligibility under 45 CFR sections 400.94 or 400.100 and may be charged to RMA with the written approval of the Director of ORR. States may charge to RMA the cost of medical screenings done later than 90 days after the refugees’ arrival only if the refugees had been determined ineligible for Medicaid or CHIP under 45 CFR sections 400.94 and 400.100 (45 CFR section 400.107).

5. **Program Administration** – A State may claim against its CMA grant the reasonable, necessary, and allocable administrative costs:

   a. Associated with providing RCA, RMA, and assistance and services to unaccompanied refugee minors (45 CFR section 400.207).

   b. Incurred by the local resettlement agencies for providing cash assistance under the public/private RCA program (45 CFR section 400.13(e)).

   c. Incurred for the overall management of the State’s refugee program. Such costs may include development of the State Plan, overall program coordination, and salary and the travel costs of the State Refugee Coordinator (45 CFR section 400.13(c)).

6. **Employability Services** – A State may provide the following employability services through the RSS grant:

   a. Employment services, including development of a family self-sufficiency plan and individual employment plan, job development, job search, and job placement (45 CFR section 400.154(a));

   b. Aptitude and skills testing, employability assessment (45 CFR section 400.154(b));

   c. On-the-job training at the employment site (45 CFR section 400.154(c));

   d. English language training with emphasis on job-related language skills (45 CFR section 400.154(d));

   e. Vocational training when part of an employability plan (45 CFR section 400.154(e));

   f. Skills recertification (45 CFR section 400.154(f));
g. Child care when necessary for job retention/acceptance or participation in an employability service (45 CFR section 400.154(g));

h. Transportation when necessary for job retention/acceptance or participation in an employability service (45 CFR section 400.154(h));

i. Translation and interpreter services when necessary for job retention/acceptance or participation in an employability service (45 CFR section 400.154(i));

j. Case management services directed toward a refugee’s attainment of employment as soon as possible after arrival in the U.S. (45 CFR section 400.154(j)); and

k. Assistance in obtaining employment authorization documents (45 CFR section 400.154(j)).

7. Non-Employability Social Services – A State may provide non-employability social services, which may include:

a. Information and referral services (45 CFR section 400.155(a));

b. Outreach services designed to familiarize refugees with available services and facilitate access to them (45 CFR section 400.155(b));

c. Social adjustment services including emergency services, health-related services, and home management services (45 CFR section 400.155(c));

d. Child care, transportation, translation and interpreter services, and case management services which are not directly related to employment or an employability service, when necessary for purposes other than employment or participation in employability services (45 CFR sections 400.155d through 155g);

e. Any other service approved by the ORR Director which is aimed at helping the refugee attain economic self-sufficiency, family stability, or community integration (45 CFR section 400.155(h)); and

f. Citizenship and naturalization preparation services (45 CFR section 400.155(i)).

B. Allowable Costs/Cost Principles

The following costs may be charged to the State’s CMA grant: (1) certain administrative costs incurred for the overall management of the State’s refugee program (see III.A.5, “Activities Allowed or Unallowed”), and (2) costs incurred by local resettlement agencies to provide cash assistance under public/private RCA programs. All other costs must be allocated among the State’s CMA grant, its RSS grant, and any other Refugee
Resettlement Program grants it may have received. However, no portion of the cost of case management services (as defined at 45 CFR section 400.2) may be allocated to the State’s CMA grant; and administrative costs of managing the services component of the program must be charged to the RSS grant (45 CFR section 400.13).

E. Eligibility

1. Eligibility for Individuals

a. General Eligibility

(1) Clients must have either refugee, asylee, entrant, or Amerasian documented status (45 CFR section 400.43), be Iraqis or Afghans with Special Immigrant Visas, or, if trafficking victims, must have received a certification or eligibility letter from ORR. Those meeting this status will be collectively referred to as “refugees.”

(2) A client’s eligibility period generally begins on the date he/she arrived in the U.S. (45 CFR sections 400.203(a) and 400.204(a)). The eligibility period for asylees begins from the date the person receives a final grant of asylum.

b. Refugee Cash Assistance

(1) Eligibility Criteria

Eligibility for RCA is limited to refugees who meet all of the following criteria:

(a) They have resided in the U.S. less than the RCA eligibility period (currently 8 months) determined by the ORR Director in accordance with 45 CFR section 400.211 (45 CFR section 400.53).

(b) They have been determined ineligible for other federally funded cash assistance programs, such as the following programs authorized by the Social Security Act: TANF, SSI, Old Age Assistance (OAA)(Title I), Aid to the Blind (AB)(Title X), Aid to the Permanently and Totally Disabled (APTD)(Title XIV), and Aid to the Aged, Blind, and Disabled (AABD)(Title XVI)(45 CFR sections 400.51 and 400.53).

(c) They meet the financial eligibility requirements of the applicable type of RCA program: AFDC-type (45 CFR section 400.45), public/private (45 CFR section 400.59), or State-administered (45 CFR section 400.66). In all three types, the administering agency may not treat the following
as income or resources available to the applicant: resources remaining in the applicant’s country of origin, income earned by the applicant’s sponsor, or cash assistance the applicant may have received under reception and placement programs administered by the Departments of State or Justice (45 CFR sections 400.45(f)(2), 400.59(b) through (d), and 400.66(b) through (d)).

(d) They are not full-time students in institutions of higher education (45 CFR section 400.53).

(e) If they are mandatory work registrants, they have not, without good cause, failed or refused to meet the work requirements of 45 CFR section 400.75(a), or voluntarily quit a job or refused an offer of appropriate employment within 30 consecutive calendar days immediately prior to the application for assistance. The payment of RCA assistance to an otherwise eligible client must be terminated if the client fails to meet this requirement (45 CFR sections 400.77 and 400.82(a)).

(2) Benefit Level – Benefit payments in a State-administered AFDC-type RCA program must be based on the AFDC rate (45 CFR section 400.45(f)(2)). Benefit payments in a State-administered TANF-type RCA program must be based on the TANF rate (45 CFR section 400.66(a)). Benefit payments in a public/private RCA program may neither exceed the rate described in 45 CFR section 400.60(a), nor be less than the State’s TANF payment rate (45 CFR section 400.60(b)).

c. Refugee Medical Assistance

(1) Eligibility Criteria

Eligibility for RMA is limited to refugees who meet one of the following sets of conditions:

(a) They are not eligible for Medicaid or CHIP but currently receive RCA (45 CFR section 400.100(d)); or

(b) They meet all of the following criteria:

(i) They have met the same time eligibility requirement as for RCA (see paragraph E.1.b.(1)(a), above).

(ii) They are determined ineligible for Medicaid or CHIP (45 CFR section 400.100(a)(1)).
(iii) They meet one of the following financial eligibility requirements:

(A) In a State with a Medicaid medically needy program, they meet the State’s Medicaid medically needy financial eligibility standards or a financial eligibility standard established at 200 percent of the national poverty level (45 CFR section 400.101(a)).

(B) In a State without a Medicaid medically needy program, they meet the State’s AFDC payment standards and methodologies in effect as of July 16, 1996, or a financial eligibility standard established at 200 percent of the national poverty level (45 CFR section 400.101(b)).

(C) They did not meet either of these standards, but spent their resources down to the applicable standard using an appropriate method for deducting incurred medical expenses. States must allow applicants for RMA to do this (45 CFR section 400.103).

(c) They are not full-time students in institutions of higher education, unless the State has approved their enrollment as part of the refugee’s employability plan under 45 CFR section 400.79 or a plan for an unaccompanied minor in accordance with 45 section CFR 400.100(a).

(2) Earnings from employment do not affect refugees’ eligibility for RMA. They remain eligible for RMA through the remainder of the time eligibility period after receiving earnings from employment. Refugees who become ineligible for Medicaid due to employment earnings and have resided in the U.S. less than the time eligibility period will become eligible for RMA for the remainder of the time eligibility period (45 CFR section 400.104) without an additional eligibility determination.

States may not require that a refugee actually receive or apply for RCA as a condition of eligibility for RMA (45 CFR section 400.100(d)).
(3) **Benefit Level** – In providing medical assistance services to eligible refugees, a State must provide at least the same services in the same manner and to the same extent as under the State’s Medicaid program (45 CFR section 400.105). A State may provide additional services beyond the scope of the State’s Medicaid program to eligible refugees if the State provides these services through public facilities to its indigent residents (45 CFR section 400.106).

d. **Unaccompanied Refugee Minor Assistance**

(1) A person must meet the definition of an unaccompanied minor (45 CFR section 400.111).

(2) A URM remains eligible for assistance until he/she (a) is reunited with a parent; (b) is united with a non-parental adult to whom legal custody or guardianship has been granted; or (c) has reached the age of 18, or older if the State’s Title IV-B plan so prescribes (45 CFR section 400.116).

e. **Refugee Social Services**

(1) In providing social services, the State must serve refugees in the following order of priority listed under 45 CFR section 400.147:

(a) All refugees who have resided in the U.S. less than a year and who apply for services;

(b) Refugees receiving cash assistance;

(c) Unemployed refugees who are not receiving cash assistance; and

(d) Employed refugees in need of services to retain employment.

(2) A State may limit eligibility for services to refugees who are 16 or older who are not full-time students in secondary school, except that such a student may be provided services in order to obtain part-time or temporary (summer) employment while a student or permanent, full-time employment upon completion of schooling (45 CFR section 400.152 (a)).

(3) Except for citizenship and naturalization services and referral and interpreter services, a State may not provide refugee social services to refugees who have been in the U.S. for more than 60 months (45 CFR section 400.152(b)).
2. **Eligibility for Group of Individuals or Area of Service Delivery** – Not Applicable

3. **Eligibility for Subrecipients** – Not Applicable

H. **Period of Performance**

1. **CMA Funds**

   A State must obligate its CMA funds awarded for costs attributable to RCA, RMA, and administration during the Federal fiscal year (FFY) in which the grant was awarded. Funds awarded for URM assistance remain available for obligation in the FFY following the FFY in which the grant was awarded. However, all CMA funds, including funds awarded for URM services, must be expended by the end of the FFY following the FFY in which the grant was awarded (45 CFR section 400.210(a)).

2. **Refugee Social Services Funds**

   A State must obligate its Social Services funds within 1 year after the end of the FFY in which the grant was awarded, and must expend these funds within 2 years after the end of the FFY in which the grant was awarded (45 CFR 400.210(b)).

L. **Reporting**

1. **Financial Reporting**

   a. SF-270, *Request for Advance or Reimbursement* – Not Applicable

   b. SF-271 – *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable


2. **Performance Reporting**

   ORR-6, *Performance Report (OMB No. 0970-0036)* – A State is required to submit the ORR-6, Performance Report, on a trimester reporting basis. The report contains a narrative and statistical information on program performance for cash assistance, medical assistance, social services, medical screening, and the provision of services to unaccompanied minors.

   **Key Line Items** – The following line items contain critical information:

   a. Schedule B, I and II – *Refugee Cash and Refugee Medical Assistance*

   b. Schedule C – *Services Report: Employability Services*

3. **Special Reporting** – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.568  LOW-INCOME HOME ENERGY ASSISTANCE

I. PROGRAM OBJECTIVES

The Low-Income Home Energy Assistance Program (LIHEAP) is a block grant program in which States (including Territories and Indian tribes) design their own programs, within very broad Federal guidelines. There are four components of LIHEAP: (1) block grants, (2) energy emergency contingency funds, (3) leveraging incentive awards, and (4) the Residential Energy Assistance Challenge Program (REACH). The objectives of LIHEAP are to help low-income people meet the costs of home energy (defined as heating and cooling of residences), increase their energy self-sufficiency, and reduce their vulnerability resulting from energy needs. A primary purpose is meeting immediate home energy needs. The target population is low-income households, especially those with the lowest incomes and the highest home energy costs or needs in relation to income, taking into account family size. Additional targets are low-income households with members who are especially vulnerable, including the elderly, persons with disabilities, and young children.

II. PROGRAM PROCEDURES

LIHEAP Block Grants

The U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Community Services, administers LIHEAP at the Federal level. LIHEAP block grant funds are distributed by formula to the States, the District of Columbia, and the Territories. In addition, federally or State-recognized Indian tribes (including tribal consortia) have the option of requesting direct funding from ACF, rather than being served by the State in which they are located. Tribes that are directly funded by HHS statutorily receive a share of the funds that would otherwise be allotted to the States in which they are located, based on the number of income-eligible households in the tribal service area as a percentage of the income-eligible households in the State, or a larger amount agreed upon in a State/tribe agreement. Over half the States agree to give the tribes located within their State a larger amount than required by the statute.

Each grantee is required to submit a plan/application annually in order to receive block grant funding. The plan contains an application to describe how the grantee’s LIHEAP program will be administered, including a set of program integrity questions in which the grantee must describe the systems in place to detect and deter fraud, waste, and abuse in its LIHEAP program. Note: Prior to FY 2015, grantees submitted a plan and a separate Program Integrity Assessment Supplement. Starting in FY 2015, these documents have been merged.

State grantees are required to hold a public hearing each year on the proposed plan for the upcoming year. All grantees must allow for public participation in the development of their annual plans. A separate application is required for those LIHEAP grantees that wish to apply for a leveraging incentive award or a REACH grant.
Energy Emergency Contingency Funds

In addition to appropriations for the LIHEAP block grant program, funds may be awarded to meet the additional home energy assistance needs of LIHEAP grantees for a natural disaster or other emergency. Contingency funds that are awarded generally must be used under the normal statutory and regulatory requirements that apply to the LIHEAP block grants, unless special conditions are placed upon their use at the time of the award.

Leveraging Incentive Awards

Of the funds appropriated for LIHEAP each year, HHS is allowed to earmark a portion to reward those LIHEAP grantees that have acquired non-Federal resources to help low-income persons meet their home heating and cooling needs, as an incentive to augment the Federal dollars. This could involve the grantee or private organizations putting some of their own funds into LIHEAP or similar State or private programs, buying fuel at reduced or discount prices through bulk purchases or negotiated agreements, obtaining donations of weatherization materials or fuels, waiving utility fees, or any number of other activities with non-Federal resources. Awards in the current Federal fiscal year are based on leveraging activities carried out during the previous Federal fiscal year. Leveraging grants are subject to special terms and conditions, which are specified in the grant awards. In order to receive the leveraging grant, current LIHEAP grantees must submit a Leveraging Report detailing leveraged resources. Grantees must keep sufficient documentation, or have access to it, to support the calculations in the report.

Residential Energy Assistance Challenge Program

Of the funds appropriated for leveraging incentive awards each year, HHS may set aside a portion for the REACH program. The REACH program makes competitive grants to LIHEAP grantees to help LIHEAP-eligible households reduce their energy vulnerability. The purposes of REACH are to (1) minimize health and safety risks that result from high energy burdens on low-income households, (2) prevent homelessness as a result of inability to pay energy bills, (3) increase efficiency of energy usage by low-income families, and (4) target energy assistance to individuals who are most in need. REACH grants are awarded to all 50 States, the District of Columbia, and Puerto Rico. They must be administered through community-based organizations. REACH grants are subject to special terms and conditions, which are specified in the grant awards.

Source of Governing Requirements

LIHEAP is authorized under Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended (Pub. L. No. 97-35, as amended, also known as OBRA 1981), which is codified at 42 USC 8621-8629. Implementing regulations for this and other HHS block grant programs authorized by OBRA 1981 are published at 45 CFR part 96. Those regulations include general administrative requirements for the covered block grant programs in lieu of 45 CFR part 92 (the HHS implementation of the A-102 Common Rule)/45 CFR part 75 (the HHS implementation of 2 CFR part 200). According to 45 CFR section 75.101(d), except for section 75.202 and sections 75.351 through 75.353 of subpart D, the requirements in subpart C, subpart D, and subpart E do not apply to LIHEAP. Requirements specific to LIHEAP are in 45 CFR
sections 96.80 through 96.89. In addition, grantees are to administer their LIHEAP programs according to the plans that they have submitted to HHS.

Under the block grant philosophy, each grantee is responsible for designing and implementing its own LIHEAP program, within very broad Federal guidelines. Grantees must administer their LIHEAP programs according to their approved plan and any amendments and in conformance with their own implementing rules and policies. Grantees must establish appropriate systems and procedures to prevent, detect and correct waste, fraud and abuse, by clients, vendors, and administering agencies.

As discussed in Appendix I to the Supplement, “Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200,” grantees are to use the fiscal policies (including obligation and expenditure of funds) that apply to their own funds in administering LIHEAP. Procedures must be adequate to ensure the proper disbursal of and accounting for Federal funds paid to the grantee, including procedures for monitoring the assistance provided (42 USC 8624(b)(10); 45 CFR section 96.30).

Availability of Other Program Information

The ACF LIHEAP web page (http://www.acf.hhs.gov/programs/liheap) provides general information about this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

The following guidelines apply to LIHEAP block grants and leveraging incentive award funds, unless noted otherwise. Energy emergency contingency funds generally are subject to the LIHEAP block grant requirements, but the contingency grant award letter should be reviewed to see if different requirements apply. REACH grants are subject to special terms and conditions described in the award.

1. LIHEAP funds may be used to assist eligible households to meet the costs of home energy, i.e., heating or cooling their residences (42 USC 8621(a) and 8624(b)(1)).

2. LIHEAP funds may be used to intervene in energy-related crisis situations, as defined by the grantee (42 USC 8623(c) and 8624(b)(1)).

3. LIHEAP funds may be used to conduct outreach activities (42 USC 8624(b)(1)).

4. Leveraging incentive awards must be used to increase or maintain heating, cooling, energy crisis, and weatherization benefits for low-income persons (45 CFR section 96.87(j)).

5. Leveraging incentive award funds may not be used for planning, developing, or administering the LIHEAP program (45 CFR section 96.87(j)).

6. LIHEAP funds may be used to provide low-cost residential weatherization and other cost-effective energy-related home repair (42 USC 8624(b)(1)).

7. LIHEAP grantees may use some or all of the rules applicable to the Department of Energy’s Weatherization Assistance for Low-Income Persons program (CFDA 81.042) for their LIHEAP funds spent on weatherization (42 USC 8624(c)(1)(D)).

8. LIHEAP funds may be used to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors (42 USC 8624(b)(16)).

9. LIHEAP funds (other than leveraging incentive award funds) may be used to identify, develop, and demonstrate leveraging programs (45 CFR section 96.87(c)).

10. No LIHEAP funds may be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility (42 USC 8628).
B. Allowable Costs/Cost Principles

As discussed in Appendix I to the Supplement, “Federal Programs Excluded from the A-102 Common Rule/Portions of 2 CFR Part 200,” LIHEAP is exempt from the provisions of the OMB cost principles. State cost principles requirements apply to LIHEAP.

E. Eligibility

1. Eligibility for Individuals

Grantees may provide assistance to (a) households in which one or more individuals are receiving Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program (SNAP) benefits, or certain needs-tested veterans benefits; or (b) households with incomes which do not exceed the greater of 150 percent of the State’s established poverty level, or 60 percent of the State median income. Grantees may establish lower income eligibility criteria, but no household may be excluded solely on the basis of income if the household income is less than 110 percent of the State’s poverty level. Grantees may give priority to those households with the highest home energy costs or needs in relation to income (42 USC 8624(b)(2)).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

To the extent it is necessary to designate local administrative agencies, the grantee is to give special consideration to local public or private non-profit agencies (or their successor agencies) which were receiving energy assistance or weatherization funds under the Economic Opportunity Act of 1964 or other laws, provided that the grantee finds that they meet program and fiscal requirements set by the grantee (42 USC 8624(b)(6)).

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2. Level of Effort – Not Applicable

3. Earmarking

The following limitations apply to LIHEAP block grants and leveraging incentive award funds, as noted. Energy emergency contingency funds generally are subject to the requirements applicable to LIHEAP block grant funds, but the contingency grant award letter should be reviewed to see if different requirements were applied. REACH grants are subject to special terms and conditions described in the award.
a. **Planning and Administrative Costs**

(1) No more than 10 percent of a State’s LIHEAP funds for a Federal fiscal year may be used for planning and administrative costs, including both direct and indirect costs. This limitation applies, in the aggregate, to planning and administrative costs at both the State and subrecipient levels. This cap may not be exceeded by supplementing with other Federal funds. (42 USC 8624(b)(9)(A); 45 CFR section 96.88(a)).

(2) A tribal or territorial grantee may spend up to 20 percent of the first $20,000 and 10 percent of the amount above $20,000 for administration and planning (45 CFR section 96.88(b)).

(3) Although as indicated in III.A.5, leveraging incentive award funds may not be used for planning and administrative costs, they may be added to the base on which the maximum amount allowed for planning and administration is calculated according to the Federal fiscal year in which the leveraging funds are obligated (45 CFR section 96.87(j)).

b. **Weatherization**

(1) No more than 15 percent of the greater of the funds allotted or the funds available to the grantee for a Federal fiscal year may be used for low-cost residential weatherization or other energy-related home repairs. The Secretary may grant a waiver, and the grantee may then spend up to 25 percent for residential weatherization or energy-related home repairs (42 USC 8624(k)).

(2) Leveraging incentive award funds may be used for weatherization without regard to the weatherization maximum in the statute. However, they cannot be added to the base on which the weatherization maximum is calculated (45 CFR section 96.87(j)).

c. **Energy Need Reduction Services** – No more than five percent of the LIHEAP funds may be used to provide services that encourage and enable households to reduce their home energy needs and, thereby, the need for energy assistance. Such services may include needs assessments, counseling, and assistance with energy vendors (42 USC 8624(b)(16)).

d. **Identifying and Developing Leveraging Programs**

(1) The greater of 0.08 percent of a State’s LIHEAP funds (other than leveraging incentive award funds) or $35,000 may be spent to identify, develop, and demonstrate leveraging programs, without regard to the limit on planning and administering LIHEAP (42 USC 8626a(c)(2); 45 CFR section 96.87(c)(2)).
(2) Indian tribes/tribal organizations and Territories may spend up to the greater of two percent or $100 on such activities (45 CFR section 96.87(c)(1)).

H. Period of Performance

At least 90 percent of the LIHEAP block grant funds payable to the grantee must be obligated in the Federal fiscal year in which they are awarded. Up to 10 percent of the funds payable may be held available (or “carried over”) for obligation no later than the end of the following Federal fiscal year. Funds not obligated by the end of the following fiscal year must be returned to ACF. There are no limits on the time period for expenditure of funds (42 USC 8626).

Leveraging incentive award funds and REACH funds must be obligated in the Federal fiscal year in which they are awarded or the following Federal fiscal year, without regard to the carryover limit. However, they may not be added to the base on which the carryover limit is calculated (45 CFR sections 96.87(j)(1) and (k)). Funds not obligated within these time periods must be returned to ACF (45 CFR section 96.87(k)).

LIHEAP emergency contingency funds are generally subject to the same obligation and expenditure requirements applicable to the LIHEAP block grant funds, but the contingency award letter should be reviewed to see if different requirements were imposed.

L. Reporting

1. Financial Reporting

   a. SF-270, Request for Advance or Reimbursement – Not Applicable

   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable


2. Performance Reporting – Not Applicable

3. Special Reporting

   a. LIHEAP Carryover and Reallotment Report (OMB No. 0970-0106) – Grantees must submit this report no later than August 1 indicating the amount expected to be carried forward for obligation in the following fiscal year and the planned use of those funds. Funds in excess of the maximum carryover limit are subject to reallocation to other LIHEAP grantees in the following fiscal year, and must also be reported (42 USC 8626).
Key Line Items (not numbered):

(1) “Carryover amount”

(2) “Reallotment amount”

b. Annual Report on Households Assisted by LIHEAP (OMB No. 0970-0060)
As part of the application for block grant funds each year, a report is required for the preceding fiscal year of (1) the number and income levels of the households assisted for each component and any type of LIHEAP assistance (heating, cooling, crisis, and weatherization); and (2) the number of households served that contained young children, elderly, or persons with disabilities, or any vulnerable household for each component. Territories with annual allotments of less than $200,000 and Indian tribes are required to report only on the number of households served for each component (42 USC 8629; 45 CFR section 96.82).

Key Line Items - The following line items contain critical information:

(1) Section 1 – LIHEAP Assisted Households

(2) Section 2 – LIHEAP Applicant Households

IV. OTHER INFORMATION

As described in Part 4, Social Services Block Grant (SSBG) program (CFDA 93.667), III.A, “Activities Allowed or Unallowed,” a State may transfer up to 10 percent of its annual allotment under SSBG to this and six other block grant programs.

Amounts transferred into this program are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.569 COMMUNITY SERVICES BLOCK GRANT

I. PROGRAM OBJECTIVES

The objective of the Community Services Block Grant (CSBG) is to provide assistance to a network of community-based organizations for programs and services to ameliorate the causes and consequences of poverty and to revitalize low-income communities. CSBG can be used to fund programs and other activities that assist low-income individuals and families attain self-sufficiency; provide emergency assistance; support positive youth development; promote civic engagement; and improve the organization infrastructure for planning and coordination among multiple resources that address poverty conditions in the community.

II. PROGRAM PROCEDURES

Administration and Services

CSBG is administered at the Federal level by the Office of Community Services (OCS), Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). CSBG funds are awarded to States, Territories, and federally and State-recognized Indian tribes and tribal organizations. Funds are distributed in accordance with a pre-established formula after submission of an application to OCS and acceptance of that application as complete in accordance with statutory requirements. In turn, States subgrant the CSBG funds according to statewide formulae to designated community-based non-profit organizations (and, in special circumstances, public organizations) that plan, develop, implement, and evaluate local programs.

Source of Governing Requirements

CSBG was reauthorized under the Community Services Block Grant Act of 1998 (Pub. L. No. 105-285), and is codified at 42 USC 9901-9920. The implementing regulations for this and other block grant programs are published at 45 CFR part 96. Those regulations include both specific requirements and general administrative requirements for the covered block grant programs in lieu of 45 CFR part 92 (the HHS implementation of the A-102 Common Rule)/45 CFR part 75 (the HHS implementation of 2 CFR part 200). Requirements specific to CSBG are in 45 CFR sections 96.90 through 96.92. Separate regulations governing religious organizations as nongovernmental providers of service (Charitable Choice) are codified at 45 CFR part 1050.
III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. Activities Allowed

   a. Subgrantees may use CSBG funds for any programs, services, or other activities related to achieving the broad goals of CSBG, such as reducing poverty, revitalizing low-income communities, and assisting low-income individuals and families. Funds may be used to:

      (1) Promote economic self-sufficiency, employment, education and literacy, housing and civic participation;

      (2) Support community youth development programs;

      (3) Fill gaps in services through information dissemination, referrals, and case management;

      (4) Provide emergency assistance through grants and loans, and provision of supplies, services, and food stuffs;
(5) Secure more active involvement of the private sector, faith-based institutions, neighborhood-based organizations, and charitable groups; and

(6) Plan, coordinate, and develop linkages among public (Federal, State and local), private, and non-profit resources, including religious organizations, to improve their combined effectiveness in ameliorating poverty (42 USC 9901, 42 USC 9908(b), and 42 USC 9920(a); 45 CFR section 1050.3(a)(1)).

b. States may use retained funds to achieve CSBG goals through activities, including, but not limited to:

(1) Training and technical assistance;
(2) Statewide coordination and communication among eligible entities;
(3) Analysis to better target the distribution of funds to the areas of greatest need;
(4) Individual development accounts and other asset-building programs for low-income individuals;
(5) Coordinating State-operated programs and services targeted to low-income children and families;
(6) State charity tax credits;
(7) Supporting innovative programs and activities conducted by community-based organizations to address the goals of the program; and
(8) Administrative functions (42 USC 9901 and 9907(b)).

2. Activities Unallowed

a. Funds may not be used to purchase or improve land or to purchase, construct, or permanently improve buildings or facilities, other than low-cost residential weatherization or other energy-related home repairs (this limitation may be waived by ACF) (42 USC 9918(a)).

b. Funds may not be used to support any partisan or non-partisan political activity or to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election or any voter registration (42 USC 9918(b)).
c. No CSBG funding provided directly to a religious organization may be used for inherently religious activities, such as worship, religious instruction, or proselytization (42 USC 9920(c); 45 CFR section 1050.3(b)).

B. Allowable Costs/Cost Principles

As discussed in Appendix I to the Supplement, “Federal Programs Excluded from the A-102 Common Rule/Portions of 2 CFR Part 200,” CSBG is exempt from the provisions of OMB cost principles at the State level. As a block grant, State cost principles requirements apply to CSBG at the State level. However, States must apply OMB administrative requirements and cost principles to subgrantees receiving CSBG funds (42 USC 9916(a)(1)(B)).

E. Eligibility

1. Eligibility for Individuals

The official poverty guideline as revised annually by HHS shall be used to determine eligibility. The poverty guidelines are issued each year in the Federal Register and on the HHS website (http://aspe.hhs.gov/poverty/). A State may adopt a revised poverty guideline but it may not exceed 125 percent of the HHS-determined poverty guidelines (42 USC 9902(2)).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

3. Eligibility for Subrecipients

Subgrants may be made to the following entities based on receipt of a community plan (42 USC 9908(b)(11):

a. A private non-profit organization (including a migrant farm worker organization) with a pre-existing designation as an “eligible entity” prior to October 27, 1999, and with a governance mechanism meeting the tripartite governing board requirement specified in 42 USC 9910(a)).

b. A subdivision of a State government with a pre-existing designation as an “eligible entity” prior to October 27, 1999, with a governance mechanism meeting either the “tripartite” board requirements or otherwise ensuring decision-making and participation by low-income individuals in the development, planning, implementation, and evaluation of CSBG-funded programs (42 USC 9910(b)),

c. A private non-profit organization or subdivision of a State government newly designated by the State after October 27, 1999 as an “eligible entity” to provide services in an unserved area, in accordance with the criteria, requirements, and procedures specified by 42 USC 9909.
G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2. Level of Effort – Not Applicable

3. Earmarking
   a. States must use at least 90 percent of the allotted funds for subgrants to eligible entities (42 USC 9907(a)(1)). See III.H.2, “Period of Performance,” for period of availability of funds to subgrantees.
   b. State administrative expenses, including monitoring activities, may not exceed the greater of $55,000 or 5 percent of CSBG funds. Such expenditures must be made from the portion of funds remaining to a State after subgranting at least 90 percent of funds to eligible entities (42 USC 9907(b)(2)).

H. Period of Performance

1. Amounts unobligated by the State at the end of the fiscal year in which they were first allotted shall remain available for obligation during the succeeding fiscal year (45 CFR section 96.14(a)).

2. CSBG funds granted by the State to subgrantees are available to the subgrantee for obligation during the Federal fiscal year that the grant was made and in the following Federal fiscal year (42 USC 9907(a)(2)).

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable
   c. SF-425, Federal Financial Report – Applicable for financial status; Not Applicable for cash status

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable
M. **Subrecipient Monitoring**

States must conduct full on-site reviews of each eligible subgrantee once every 3 years to check conformity with performance goals, administrative standards, financial management rules, and other requirements. States must conduct an onsite review of each newly designated entity immediately after the completion of the first year in which such entity receives CSBG funding. Follow-up reviews, including prompt return visits to eligible entities and their programs, are required for entities that fail to meet the goals, standards, and requirements established by the State (42 USC 9914(a)).

If a State finds a need for corrective action, the State must (1) inform the subgrantee of the deficiency and require correction; (2) offer training and technical assistance and report to OCS on that assistance, or explain why providing such assistance was not appropriate; (3) receive an improvement plan from the subgrantee within 60 days; and (4) not later than 30 days after receiving the improvement plan either approve it or specify the reasons why it cannot be approved (42 USC 9915). If the subgrantee fails to remedy the deficiency, the State may initiate proceedings to terminate the subgrantees eligibility or reduce its funding (42 USC 9908(b)(8) and 42 USC 9915(a)(5)).

N. **Special Tests and Provisions**

**Subgrant Award and Administration**

**Compliance Requirements** – States must (1) use at least 90 percent of their allotted funds under this program for subgrants to eligible entities, (2) subgrant funds in a timely manner to allow subgrantees a sufficient opportunity to obligate the funds to accomplish program purposes, and (3) adhere to expense limits for administrative activities performed (42 USC 9907(a)(1), (a)(2), (a)(3), and (b)(2)) (see III.G.3, Matching, Level of Effort, Earmarking –Earmarking”). There is a concern that some States are (1) not allotting the funds to subgrantees early enough to allow a full period of performance by subgrantees without the possibility of recapture, resulting in unobligated balances of funds; and (2) inappropriately claiming administrative expenses for subgrant award and monitoring.

**Audit Objectives** – To determine if the State (1) complied with the requirement to subgrant 90 percent of its allotted funds in a timely manner, and (2) claimed appropriate administrative expenses.

a. Determine the State’s procedures, including any standards for administrative lead time, for issuance of subgrant awards.

b. Determine if the subgrants were made in a timely manner, consistent with CSBG requirements and the State’s own procedures.

c. Determine if the State tracks, by each individual subgrant, the issuance date, expenditure by the subgrantee, and the associated administrative costs.
d. Determine if the State is appropriately claiming administrative costs in relation to its award and administration of subgrants.

e. Select a sample of subgrantees and match State-maintained records of disbursement of funds with subgrantee records of receipt of funds from the State.

IV. OTHER INFORMATION

Transfers

As described in Part 4, Social Services Block Grant (SSBG) program (CFDA 93.667), III.A. “Activities Allowed or Unallowed,” a State may transfer up to 10 percent of its annual allotment under SSBG to CSBG and other specified block grant programs for support of health services, health promotion and disease prevention activities, low-income home energy assistance, or any combination of these activities. Amounts transferred into the CSBG are subject to the requirements of the CSBG when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

McKinney-Vento Homeless Assistance Programs

Since FY 2009, the appropriations acts providing funds for the McKinney-Vento Homeless Assistance programs has included language authorizing grantees under those programs to use other Federal funds as match unless prohibited by the statute of the other program. OCS has determined that the CSBG Act does not prohibit the use of CSBG funds as match for the McKinney-Vento Homeless Assistance programs. Any CSBG funds claimed as match for Homeless Assistance programs must be used for CSBG purposes and in accordance with the CSBG requirements.

Tribal CSBG Grantees under a Pub. L. No. 102-477 Demonstration Project (477)

Audits of Indian tribal governments with the CSBG program in their approved 477 Plan will follow Version 2 reporting and, therefore, must follow the guidance in the 477 Cluster found in the Department of the Interior’s section of Part 4 of this Supplement. See the “Note” at the beginning of the 477 Cluster for additional information.
I. PROGRAM OBJECTIVES

The Child Care and Development Fund (CCDF) provides funds to States, Territories, and Indian tribes (tribe) to increase the availability, affordability, and quality of child care services. Funds are used to subsidize child care for low-income families where the parents are working or attending training or educational programs, as well as for activities to promote overall child care quality for all children, regardless of subsidy receipt. The CCDF consolidates the Child Care and Development Block Grant (CCDBG) and funding formerly provided to States through the child care programs under Title IV-A of the Social Security Act.

II. PROGRAM PROCEDURES

The CCDF consists of three distinct funding sources: the Discretionary Fund (CFDA 93.575), the Mandatory Fund (CFDA 93.596), and the Matching Fund (CFDA 93.596). Additionally, under the Temporary Assistance for Needy Families (TANF) program (CFDA 93.558), a State may transfer TANF funds to CCDF and, if so, the funds transferred in are treated as Discretionary Funds (42 USC 604(d); 45 CFR section 98.54(a)).

Administration and Services

The Office of Child Care (OCC), Administration for Children and Families (ACF), Department of Health and Human Services (HHS), administers the CCDF. To receive funds, a State, Territory, or tribe must submit a plan containing specific information and assurances. The plan serves as the application for funding for States, Territories, and tribes, and is effective for a 3-year period (Note: previously, the plans were effective for a 2-year period). For States and Territories, the first 3-year plans cover the period FY 2016–2018. For tribes, the FY 2014–15 plans were extended for an additional year to cover FY 2016. For Tribes, the first 3-year plans will cover FY 2017–2019.

Following ACF approval of the plan, funds are awarded to the designated State, territorial or tribal entity (generally referred to as the Lead Agency) based on statutory/regulatory formulas. State awards are not adjusted by separate direct Federal funding of counterpart tribal programs within the State. As long as statutory and regulatory requirements are met (e.g., that the States and Territories offer parents certificates for the purchase of child care services), grantees have flexibility in designing programs and offering services. For example, CCDF funds may be used in collaborative efforts with Head Start (CFDA 93.600), including Early Head Start, programs to provide comprehensive child care and development services for children who are eligible for both programs. In fact, the coordination and collaboration between Head Start/Early Head Start and the CCDF is strongly encouraged by sections 640(g)(1)(D) and (E), 640(h), 641(d)(2)(H)(v), and 642(e)(3) of the Head Start Act in the provision of full working day, full calendar year comprehensive services. In order to implement such collaborative programs, which share, for
example, space, equipment or materials, grantees may layer several funding streams so that seamless services are provided.

See IV, “Other Information - Tribal CCDF grantees under a Pub. L. No. 102-477 Demonstration Project (477),” for guidance on whether this CCDF Cluster or the 477 Cluster is applicable for an audit of a CCDF Cluster program included in an Indian tribal government’s approved 477 Plan.

Tribes may operate the CCDF program under a consolidated Pub. L. No. 102-477 demonstration project. Pub. L. No. 102-477 refers to the Indian Employment, Training, and Related Services Demonstration Act of 1992, the purpose of which is to provide for the integration of employment, training, and related services to improve the effectiveness of those services. Under Pub. L. No. 102-477, funds received from a program must be used and spent in accordance with the applicable rules for that program, subject to any waivers granted by the Secretary of HHS. The auditing of these funds should be based on determining that the funds were spent in compliance with the applicable approved plan. Tribes participating under a Pub. L. No. 102-477 project submit alternative plans and reports to the Department of the Interior, which serves as the lead Federal agency for Pub. L. No. 102-477.

Source of Governing Requirements

The Discretionary Fund (CFDA 93.575) is authorized by the CCDBG Act of 1990, as amended (most recently by the CCDBG Act of 2014 (Pub. L. No. 113-186), discussed further below), and codified at 42 USC 9858 et seq. The Mandatory and Matching Funds (CFDA 93.596) are authorized under section 418 of Title IV-A of the Social Security Act as amended, and codified at 42 USC 618. The CCDF (i.e., CFDA 93.575 and 93.596) is subject to the regulations at 45 CFR parts 98 and 99.

The CCDBG Act of 2014 made a number of substantive changes to program requirements, including provisions related to eligibility of children, consumer education, and health and safety (including monitoring inspections and criminal background checks). For provisions that were effective upon enactment of the CCDBG Act of 2014, States and Territories were required to complete implementation based on a reasonable interpretation of the law by September 30, 2016 unless the State or Territory submitted and received approval for a temporary extension under a waiver (Note: a copy of any approval letter may be obtained from the Lead Agency). Some provisions have later effective dates specified in the law.

On September 30, 2016, HHS published a final rule to update the CCDF regulations at 45 CFR parts 98 and 99 based on the reauthorized Act. States and Territories have until the start of the next CCDF plan period (i.e., October 1, 2018) to comply with any provisions of the rule that go beyond the State’s/Territory’s reasonable interpretation of the Act.

The reauthorized Act did not address how most of its provisions apply to tribes, so this was clarified in the final rule. Under the rule, tribes are subject to a tiered set of requirements based on the size of their CCDF funding allocation. Tribes have until the start of the next tribal plan period (i.e., October 1, 2019) to comply with the new provisions (with the exception of the quality expenditure requirements that apply to all tribes beginning in FY 2017). Therefore, tribes do not have to implement the majority of the new requirements within the timeframe covered by
the 2017 Supplement. Pending compliance with the final rule, tribes must implement their CCDF programs in accordance with their approved CCDF plans.

Other than 2 CFR section 200.202 and sections 200.330 through 200.332, as implemented by 45 CFR sections 75.202 and 75.351 through 75.353, CCDF is not subject to the post Federal award or cost principles requirements in 2 CFR part 200, subparts D and E, respectively, or the associated HHS implementing regulations at 45 CFR part 75.

Availability of Other Program Information

OCC’s website (http://www.acf.hhs.gov/programs/occ/) provides general information on this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

<table>
<thead>
<tr>
<th>Compliance Requirements</th>
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<tr>
<td>A</td>
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<td>Y</td>
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A. Activities Allowed or Unallowed

1. Funds may be used for child care services in the form of certificates, grants, or contracts (42 USC 9858c(c)(2)(A)).
2. Funds may be used for activities that improve the quality or availability of child care services, consumer education, and parental choice (42 USC 9858e).

3. Funds may be used for activities that improve access to child care services, including the use of procedures to permit enrollment of homeless children (after an initial eligibility determination) while required documentation is obtained; training and technical assistance on identifying and serving homeless children and their families; and specific outreach to homeless families (42 USC 9858c(c)(3)(B)(i)).

4. Funds may be used for any other activity that the State deems appropriate to (a) promote parental choice; (b) provide comprehensive consumer education information to help parents and the public make informed choices about child care services and promote involvement by parents and family members in the development of their children in child care settings; (c) deliver high-quality, coordinated early childhood care and education services to maximize parents’ options and support parents trying to achieve independence from public assistance; (d) improve the overall quality of child care services and programs by implementing the health, safety, licensing, training and oversight standards established in the CCDBG Act and in State law and regulations; (e) improve child care and development of participating children; and (f) increase the number and percentage of low-income children in high-quality child care settings (42 USC 9857 and 9858c(c)(3)(B)).

5. No funds may be expended through any grant or contract for child care services for any sectarian purpose or activity, including sectarian worship or instruction (42 USC 9858k(a)).

6. With regard to services to students enrolled in grades 1 through 12, no funds may be used for services provided during the regular school day, for any services for which the students receive academic credit toward graduation, or for any instructional services that supplant or duplicate the academic program of any public or private school (42 USC 9858k(b)).

7. Except for tribes, no funds can be used for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility (42 USC 9858d(b)).

Tribes may use funds for the construction and major renovation of child care facilities with ACF approval (42 USC 9858m(c)(6); 45 CFR section 98.84).

“Construction” is defined as the erection of a facility that does not currently exist. “Major renovation” is considered permanent improvement and is defined as: (1) structural changes to the foundation, roof, floor, exterior or load-bearing walls of a facility, or the extension of a facility to increase its floor area; or (2) extensive alteration of a facility such as to significantly change its function and purpose, even if such renovation does not include any structural change.
(45 CFR section 98.2). Improvements or upgrades to a facility which are not specified under the definitions of construction or major renovation may be considered minor remodeling and are, therefore, not prohibited.

8. Except for sectarian organizations, funds may be used for the minor remodeling of child care facilities. For sectarian organizations, funds may be used for the renovation or repair of facilities only to the extent that it is necessary to bring the facility into compliance with the health and safety standards required by 42 USC 9858c(c)(2)(F) (42 USC 9858d(b)).

B. Allowable Costs/Cost Principles

As indicated in Appendix I to the Supplement, “Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200,” grantees (Lead Agencies) expend and account for CCDF funds in accordance with the laws and procedures they use for expending and accounting for their own funds (45 CFR section 98.67).

C. Cash Management

For the Matching Fund’s (CFDA 93.596) requirement, the drawdown of Federal cash should not exceed the federally funded portion of the State’s Matching Funds, taking into account the State matching requirements. For example, the total Matching Fund expenditures for a year—both State and Federal shares—for a fiscal year are $100. Of this $100, the State share of the Matching Fund is $40. For any period, the amount of Federal funds drawn down should not exceed 60 percent of the total expenditures for that period (31 CFR section 205.15(d)).


E. Eligibility

1. Eligibility for Individuals

Lead Agencies must have in place procedures for documenting and verifying eligibility in accordance with the following Federal requirements, as well as the specific eligibility requirements selected by each State/Territory/tribe in its approved Plan. A Lead Agency is the designated State, territorial or tribal entity to which the CCDF grant is awarded and that is accountable for administering the CCDF program.

a. Children must be under age 13 (or up to age 19, if incapable of self care or under court supervision), who reside with a family whose income does not exceed 85 percent of State/territorial/tribal median income for a family of the same size, and reside with a parent (or parents) who is working or attending a job-training or education program; or are in need of, or are receiving, protective services. Lead Agencies may choose to provide
services during periods of job search. Tribes may elect to use State or tribal median income (42 USC 9858n(4); 45 CFR sections 98.20(a) and 98.81(b)).

b. States and Territories must establish minimum 12-month eligibility periods before re-determining eligibility of CCDF families, and must consider a child to be eligible between eligibility re-determinations, regardless of (1) changes in income (as long as income does not exceed 85 percent of State median income); or (2) temporary changes in participation in work, training, or education activities. If a parent experiences a non-temporary loss of job, education, or training that affects eligibility, States have the option—but are not required—to terminate assistance prior to the next re-determination (i.e., prior to the end of the minimum 12-month eligibility period). However, if a State exercises this option, the State must provide (prior to terminating the subsidy) a period of continued assistance of at least 3 months to allow parents to engage in job search, resume work, or attend an education or training program as soon as possible. States and Territories must have implemented these eligibility provisions by September 30, 2016 unless the State or Territory requested and received approval for a temporary extension under a waiver (42 USC 9858c(2)(N)).

c. Because a child meeting eligibility requirements at the most recent eligibility determination or re-determination is considered eligible between re-determinations as described in paragraph b. above, any payment for such a child shall not be considered an error or improper payment due to a change in the family’s circumstances (45 CFR sections 98.21(a)(4) and 98.68(c)(2)). There is no Federal requirement for Lead Agencies to recoup CCDF overpayments, except in instances of fraud (45 CFR section 98.68(b)(2)).

d. States and Territories must have procedures to permit enrollment of homeless children (after an initial eligibility determination) while required documentation is obtained. States and Territories must also have a grace period that allows children experiencing homelessness and children in foster care to receive services while providing families a reasonable time to take any necessary action to comply with immunization and health and safety requirements.

e. Lead Agencies must establish a sliding fee scale, based on family size, income, and other appropriate factors, that provides for cost sharing by families that receive CCDF child care services (42 USC 9858c(3)(B)(i); 45 CFR section 98.45(k)). Lead Agencies may exempt families meeting criteria established by the Lead Agency from making copayments and must establish a payment rate schedule for child care providers caring for subsidized children (45 CFR section 98.45).
f. Lead Agencies must, to the extent practicable, implement enrollment and eligibility policies that support the fixed costs of providing child care services by delinking provider reimbursement rates from an eligible child’s occasional absences (42 USC 9858(c)(2)(S)). Lead Agencies are not required to limit authorized child care services strictly based on the work, training, or educational schedule of the parent(s) or the number of hours the parent(s) spend in work, training, or educational activities (45 CFR section 98.21(g)).

2. Eligibility for Group of Individuals or Area of Service Delivery

The award of CCDF funds to a tribe shall not affect the eligibility of any Indian child to receive CCDF services in the State or States in which the tribe is located (42 USC 9858m(c)(5); 45 CFR section 98.80(d)).

3. Eligibility for Subrecipients – Not Applicable

G. Matching, Level of Effort, Earmarking

The matching and MOE requirements apply only to the Matching Fund (CFDA 93.596). The State’s matching and MOE expenditures are closely related. For a State to receive the allotted share of the Matching Fund, the State must meet the MOE requirement and obligate the Mandatory Fund by year end (see III.H, “Period of Performance”). The matching and MOE amounts are reported on the CCDF Financial Report (ACF-696) (see III.L.1, “Reporting – Financial Reporting”).

1. Matching

a. A State is eligible for Federal matching funds (limit specified in 42 USC 618 and 45 CFR section 98.63) only for those allowable State expenditures that exceed the State’s MOE requirement, provided all of the Mandatory Funds (CFDA 93.596) allocated to the State are also obligated by the end of the fiscal year (45 CFR section 98.53).

b. State expenditures will be matched at the Federal Medical Assistance Percentage (FMAP) rate for the applicable fiscal year. This percentage varies by State and is available at http://www.aspe.hhs.gov/health/fmap.htm. To be eligible an activity must be allowable and be described in the approved State plan (45 CFR section 98.53).

c. Private or public donated funds may be counted as State expenditures for this purpose subject to the limitations in 45 CFR section 98.53.

d. No more than 30 percent of State matching claims may be for pre-kindergarten services (45 CFR section 98.53(h)(3)). The same expenditure may not be used for both MOE and matching purposes (45 CFR sections 98.53(d) and 98.53(h)).
2.1 **Level of Effort – Maintenance of Effort**

If a State requests Matching Funds (CFDA 93.596), State MOE (non-Federal) funds for child care activities must be expended in the year for which Matching Funds are claimed in an amount that is at least equal to the State’s share of expenditures for FY 1994 or 1995 (whichever is greater) under former Sections 402(g) and (i) of the Social Security Act (42 USC 618). Private or public donated funds may be counted as State expenditures for this purpose (45 CFR section 98.53).

No more than 20 percent of the MOE requirement may be met with State expenditures for pre-kindergarten services. The same expenditure may not be used for both MOE and matching purposes (45 CFR sections 98.53(d) and 98.53(h)).

2.2 **Level of Effort – Supplement Not Supplant – Not Applicable**

3. **Earmarking**

a. *Administrative Earmark* – A State/Territory may not spend on administrative costs more than five percent of total CCDF awards expended (i.e., the total of CFDAs 93.575 and 93.596) and any State expenditures for which Matching Funds (CFDA 93.596) are claimed (42 USC 9858c(c)(3)(C); 45 CFR section 98.52).

Tribes are allowed 15 percent of the amount expended under CFDAs 93.575 and 93.596 for administrative costs. Tribes with at least 50 children under age 13 are provided a base amount, which may be expended for any purpose consistent with the purpose and requirements of the CCDF. Tribes with fewer than 50 children who are members of a consortium receive a proportionate amount of the base amount in relation to the number of children under age 13 in relation to 50. The base amount is calculated. For FY 2016 and earlier fiscal years, the base amount was $20,000; the base amount was increased to $30,000 starting in FY 2017 (45 CFR sections 98.61(c), 98.83(h), and 98.83(i)).

The following activities are not considered administrative costs (45 CFR section 98.54(b)):

1. Eligibility determination and redetermination.
2. Preparation and participation in judicial hearings.
4. Recruitment, licensing, inspection, review and supervision of child care placements.
(5) Rate-setting.

(6) Resource and referral services.

(7) Training of child care staff.

(8) Establishment and maintenance of computerized child care information systems.

(9) Establishment and operation of a certificate program.

b. Quality Earmark – For FY 2015 and earlier fiscal years, States and Territories must spend on quality and availability activities, as provided in the State/territorial plan, not less than four percent of CCDF funds expended (i.e., the total of CFDAs 93.575 and 93.596 funds) and any State expenditures for which Matching Funds (CFDA 93.596) are claimed (45 CFR section 98.53). For FY 2016 and FY 2017, States and Territories must spend no less than seven percent on quality activities.

For FY 2016 and earlier fiscal years, only those tribes receiving grants over $500,000 must spend at least four percent of CCDF funds expended on quality activities as described in the tribal plan/application. In FY 2017, all tribes must spend at least four percent on quality activities. The base amount (discussed in paragraph 3.a above, Administrative Earmark) is not included in the amount against which the quality earmark is calculated (45 CFR sections 98.53(a), and 98.83(g)).

c. Targeted Funds – Congress may also specifically target funds for certain purposes. For example, in the FY 2016 HHS appropriation, Congress specified that amounts be used for activities that improve the quality of infant and toddler care.

H. Period of Performance

1. Discretionary Funds (CFDA 93.575) must be obligated by the end of the succeeding fiscal year after award, and expended by the end of the third fiscal year after award (42 USC 9858h(c); 45 CFR section 98.60).

2. Mandatory Funds (CFDA 93.596) for States must be obligated by the end of the fiscal year in which they are awarded if the State also requests Matching Funds (CFDA 93.596). If no Matching Funds are requested for the fiscal year, then the Mandatory Funds (CFDA 93.596) are available until liquidated (45 CFR section 98.60(d)).

3. Mandatory Funds (CFDA 93.596) for tribes must be obligated by the end of the succeeding fiscal year after award, and liquidated by the end of the third fiscal year after award (45 CFR section 98.60(e)).
4. Matching Funds (CFDA 93.596) must be obligated by the end of the fiscal year in which they are awarded, and liquidated by the end of the succeeding fiscal year after award (45 CFR section 98.60(d)).

For example, availability periods for FY 2016 funds awarded on any date in FY 2016 (October 1, 2015 through September 30, 2016):

<table>
<thead>
<tr>
<th>If Source of Obligation Is --</th>
<th>Obligation must Be Made by End of --</th>
<th>Obligation must Be Liquidated by End of --</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2016 Discretionary(^1,2) (CFDA 93.575)</td>
<td>FY 2017 (i.e., by 9/30/17)</td>
<td>FY 2018 (i.e., by 9/30/18)</td>
</tr>
<tr>
<td>FY 2016 Mandatory (State) (CFDA 93.596)</td>
<td>FY 2016 (i.e., by 9/30/16 but ONLY if Matching Funds are used)</td>
<td>No requirement for liquidation by a specific date</td>
</tr>
<tr>
<td>FY 2016 Mandatory (Tribes)(^2) (CFDA 93.596)</td>
<td>FY 2017 (i.e., by 9/30/17)</td>
<td>FY 2018 (i.e., by 9/30/18)</td>
</tr>
<tr>
<td>FY 2016 Matching (CFDA 93.596)</td>
<td>FY 2016 (i.e., by 9/30/16)</td>
<td>FY 2017 (i.e., by 9/30/17)</td>
</tr>
</tbody>
</table>

\(^1\) TANF funds (CFDA 93.558) transferred to the CCDF during a fiscal year are treated as Discretionary Funds of the year they are transferred for purposes of the period of availability (45 CFR section 98.54(a)(1)).

\(^2\) In lieu of the obligation and liquidation requirements cited above, tribes are required to liquidate CCDF funds used for construction or major renovation by the end of the second fiscal year following the fiscal year for which the grant is awarded (45 CFR section 98.84(e)).

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request from Reimbursement for Construction Programs – Not Applicable
   c. SF-425, Federal Financial Report – Not applicable for financial status; Applicable for cash status
   d. ACF-696, Child Care and Development Fund Financial Report (OMB No 0970-0163) is due quarterly from States and Territories. The ACF-696T, Child Care and Development Fund Financial Report for Tribes (OMB No. 0970-0195) is due annually from tribes except for tribes operating their CCDF program under a Pub. L. No.102-477 project. These reports are in lieu of the SF-425, Federal Financial Report (financial status). Each fiscal year’s expenditure report must be separate, therefore, multiple reports may be required if awards from more than one fiscal year are expended in a given quarter. Any funds transferred from TANF are
treated as Discretionary Funds for reporting on the ACF-696 (42 USC 604(d); 45 CFR section 98.54(a)).

2. **Performance Reporting** – Not Applicable

3. **Special Reporting** – Not Applicable

**M. Subrecipient Monitoring**

Lead Agencies that use other governmental or non-governmental subrecipients to administer the program must have written agreements in place outlining roles and responsibilities for meeting CCDF requirements. Lead Agencies shall oversee the expenditure of funds by sub-grantees, monitor programs and services, and ensure that sub-grantees that determine individual eligibility operate according to rules established by the program (45 CFR section 98.11).

**N. Special Tests and Provisions**

1. **Health and Safety Requirements**

   **Compliance Requirement** – As part of their CCDF plans, Lead Agencies must certify that procedures are in effect (e.g., monitoring and enforcement) to ensure that providers serving children who receive subsidies comply with all applicable health and safety requirements. This includes verifying and documenting that child care providers (unless they meet an exception, e.g., family members who are caregivers or individuals who object to immunization on certain grounds) serving children who receive subsidies meet requirements pertaining to health and safety. Prior to September 30, 2016, these requirements included prevention and control of infectious diseases, building and physical premises safety, and basic health and safety training for providers. Starting September 30, 2016 (unless the State received a temporary extension under a waiver), these requirements must address 10 specific areas—including first aid and CPR, safe sleeping practices, and administration of medication—and child care workers must be trained in these areas (42 USC 9858c(c)(2)(I); 45 CFR section 98.41).

   **Audit Objective** – Determine whether Lead Agencies ensure that child care providers serving children who receive subsidies meet applicable health and safety requirements.

   **Suggested Audit Procedures**

   a. Request that the Lead Agency identify State health and safety requirements for child care providers serving children who receive subsidies.

   b. Review the Lead Agency’s procedures, including any monitoring and enforcement procedures, for ensuring child care provider compliance with relevant health and safety requirements for those providers serving children who receive subsidies. This review should include, at a minimum, relevant information in the Lead Agency’s CCDF Plan.
c. Review a sample of Lead Agency payments to child care providers serving children who receive subsidies to verify that the Lead Agency followed its procedures for ensuring child care provider compliance with relevant State health and safety requirements, including training requirements.

2. Fraud Detection and Repayment

Compliance Requirement – Lead Agencies shall recover child care payments that are the result of fraud. These payments shall be recovered from the party responsible for committing the fraud (45 CFR section 98.60).

Audit Objective – Determine if the Lead Agency correctly identified and reported fraud and took steps to recover payment.

Suggested Audit Procedures

a. Review the Lead Agency’s procedures for identifying and recovering payments resulting from fraud, including the Lead Agency’s definition of fraudulent child care payments.

b. Request documentation of any fraudulent payments that have been identified by the Lead Agency. If fraudulent payments occurred, review a sample of those payments to verify that proper procedures were followed to authenticate that a payment was actually fraudulent and, as applicable, recover payment.

3. Accountability, Deposit, and Investment of Lump-Sum Drawdowns

Compliance Requirement - Effective October 1, 2011, once program funds are available, Tribal CCDF grantees participating in a Pub. L. No. 102-477 demonstration project may draw down the full amount of available Pub. L. No. 102-477 CCDF demonstration project funding. Lump-sum drawdown/payments must be retained in clearly identifiable cash or investment accounts which are readily accessible for payment of allowable expenditures in accordance with the approved Pub. L. No. 102-477 plan from which it was derived and in compliance with applicable requirements and, to the extent practical, earn interest. This does not require a Tribal CCDF grantee to open a separate account with a financial institution or an investment manager. All eligible funds deposited in an appropriate account and earmarked as Pub. L. No. 102-477 plan funds must be identified as such. Investments of lump-sum payments must comply with 25 USC 450e-3, “Investment of Advance Payments: Restrictions.” All interest earned must be used on allowable expenditures in accordance with the approved Pub. L. No. 102-477 plan from which it was derived and in compliance with applicable requirements. (Tri-Agency 477 Tribal Leader Letter 9-30-11, Tri-Agency Letter to Committee on Appropriations 10-7-11, and Frequently Asked Questions Regarding P.L. 102-477 (Questions 2 through 4) found at http://www.indianaffairs.gov/WhoWeAre/AS-IA/IEED/DWD/index.htm).
Tribal CCDF grantees receiving lump-sum drawdown/payments under a Pub. L. No. 102-477 demonstration project may invest these payments (some recipients refer to these advance payments as “deferred revenue”) before such funds are expended in accordance with the approved Pub. L. No. 102-477 plan, as long as such funds are (1) invested only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States or (2) deposited only in accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the advance funds, even in the event of a bank failure (25 USC 450e-3).

Audit Objective – Determine whether the Tribal CCDF grantee participating in a Pub. L. No. 102-477 demonstration project has properly accounted for, deposited, and invested lump-sum drawdowns/payments received under a Pub. L. No. 102-477 demonstration project and unexpended funds are identifiable and readily accessible for use to carry out the approved Pub. L. No. 102-477 plan.

Suggested Audit Procedures

a. Obtain and review the Tribal CCDF grantee policies and procedures and verify that those procedures comply with the requirements for lump-sum drawdowns/payments under a Pub. L. No. 102-477 demonstration project.

b. Test lump-sum drawdowns/payments and ascertain if they were properly accounted for, deposited, and invested throughout the audit period.

c. Review unused/unexpended CCDF lump-sum drawdowns/payments at year-end, and verify that they are properly invested/deposited and are identifiable and readily accessible for use to carry out the work outlined in the approved Pub. L. No. 102-477 Plan.

IV. OTHER INFORMATION

Under the TANF program (CFDA 93.558), a State may transfer TANF funds to CCDF and the funds transferred are treated as Discretionary Funds under CCDF (42 USC 604(d); 45 CFR section 98.54(a)). The amounts transferred into CCDF should be included in the audit universe and in total expenditures of CCDF when determining Type A programs. On the Schedule of Expenditures of Federal Awards (SEFA), the amount transferred in should be shown as CCDF expenditures when expended.

Tribal CCDF Grantees under a Pub. L. No. 102-477 Demonstration Project

Audits of Indian tribal governments with Tribal CCDF in their approved 477 Plan with reporting under Version 2 forms (75 FR 57970 (September 26, 2014)) must follow the guidance in the 477 Cluster found in the Department of the Interior’s section of Part 4 of this Supplement. See the “Note” at the beginning of the 477 Cluster for additional information.
Audits of Indian tribal governments with Tribal CCDF in their approved 477 Plan with reporting under Version 1 forms must follow the CCDF Cluster, including the following (per Tri-Agency 477 Tribal Leader Letter 9-30-11, Tri-Agency Letter to Committee on Appropriations 10-7-11, and Frequently Asked Questions Regarding P. L. 102-477 (Questions 5 through 9) found at http://www.indianaffairs.gov/WhoWeAre/AS-IA/IEED/DWD/index.htm):

1. the auditor should use the approved Pub. L. No. 102-477 plan in determining compliance requirements to be tested;

2. the auditor is permitted to audit the Pub. L. No. 102-477 demonstration project as a cluster of programs; and

3. the Tribal CCDF grantee may present demonstration project expenditures in its Schedule of Expenditures of Federal Awards (SEFA) in the same manner in which it had been presenting these expenditures in the period immediately prior to this Supplement or in the same manner in which it had been presenting these expenditures in the period immediately prior to the 2009 Compliance Supplement.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.600   HEAD START

I. PROGRAM OBJECTIVES

The objective of the Head Start program (including Early Head Start and Early Head Start-Child Care Partnerships) is to promote school readiness of low-income children (including American Indians, Alaska Natives, and migrant and seasonal farm workers) by enhancing children’s cognitive, social, and emotional development.

Comprehensive services are provided to enrolled children, pregnant women and their families, which include health, nutrition, social, and other services determined to be necessary by family needs assessments, in addition to education and cognitive development services.

II. PROGRAM PROCEDURES

Administration and Services

The Office of Head Start (OHS), Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS), administers the Head Start program.

Services for children ages 3–5 are funded by a Head Start award and services for pregnant women and children ages 0–3 are funded by an Early Head Start award. Early Head Start services may include those delivered through a partnership with existing child care centers or family child care homes under funding specially designated as an Early Head Start – Child Care Partnership award. Grantees may receive one-time awards, primarily for facilities activities, and during FY 2017, funds were offered on a non-competitive basis for programs eligible to increase the duration (length of service day and number of annual service days) of program services.

Comprehensive center-based or home-based services are provided to enrolled children, pregnant women, and their families. These include health, nutrition, social, and other services determined to be necessary by a family needs assessment, in addition to education and cognitive development services. Services are designed to be responsive to each child’s and family’s ethnic, cultural, and linguistic heritage.

OHS makes Head Start awards to local public, nonprofit agencies, and for-profit entities known as Head Start Agencies (HSA). The awards are made for a period not-to-exceed 5 years. A HSA may enter into an agreement with a delegate agency (subrecipient) for delivery of Head Start services; however, the HSA (pass-through entity) retains legal and fiscal responsibility for the grant. Delegate agencies may be public, non-profit, or for-profit organizations. HSAs must establish and implement procedures for the ongoing monitoring of each delegate agency (42 USC 9836a(d) and 45 CFR sections 1303.30 and 32).
Program Design and Management – Upon receiving designation as a HSA, the entity must establish and maintain a formal structure for program governance, oversight of quality services for children and families, and decision-making related to program design and implementation. Such a structure must include (1) a governing body, with legal and fiscal responsibility for the Head Start award; and (2) a policy council responsible for aspects of program design and operation and long-and short-term planning and goals and objectives. A majority of the members of the policy council must be parents of children who are currently enrolled in the Head Start program. The policy council may also include members at large of the community served by the HSA. Policy committees at the delegate agency level perform the functions of a policy council and have the same composition requirements.

Designation Renewal System – In 2011, OHS implemented regulations for a designation renewal system to determine whether HSAs deliver high-quality and comprehensive services to meet the educational, health, nutritional, and social needs of the children and families they serve; meet the program and financial requirements and standards described in 42 USC 9840A(a)(1); and qualify to be designated for funding for 5 years without competing for such funding as required under 42 USC 9836 and 42 USC 9840A(b)(12) and (d).

Source of Governing Requirements


Availability of Other Program Information

The Early Childhood Learning and Knowledge Center (http://eclkc.ohs.acf.hhs.gov/hslc) is the OHS website that provides information about this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.
## Compliance Requirements

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### A. Activities Allowed or Unallowed

1. Funds may be used for the following program services consistent with HSPPS:

   a. Providing for the direct participation of parents of children in the development, conduct, and program direction at the local community level (42 USC 9833 and 42 USC 9837(b)(1));

   b. Training and technical assistance activities which may include the establishment of local or regional agreements with community experts, institutions of higher education, or private consultants, to make program improvements (42 USC 9835(a)(2)(C));

   c. Improving the compensation (including benefits) of educational personnel, family service workers, and child counselors to—

      1. ensure that compensation is adequate to attract and retain qualified staff;

      2. improve staff qualifications and assist with the implementation of career development programs for staff that support ongoing improvement of their skills and expertise; and

      3. provide educational and professional development to enable teachers to meet professional standards, including providing assistance to complete post-secondary course work, improve the qualifications and skills of educational personnel to become certified and licensed as bilingual education teachers, or as teachers of English as a second language, and improve the qualifications and skills of educational personnel to teach and
provide services to children with disabilities (42 USC 9835(a)(5)(A) and 42 USC 9835(j));

d. Supporting staff training, child counseling, and other services necessary to address the challenges of children from immigrant, refugee, and asylee families, homeless children, children in foster care, limited English proficient children, children of migrant or seasonal farmworker families, children from families in crisis, children referred to Head Start programs by child welfare agencies, and children who are exposed to chronic violence or substance abuse (42 USC 9835(a)(5)(B)(i));

e. Ensuring the physical environment is conducive to providing effective program services to children and families and are accessible to children and others with disabilities (42 USC 9835(a)(5)(B)(ii));

f. Employing additional qualified classroom staff to reduce the child-to-teacher ratio in the classroom and additional qualified family service workers to reduce the family-to-staff ratio for those workers (42 USC 9835(a)(5)(B)(iii));

g. Ensuring that programs have qualified staff that promote the language skills and literacy growth of children and that provide children with a variety of skills that have been identified, through scientifically based reading research, as predictive of later reading achievement. (42 USC 9835(a)(5)(B)(iv));

h. Increasing hours of program operation, including the conversion of part-day programs to full-working day programs and increasing the number of weeks of operation in a calendar year (42 USC 9835(a)(5)(B)(v));

i. Improving community-wide strategic planning and needs assessments and collaboration efforts, including outreach (42 USC 9835(a)(5)(B)(vi));

j. Transporting children safely except that not more than 10 percent of designated quality improvement funds may be used for transportation costs (42 USC 9835(a)(5)(B)(vii) and 45 CFR part 1310);

k. Establishing and implementing procedures to evaluate the performance of delegate agencies and ensure corrective action for deficiencies identified through such evaluations (42 USC 9836(a)(d));

l. Correcting areas of noncompliance or deficiencies and developing quality improvement plans (42 USC 9836a(e));

m. Carrying out activities related to operation of the governing body. This includes activities related to administering and overseeing the Head Start grant; developing or implementing practices that ensure, active,
independent, and informed governance of the HSA; and ensuring the necessary membership on the governing body (42 USC 9837(c)(1));

n. With the consultation and participation of policy councils, and as appropriate, policy committees and community members, the conduct of an annual self-assessment of the HSA’s effectiveness and progress in meeting program goals and objectives as well as in implementing and complying with HSPPS (42 USC 9836a(g));

o. Offering directly, or through referral to local entities, family literacy services, parenting skills training, substance abuse counseling, including information on the effect of drug exposure on infants and fetal alcohol syndrome (42 USC 9837(b)(4) and 42 USC 9837(b)(5));

p. Provision of family needs assessments that include consultation with parents (including foster parents, grandparents, and kinship caregivers) (42 USC 9837(b)(7));

q. Outreach and information to parents of limited English proficient children in an understandable and uniform format (42 USC 9837(b)(11));

r. Collaboration and coordination with public and private entities to improve the availability and quality of services to Head Start children and families, including outreach to the schools in which children participating in Head Start programs will enroll (42 USC 9837(c) and 42 USC 9837A(a));

s. Implementation of a research-based early childhood curriculum (42 USC 9837(f)(3)); and

t. In the case of an Early Head Start program or program component, provision, either directly or through referral, of early continuous, intensive, and comprehensive child development and family support services that enhance the physical, social, emotional, and intellectual development of children under the age of 3 (42 USC 9840A(b)).

2. Funds may be used for development and administrative costs, subject to the limitation in III.G.3, “Matching, Level of Effort, Earmarking – Earmarking.” The term “development and administrative costs” means costs incurred in accordance with an approved Head Start budget that do not directly relate to the provision of program component services, as described under paragraph 1, above (42 USC 9839(b) and 45 CFR section 1301.32 (a)).

3. With ACF prior written approval, HSAs may use funds for capital expenditures (including paying the cost of amortizing the principal, and paying interest on, loans), such as construction of new facilities, purchase of new or existing facilities, major renovations of existing facilities, and purchase of vehicles used for programs conducted at the Head Start facilities (42 USC 9839(f) and (g)).
4. Funds may not be used by HSAs to engage in any partisan or nonpartisan political activity associated with a candidate, or contending faction or group, in an election for public or party office or any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election (42 USC 9851(b)(1)). These prohibitions do not apply to the use of Head Start facilities during hours of operation for any nonpartisan organization to increase the number of eligible citizens who register to vote in elections for Federal office (42 USC 9851(b)(2)).

5. HSAs and delegate agencies must use funds from USDA’s Child and Adult Care Food Program (CFDA 10.558) as the primary source of payment for children’s nutritional services (meals and snacks). Head Start funds may be used only to cover those allowable costs not covered by USDA (45 CFR section 1302.44(b)).

6. Funds may be used for professional medical and oral health services when no other funding source is available. When funds are used for such services, HSAs and delegate agencies must have written documentation of their efforts to access other available sources of funding (45 CFR section 1302.42(e)(2)).

B. Allowable Costs/Cost Principles

Indirect costs attributable to common or joint use of facilities or services by Head Start programs and other programs must be fairly allocated among the various programs that utilize such services (42 USC 9839(c)).

E. Eligibility

1. Eligibility for Individuals – Not Applicable

4. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

5. Eligibility for Subrecipients

A HSA must not make a subaward to a delegate agency unless there is a written agreement and OHS approves the agreement before the HSA makes the subaward to the delegate agency (45 CFR section 1303.31).

G. Matching, Level of Effort, Earmarking

1. Matching

Grantees are required to contribute at least 20 percent of the costs of the program through cash or in-kind contributions, unless a lesser amount has been approved by OHS, referred to as a waiver of non-Federal share (42 USC 9835(b)).

2. Level of Effort – Not Applicable
3. **Earmarking**

   a. *Administrative earmark*. The costs of developing and administering a Head Start program shall not exceed 15 percent of the annual total program costs, including the required non-Federal contribution to such costs (i.e., matching/non-Federal share), unless a written waiver has been granted by OHS. Development and administrative costs include, but are not limited to, the cost of organization-wide planning, coordination and general-purpose direction, accounting and auditing, purchasing and personnel functions, and the cost of operating and maintaining space for these purposes (42 USC 9839(b)(2); 45 CFR section 1301.32).

   b. *Targeted earmark*. A program must ensure that at least 10 percent of its total funded enrollment is filled by children eligible for service under the Individuals with Disabilities Education Act, unless a waiver has been approved in writing by OHS (42 USC 9835(d) and 45 CFR section 1302.14(b)).

L. **Reporting**

1. **Financial Reporting**

   a. SF-270, *Request for Advance or Reimbursement* – Not Applicable

   b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable


2. **Performance Reporting** – Not Applicable

3. **Special Reporting**

   SF-429 – *Real Property Status Report* and SF-429-A *General Reporting* (OMB No. 4040-0016) - These forms are filed annually based upon the end of the budget period. A separate SF-429-A must be completed for each parcel of real property reported and accompany the annual SF-429.

   **Key Line Items** – The following line items contain critical information:

   SF-429

   1. Federal Agency and Organizational Element to Which Report is Submitted

   2. Federal Grant(s) or Other Identifying Number(s) Assigned by Federal Agency(ies)
3. Recipient Organization Name

4b. EIN

SF-429-A

13. Period and type of Federal interest

14a. Description of Real Property

14b. Address of Real Property

14f. Real Property Cost

Any non-Federal match associated with facilities activities becomes part of the Federal share of the facility (45 CFR section 1303.44(c) and 45 CFR section 1305.2 definition of Federal interest).

14g. Has a deed, lien, covenant, or other related documentation been recorded to establish Federal interest in this real property?

14h. Has federally required insurance coverage been secured for this real property?

15. Has a significant change occurred with the real property, or is there an anticipated change expected during the next reporting period?

Note: If the response to the question is “Yes,” but only in anticipation of an expected change, the auditor is not expected to review this line item.

16. Real Property Disposition Status

M. Subrecipient Monitoring

HSAs must establish and implement procedures for the ongoing monitoring of their own Head Start and Early Head Start operations, as well as those of their delegate agencies, to ensure that these operations effectively implement Federal regulations, including procedures for evaluating delegate agencies and procedures for defunding them. Grantees must inform delegate agency governing bodies of any identified deficiencies in delegate agency operations identified in the monitoring review and assist them in developing plans, including timetables, for addressing identified problems (42 USC 9836a(d) and 45 CFR sections 1304.51(i)(2) and (3)).
N. Special Tests and Provisions

1. Protection of Federal Interest in Real Property and Facilities

Compliance Requirements

Head Start uses specific terms related to real property and facilities, which are defined at 45 CFR section 1305.2, including construction, facility, Federal interest, major renovation, and modular unit.

Facilities activities (purchase, construction, major renovation, subordination of a Federal interest, refinancing, and disposition) are initiated through the submission of Form SF-429 (cover sheet) and applicable Attachments B (Request to Acquire, Improve or Furnish) or C (Disposition or Encumbrance Request).

With written prior approval from ACF, a HSA may use Head Start funds to purchase, construct, or renovate (major) a facility, including using Head Start funds to pay ongoing purchase costs which include principal and interest on approved loans (45 CFR sections 1303.40 through 1303.44).

A HSA that uses Head Start funds to purchase real property or purchase, construct, or renovate (major) a facility appurtenant to real property (either owned or leased) must record a Notice of Federal Interest (also referred to as “reversionary interest”) (45 CFR sections 1303.46). The Notice of Federal Interest must include the required language content from 45 CFR section 1303.47(a) and be properly recorded in the official real property records for the jurisdiction where the facility is or will be located. A similar Notice of Federal Interest is required for leased facilities on land the HSA does not own (45 CFR section 1303.47(b)).

A HSA that uses Head Start funds to purchase or renovate (major) a modular unit must post a Notice of Federal Interest which includes the required language content in clearly visible locations on the exterior and the interior of the modular unit (45 CFR sections 1303.46(b)(4) and 47(c)).

A HSA cannot mortgage, use as collateral for a credit line or for other loan obligations, or sell or transfer to another party, a facility, real property, or a modular unit it has purchased, constructed, or renovated (major) with Head Start funds, without the prior written approval of ACF (45 CFR sections 1303.48 and 1303.51). A HSA must include specific language in any mortgage agreement or other security instrument that encumbers real property or a modular unit constructed or purchased with Head Start fund to ensure protection of ACF interests (45 CFR section 1303.49).

A HSA must have written approval from ACF before it can use real property, a facility, or a modular unit subject to Federal interest for a purpose other than that for which the HSA’s application was approved (45 CFR section 1303.48(b)).
Audit Objectives – Determine whether the Federal interest in real property and facilities is protected by the required Notice of Federal Interest and language content and the required prior written approvals were obtained from ACF.

Suggested Audit Procedures

a. Review the HSA’s general ledger accounts and the meeting minutes of its governing body and inquire of HSA management to identify if any of the following transactions, which are subject to the requirements for protecting the Federal interest, occurred during the audit period and, if so, that the required prior written approvals were obtained from ACF:

(1) Purchase of real property or purchase, construction, or major renovation of a facility, including a modular unit.

(2) Sale, lease, or encumbrance, such as a mortgage of real property or a facility (including modular units).

(3) Changes in approved use of facilities.

b. For purchase, construction, or major renovation, ascertain if the required Notice of Federal Interest was properly recorded in the locality’s official real property records and, for a modular unit, if this Notice was properly posted on the exterior and interior of the modular unit.

c. Review the Notices of Federal Interest and mortgage agreements and other security instruments executed during the audit period to ascertain if the documents include the required language content.

d. For sales, leases, and encumbrances and property used for a different purpose during the audit period, review the change in use to ascertain if the HSA obtained and complied with the requirement for ACF prior written approval.

2. Program Governance

Compliance Requirement

OHS has found a high correlation between HSAs that fail to comply with the program governance requirements and HSAs that have serious fiscal problems, which puts both the HSA and the Head Start programs they administer at risk.

The governing body has legal and fiscal responsibility for the HSA. The HSA governing body must include not less than one member with a background and expertise in fiscal management or accounting and not less than one licensed attorney familiar with issues that come before the governing body. If the types of persons described above are not available to serve as members of the governing body, the governing body must use a consultant, or another individual(s) with relevant expertise who must work directly with the governing body (42 USC 9837(c)(1)(B)).
A HSA must share accurate and regular financial information with the governing body and the policy council, including monthly financial statements, including credit card expenditures and the financial audit (42 USC 9837(d)(2)(A) and (E)).

The HSA must make available to the public a report published at least once in each fiscal year that discloses for the most recently concluded fiscal year (a) the total amount of public and private funds received and the amount from each source; (b) an explanation of budgetary expenditures and proposed budget for the fiscal year; and (c) the financial audit (42 USC 9839(a)(2)(A), (B), and (D)).

**Audit Objectives** – Determine whether the entity complied with the program governance requirements for (a) composition and qualifications of board members, and (b) providing financial information to the governing body and the public.

**Suggested Audit Procedures**

1. Identify the HSA’s governing body member who is an attorney and ascertain if that individual is licensed and has the required familiarity with issues that come before the governing body, or that the governing body used a consultant, or another individual with relevant expertise with the required qualifications who worked directly with the governing body.

2. Identify the HSA’s governing body member with fiscal management or accounting expertise and ascertain if that individual has the required background and expertise or that the governing body used a consultant, or another individual with the required qualifications who worked directly with the governing body.

3. Ascertain if the HSA shared the required monthly financial information with the governing body and the policy council.

4. Ascertain if the HSA made available to the public the required annual financial information.

**IV. OTHER INFORMATION**

Monitoring of HSAs and delegate agencies by OHS has identified the following areas of risk for deficiencies in internal controls and non-compliance.

**A. Activities Allowed or Unallowed**

1. Paying meal services costs which were eligible for funding by the USDA Child and Adult Care Food Program.

2. Paying for professional medical and oral health services when other sources of funding are available.
B. Allowable Costs/Cost Principles

1. Many Head Start grantees, such as community action agencies, have multiple funding streams and few revenue sources other than Federal awards. Federal programs only cover costs that are reasonable, allowable, and allocable for the accomplishment of the program objectives leaving the entity with limited options to cover unallowable costs.

2. The Head Start program is usually the largest funding source with a risk that shared costs are over-allocated or billed entirely to Head Start. For example, costs of central services, such as equipment, information and communications systems, and rent are charged entirely to Head Start when the costs should be allocated to all benefiting programs.

3. A large portion of Head Start costs are payroll and grantees may fail to maintain adequate documentation of shared staff time or charge those costs based on the application budget rather than reconciling to actual hours worked. For example:
   a. A teacher working for both Head Start and Child Care or a director for multiple programs erroneously charged entirely to Head Start.
   b. Charging the same costs as both direct costs and indirect costs (e.g., administrative staff).
   c. Double charging the same costs by including them in the indirect cost rate and direct charging them through allocation.
   d. Large dollar costs charged through journal entries to move costs between programs or between program years without adequate support.
   e. Rent charged at full fair market value instead of depreciation or use allowance under capital or related party leases.

4. Transactions with related parties resulting in excessive charges. For example, in the area of professional services (e.g., financial services, information technology, mental health professionals, and nutrition consultants), grantees awarding contracts to related parties without competitive procurement or paying rental rates in excess of fair market value.

C. Cash Management

Head Start funds drawn in advance of cash needs of the Head Start program in order to pay costs of other programs awaiting reimbursement or a general overspending of other programs.
G. Matching, Level of Effort, Earmarking

1. Economic conditions reducing donations.

2. Property and services claimed as matching not complying with cost principles, e.g., inadequate documentation of volunteer services or using Federal funds as match.

3. Misclassifying administrative costs as program costs to circumvent the 15 percent administrative earmark requirement.

H. Period of Performance

1. Failure to properly allocate payrolls that span fiscal years or shifting expenses from the end of one fiscal year into the next fiscal year to address budget shortages.

2. Bank account reconciliations showing unissued checks as outstanding at year end or large dollar checks issued at year end not clearing promptly.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.645  STEPHANIE TUBBS JONES CHILD WELFARE SERVICES PROGRAM

I. PROGRAM OBJECTIVES

The purpose of the Stephanie Tubbs Jones Child Welfare Services (CWS) program is to promote State and tribal flexibility in the development and expansion of a coordinated child and family services program that utilizes community-based agencies and ensures all children are raised in safe, loving families.

II. PROGRAM PROCEDURES

The Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Administration on Children, Youth and Families, Children’s Bureau, administers the CWS program on the Federal level. Funds are awarded directly to States and tribes. State agencies can have agreements and contracts with other public agencies and with private agencies for provision of appropriate services. Each State receives a base amount of $70,000. Additional funds are distributed in proportion to the State’s population of children under age 21 multiplied by the complement of the State’s average per capita income. The funds must go to, and be administered only by, the State child welfare agency, federally recognized tribes, tribal organizations, or tribal consortia (hereafter “tribe”).

To be eligible for funds, each State and tribe must submit a 5-year comprehensive plan, the Child and Family Services Plan (CFSP). This plan encompasses planning and service delivery for the full child welfare services spectrum. This includes (1) Child Welfare Services, services promoting safe and stable families under Title IV-B, subpart 2; (2) a child welfare staff development and training plan; (3) a diligent recruitment of foster and adoptive families plan that reflects the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed; (4) and child abuse and neglect prevention, foster care, adoption, and foster care independence services. The plan must include how the State or tribe intends to meet specific goals, provide services, and coordinate services. The Children’s Bureau has approval authority for the CFSP. An Annual Progress and Services Report (APSR) is required that identifies the specific accomplishments and progress made in the past fiscal year (FY) toward meeting each goal and objective in the 5-year comprehensive plan and any revisions in the statement of goals and objectives or to the training plan, if necessary, to reflect changed circumstances. The Associate Commissioner of the ACF Children’s Bureau has approval authority for the Title IV-B plans.

The Child and Family Services Improvement and Innovation Act (Pub. L. No. 112-34), which amended Part B of Title IV of the Social Security Act (the Act), revised requirements for States to collect and report data on monthly caseworker visits with children in foster care. States are required to report data on the percentage of visits made on a monthly basis by caseworkers to children in foster care; and on the percentage of visits that occurred in the residence of the child.
The law also established specific performance requirements as follows:

a. *For each of FFYs 2012-2014*: The total number of visits made by caseworkers on a monthly basis to children in foster care during a fiscal year must not be less than 90 percent of the total number of such visits that would occur if each child were visited once every month while in care.

b. *For FFY 2015 and each FFY thereafter*: The total number of visits made by caseworkers on a monthly basis to children in foster care during a fiscal year must not be less than 95 percent of the total number of such visits that would occur if each child were visited once every month while in care.

c. *For FFY 2012 and each FFY thereafter*: At least 50 percent of the total number of monthly visits made by caseworkers to children in foster care during a fiscal year must occur in the child’s residence.

States failing to meet any one of the above performance requirements in a FFY will be subject to a reduction in the rate of Federal Financial Participation (FFP) for Title IV-B, subpart 1 expenditures in the subsequent FFY in proportion to the amount that the State failed to reach the applicable requirement (section 424(f) of the Act). The full Federal allotment will remain available to the State, but the State must increase its match rate in order to access the full Federal allotment.

**Source of Governing Requirements**

The CWS program is authorized under Title IV-B, subpart 1 (sections 421 – 428) of the Social Security Act as amended, and is codified at 42 USC 620-628a. Implementing program regulations are published at 45 CFR parts 1355 and 1357.

**III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.
A. Activities Allowed or Unallowed

1. Funds may be used for the following purposes (42 USC 621):
   a. Protecting and promoting the welfare of all children;
   b. Preventing the abuse, neglect, or exploitation of children;
   c. Supporting at-risk families through services that allow children to remain with their families or return to their families in a timely manner;
   d. Promoting the safety, permanence, and well-being of children in foster care and adoptive families; and
   e. Providing training, professional development, and support to ensure a well-qualified workforce.

2. Funds may be used for administrative costs, subject to the limitation in III.G.3.b, “Matching, Level of Effort, Earmarking – Earmarking,” below. The term “administrative costs” means costs for the following but only to the extent incurred in administering the State plan for this program: procurement; payroll management; personnel functions (other than the portion of the salaries of supervisors attributable to time spent directly supervising the provision of services by caseworkers); management; maintenance and operation of space and property; data processing and computer services; accounting; budgeting; auditing; and travel expenses (except those related to the provision of services by caseworkers or oversight of the program) ((42 USC 622(b)(14) and (e) and 624(e)).

3. Funds may not be used for the purchase or construction of facilities (45 CFR section 1357.30(f)).
G. **Matching, Level of Effort, Earmarking**

1. **Matching**

Funds are federally reimbursed at 75 percent of allowable expenditures. The Title IV-B agency’s contribution may be in cash, donated funds, and non-public third party in-kind contributions (42 USC 623 and 45 CFR section 1357.30(e)(1)). The Federal Financial Participation rate may be reduced (and the State matching rate increased by a corresponding amount) based on a determination that the State failed to meet performance standards for caseworker visits with children in foster care in the preceding FFY (see II, “Program Procedures,” above). The Children’s Bureau notifies States of any adjustment to the matching requirements through correspondence to the State agency. (Tribes are not subject to the caseworker visit data requirements.)

2. **Level of Effort** – Not Applicable

3. **Earmarking**

a. No more than 10 percent of the expenditures of the State or tribe with respect to activities funded from amounts provided under Title IV-B, subpart 1 may be used for administrative costs (42 USC 622(b)(14) and (c) and 624(e)).

b. A State may not use Federal funds under Title IV-B, subpart 1 for child care, foster care maintenance or adoption assistance payments in excess of the amount of Title IV-B, subpart 1 funds it spent on these activities from such payments for FY 2005 (42 USC 624(c)). This limitation is not applicable to Tribes.

c. A State cannot use more than the amount it spent in FY 2005 using non-Federal funds on foster care maintenance payments as match for the Title IV-B, subpart 1, program (42 USC 624(d)). This limitation is not applicable to Tribes.

H. **Period of Performance**

Funds under Title IV-B, subpart 1, must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded (45 CFR section 1357.30(i)).

L. **Reporting**

1. **Financial Reporting**

a. SF-270, *Request for Advance or Reimbursement* – Not Applicable

b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

2. **Performance Reporting** – Not Applicable

3. **Special Reporting** – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.658  FOSTER CARE—TITLE IV-E

I.  PROGRAM OBJECTIVES

The objective of the Foster Care program is to help agencies authorized to administer Title IV-E programs to provide safe, appropriate, 24-hour, substitute care for children who are under the jurisdiction of the administering Title IV-E agency and need temporary placement and care outside their homes.

II.  PROGRAM PROCEDURES

Administration and Services

The Foster Care program is administered at the Federal level by the Children’s Bureau, Administration on Children, Youth and Families, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Funding is provided to the 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and federally recognized Indian tribes, Indian tribal organizations and tribal consortia with approved Title IV-E plans, based on a Title IV-E plan and amendments, as required by changes in statutes, rules, and regulations submitted to and approved by the ACF Children’s Bureau Associate Commissioner. This program is considered an open-ended entitlement program and allows the State or tribe to be funded at a specified percentage (Federal financial participation) for program costs for eligible children.

The Foster Care program provides Federal matching funds to Title IV-E agencies with approved Title IV-E plans for maintenance assistance payments to provide safe and stable out-of-home care to eligible children placed in qualifying foster care settings. The program also provides matching funds for child placement and other administrative or training costs associated with serving these children and others determined to be candidates for the Title IV-E Foster Care program. The designated State or tribal agency for this program, which is authorized under Title IV-E of the Social Security Act, as amended, also administers ACF funding provided for other Title IV-E programs, e.g., Adoption Assistance (CFDA 93.659); Guardianship Assistance (CFDA 93.090) at agency option and Independent Living Services (CFDA 93.674), as well as Child Welfare Services (CFDA 93.645) and Promoting Safe and Stable Families (CFDA 93.556) programs (Title IV-B of the Social Security Act, as amended) (CFDA 93.556 funds available to States and those tribes qualifying for at least a minimum grant of $10,000); and the Social Services Block Grant program (CFDA 93.667) (Title XX of the Social Security Act, as amended) (States only). The Title IV-E agency may either directly administer the Foster Care program or supervise its administration by local level agencies. Where the program is administered by a State, in accordance with the approved Title IV-E plan, it must be in effect in all political subdivisions of the State, and, if administered by them, program requirements must be mandatory upon them. Where the program is administered by a tribe, it must be in effect in all political subdivisions within the tribal service area(s) and for all populations to be served under the plan. If the program is administered by a political subdivision of a tribe, program requirements must be mandatory upon them (42 USC 671(a)(1-4) and 42 USC 679B(c)(1)(B)).
Source of Governing Requirements

The Foster Care program is authorized by Title IV-E of the Social Security Act, as amended (42 USC 670 et seq.). This includes those amendments made by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351) and the Preventing Sex Trafficking and Strengthening Families Act (Pub. L. No. 113-183). Implementing regulations are at 45 CFR parts 1355, 1356, and 1357.

States and tribes are required to adopt and adhere to their own statutes and regulations for program implementation, consistent with the requirements of Title IV-E and the approved Title IV-E plan.

The regulations at 45 CFR part 75 specifying uniform administrative requirements, cost principles, and audit requirements for HHS awards are applicable to the Foster Care program. However, in accordance with 45 CFR sections 75.101(e)(1)(iii) and 75.101(e)(2), except for 45 CFR section 75.202, the guidance in subpart C of 45 CFR part 75 does not apply.

Availability of Other Program Information

The Children’s Bureau manages a policy issuance system that provides further clarification of the law and guides States and tribes in implementing the Foster Care program. This information may be accessed at http://www.acf.hhs.gov/programs/cb/laws_policies/index.htm.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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Compliance Supplement 4-93.658-2
A. **Activities Allowed or Unallowed**

1. **Activities Allowed**

   a. Funds may be expended for foster care maintenance payments on behalf of eligible children, in accordance with the Title IV-E agency’s foster care maintenance payment rate schedule and in accordance with 45 CFR section 1356.21, to individuals serving as foster family homes, to child-care institutions, or to public or private child-placement or child-care agencies. Such payments may include the cost of (and the cost of providing, including certain associated administrative and operating costs of an institution) food, clothing, shelter, daily supervision, school supplies, personal incidentals, liability insurance with respect to a child, and reasonable travel to the child’s home for visitation, as well as reasonable travel for the child to remain in the same school he or she was attending prior to placement in foster care (42 USC 672(b)(1) and (2), (c)(2), and 675(4)).

   b. Funds may be expended for training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the agency administering the plan (42 USC 674(a)(3)(A)). All training activities and costs funded under Title IV-E shall be included in the Title IV-E agency’s training plan for Title IV-B (45 CFR section 1356.60(b)(2)).

   c. Funds may be expended for short-term training of (1) relative guardians; (2) State/tribe-licensed or State/tribe-approved child welfare agencies providing services to children receiving Title IV-E assistance; (3) child abuse and neglect court personnel; (4) agency, child or parent attorneys; (5) guardians ad litem; and (6) court appointed special advocates (42 USC 674(a)(3)(B), as amended by Section 203 of Pub. L. No. 111-351).

   d. Funds may be expended for short-term training, including associated travel and per diem, of current or prospective foster parents and staff of licensed or approved child-care institutions at the initiation of or during their period of care (45 CFR section 1356.60(b)(1)(ii)).

   e. Funds may be expended for costs directly related to the administration of the program that are necessary for the proper and efficient administration of the Title IV-E plan. The approved public assistance cost allocation plan (States) or approved cost allocation methodology (tribes) shall identify which costs are allocated and claimed under this program. Examples of allowable costs for the administration of the Foster Care program include those associated with eligibility determination and redetermination; referral to services; preparation for and participation in judicial determinations; hearings and appeals; rate setting; placement of the child;
development of the case plan; case reviews; case management and supervision; recruitment and licensing of foster homes and institutions; costs related to data collection and reporting; and a proportionate share of related agency overhead (45 CFR section 1356.60(c)).

f. Beginning in Federal fiscal year (FFY) 2015, funds may be expended for activities defined as sex trafficking administrative activities (see list of examples below). These activities are meant to combat sex trafficking on behalf of any child or youth in the placement, care, or supervision of the Title IV-E agency who is at-risk of becoming a sex trafficking victim or who is identified as a sex trafficking victim. Such children do not need to be Title IV-E eligible and include those who are not removed from home; those who have run away from foster care and are under age 18 or such higher age elected under Section 475(8) of the Social Security Act; and youth who are not in foster care who are receiving services under the Chafee Foster Care Independence Program (CFDA 93.674) and at the option of the agency, youth under age 26 who were or were never in foster care (42 USC 671(a)(9), USC 671(a)(34), and 671(a)(35)).

Examples of activities allowable as sex trafficking administration include:

1. Developing and implementing policies and procedures to identify, document in agency records, and determine appropriate services for victims of sex trafficking;

2. Conducting sex trafficking screenings and documenting victims of sex trafficking in agency files;

3. Determining appropriate services for individuals identified as such victims, including referrals to services;

4. Completing reports required for law enforcement and ACF of children or youth who the agency identifies as being a sex trafficking victim;

5. Developing and implementing protocols to locate and assess children missing from foster care, including screening the child to identify if the child is a possible sex trafficking victim.

Since the Title IV-E agency is not limited to performing the activities described above on behalf of individuals meeting Title IV-E eligibility requirements, application of a Title IV-E foster care participation rate is not needed in allocating these allowable administrative costs to the Title IV-E Foster Care program.

(42 USC 671(a)(9) and (a)(34), as amended by Pub. L. No. 113-183, and the Child Welfare Policy Manual section 8.1 Q/A#7)
g. To the extent that allowable activities constituting training and administrative costs are allocated to the program through application of a Title IV-E participation rate (sometimes called the eligibility, penetration, or discount rate), this rate must be calculated by dividing the number of Title IV-E foster care eligible children by the total number of children in foster care pursuant to the definition of foster care in 45 CFR section 1355.20. The numerator is comprised of the total number of children in foster care determined to meet all Title IV-E eligibility requirements. A Title IV-E agency may also include in the numerator otherwise eligible children placed with relatives pending foster family home approval or licensure (for the lesser of the average time it takes to license a foster home or 12 months) and children moving from a facility that is not licensed to one that is for up to one month pursuant to Section 472(i)(1) of the Social Security Act. The denominator is comprised of the total number of children who are in foster care, including those that are Title IV-E eligible and those that are not or have not yet been determined Title IV-E eligible. Any methodology for claiming administrative costs, including the calculation of the participation rate described above, must be a part of the State’s approved cost allocation plan or a tribe’s approved cost allocation methodology (42 USC 672(i) and 674(a)(3), 2 CFR part 225 or 45 CFR part 75, as applicable, in accordance with 45 CFR section 75.110, 45 CFR section 95.507(b)(4), 45 CFR section 1355.20, and Child Welfare Policy Manual section 8.1C Q/A#8).

h. With any required ACF approval, funds may be expended for costs related to design, implementation and operation of a statewide or tribal service area-wide data collection system (45 CFR sections 1356.60(d) and 95.611).

i. Funds may be expended for costs related to design, implementation and operation of a Statewide or tribal automated child welfare information system (S/TACWIS) that received any required ACF approval by July 31, 2016, or a comprehensive child welfare information system (CCWIS) which receives any required ACF approval on or after August 1, 2016. Funds for S/TACWIS costs are available only for expenditures made prior to or during the transition period of August 1, 2016 through July 31, 2018. Funds are available for CCWIS qualifying costs for expenditures made on or after August 1, 2016 (45 CFR sections 1355.52, 1355.56, 1355.57, 1356.60(e) and 95.611).

j. Under Section 1130 of the Social Security Act, Title IV-E agencies may be granted authority to operate a demonstration project as set forth in ACF- approved terms and conditions. Any such terms and conditions applicable to the program identify the specific provisions of the Social Security Act that are waived, the additional activities that are deemed as allowable, and the scope and duration (which may not exceed a maximum of 5 total years unless specifically approved for further continuation) of
the demonstration project. The demonstration project must remain cost neutral to the Federal government, as provided for in a methodology contained in the approved project terms and conditions involving either a matched comparison group or a capped allocation (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

Allowable activities for which funds may be expended under an approved demonstration project are as follows:

1. Costs incurred prior to project implementation for the development of the project that are included in an approved Developmental Cost Plan (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

2. Costs incurred at any point during the project lifespan for project evaluation in accordance with an approved Project Evaluation Plan (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

3. Costs for otherwise Title IV-E allowable program activities provided as part of the operation of a demonstration project (i.e. to the extent that geographic and Title IV-E funding category components are included in the scope of the approved project) on behalf of Title IV-E eligible children to the extent that the approved cost neutrality limit or payment schedule (if applicable) is not exceeded (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

4. Costs for approved specified project intervention activities performed as part of the operation of a demonstration project on behalf of designated children and families (including those approved activities cited as otherwise Title IV-E unallowable) to the extent that the approved cost neutrality limit or payment schedule (if applicable) is not exceeded (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

5. Costs for other activities performed throughout the jurisdiction of the Title IV-E agency deemed as allowable through specifically approved Title IV-E waiver provisions (including those approved activities cited as otherwise Title IV-E unallowable) to the extent that the approved cost neutrality limit or payment schedule (if applicable) is not exceeded (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

2. Activities Unallowed

a. Costs of social services provided to a child, the child’s family, or the child’s foster family which provide counseling or treatment to ameliorate or remedy personal problems, behaviors, or home conditions are unallowable (45 CFR section 1356.60(c)(3)).
b. Costs claimed as foster care maintenance payments that include medical, educational or other expenses not outlined in 42 USC 675(4)(A).

c. Costs of conducting investigations of allegations of sex trafficking or other forms of child abuse or neglect or for providing social services, such as counseling or treatment, to victims of sex trafficking or other children or youth (Child Welfare Policy Manual section 8.1 Q/A#7).

B. Allowable Costs/Cost Principles

Both States and tribes are subject to the requirements of OMB Circular A-87/2 CFR part 200, subpart E, as implemented by HHS at 45 CFR part 75. States also are subject to the cost allocation provisions and rules governing allowable costs of equipment of 45 CFR part 95 (45 CFR sections 1355.57, 95.503, and 95.705).

E. Eligibility

1. Eligibility for Individuals

Foster care benefits may be paid on behalf of a child only if all of the following requirements are met:

a. Foster care maintenance payments are allowable only if the foster child was removed from the home of a relative specified in Section 406(a) of the Social Security Act, as in effect on July 16, 1996, and placed in foster care by means of a judicial determination, as defined in 42 USC 672(a)(2), or pursuant to a voluntary placement agreement, as defined in 42 USC 672(f), (42 USC 672(a)(1) and (2) and 45 CFR section 1356.21).

(1) Judicial Determination

(a) Contrary to the welfare determination – A child’s removal from the home (unless removal is pursuant to a voluntary placement agreement) must be in accordance with a judicial determination to the effect that continuation in the home would be contrary to the child’s welfare, or that placement in foster care would be in the best interest of the child. The judicial determination must be explicitly stated in the court order and made on a case by case basis. The precise language “contrary to the welfare” does not have to be included in the removal court order, but the order must include language to the effect that remaining in the home will be contrary to the child’s welfare, safety, or best interest (45 CFR section 1356.21(c)).

(i) Prior to March 27, 2000 – For a child who entered foster care before March 27, 2000, the judicial determination of contrary to the welfare must be in
a court order that resulted from court proceedings that are initiated no later than 6 months from the date the child is removed from the home, consistent with Departmental Appeals Board (DAB) Decision Number 1508 (DAB 1508). The Departmental Appeals Board, through Decision Number 1508, ruled that a petition to the court stating the reason for the State agency’s request for the child’s removal from home, followed by a court order granting custody to the State agency is sufficient to meet the contrary to the welfare requirement (Federal Register. January 25, 2000, Vol. 65, Number 16, pages 4020 and 4088-89).

(ii) On or after March 27, 2000 – For a child who enters foster care on or after March 27, 2000, the judicial determination of contrary to the welfare must be in the first court ruling that sanctions the child’s removal from home (45 CFR section 1356.21(c)). Acceptable documentation is a court order containing a judicial determination regarding contrary to the welfare or a transcript of the court proceedings reflecting this determination (45 CFR section 1356.21(d)). For the first 12 months that a tribe’s Title IV-E plan is in effect, the tribe may use nunc pro tunc orders and affidavits to verify reasonable efforts and contrary to the welfare judicial determinations for Title IV-E foster care eligibility (42 USC 679c(c)(1)(C)(ii)(I), as added by Section 301, Pub. L. No. 110-351).

(b) Reasonable efforts to prevent removal determination – Within 60 days from the date of the removal from home pursuant to 45 CFR section 1356.21(k)(ii), there must be a judicial determination as to whether reasonable efforts were made or were not required to prevent the removal (e.g., child subjected to aggravated circumstances such as abandonment, torture, chronic abuse, sexual abuse, parent convicted of murder or voluntary manslaughter or aiding or abetting in such activities) (45 CFR sections 1356.21(b)(1) and (k)). The judicial determination must be explicitly documented, i.e., so stated in the court order and made on a case by case basis.

(i) Prior to March 27, 2000 – For a child who entered care foster care before March 27, 2000, the judicial determination that reasonable efforts were made to
prevent removal or that reasonable efforts were made to reunify the child and family satisfies the reasonable efforts requirement (Federal Register, January 25, 2000, Vol. 65, Number 16, pages 4020 and 4088).

(ii) **On or after March 27, 2000** – For a child who enters foster care on or after March 27, 2000, the judicial determination that reasonable efforts were made to prevent removal or were not required must be made no later than 60 days from the date of the child’s removal from the home (45 CFR section 1356.21(b)(1)). Acceptable documentation is a court order containing a judicial determination regarding reasonable efforts to prevent removal or a transcript of the court proceedings reflecting this determination (45 CFR section 1356.21(d)). For the first 12 months that a tribe’s Title IV-E plan is in effect, the tribe may use *nunc pro tunc* orders and affidavits to verify reasonable efforts and contrary to the welfare judicial determinations for Title IV-E foster care eligibility (42 USC 679c(c)(1)(C)(ii)(I)), as added by Section 301, Pub. L. No. 110-351).

(c) **Reasonable efforts to finalize a permanency plan** – A judicial determination regarding reasonable efforts to finalize the permanency plan must be made within 12 months of the date on which the child is considered to have entered foster care and at least once every 12 months thereafter while the child is in foster care. The judicial determination must be explicitly documented and made on a case by case basis. If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made within this timeframe, the child is ineligible at the end of the 12th month from the date the child was considered to have entered foster care or at the end of the month in which the subsequent judicial determination of reasonable efforts was due, and the child remains ineligible until such a judicial determination is made (45 CFR section 1356.21(b)(2)).

(i) **Prior to March 27, 2000** – For a child who entered foster care before March 27, 2000, the judicial determination of reasonable efforts to finalize the permanency plan must be made no later than March 27, 2001, because such child will have been in care for 12 months or longer (January 25, 2000, Federal...
On or after March 27, 2000 – For a child who enters foster care on or after March 27, 2000, the judicial determination of reasonable efforts to finalize the permanency plan must be made no later than 12 months from the date the child is considered to have entered foster care (45 CFR section 1356.21(b)(2)). Acceptable documentation is a court order containing a judicial determination regarding reasonable efforts to finalize a permanency plan or a transcript of the court proceedings reflecting this determination (45 CFR section 1356.21(d)). For the first 12 months that a tribe’s Title IV-E plan is in effect, the tribe may use nunc pro tunc orders and affidavits to verify reasonable efforts and contrary to the welfare judicial determinations for Title IV-E foster care eligibility (42 USC 679c(c)(1)(C)(ii)(I), as added by Section 301 Pub. L. No. 110-351).

(2) **Voluntary Placement**

(a) **Agreement** - A voluntary placement agreement must be entered into by a parent or legal guardian of the child who is a relative specified in Section 406(a) (as in effect on July 16, 1996) and from whose home the child was removed (42 USC 672(a)(2)(A)(i); 45 CFR section 1356.22(a)). A voluntary placement agreement entered into between a youth age 18 or older and the Title IV-E agency can meet the removal criteria in Section 472(a)(2)(A)(i) of the Social Security Act. In this situation, the youth age 18 or older is able to sign the agreement as his/her own guardian (Program Instruction ACYF-CB-PI-10-11 dated July 9, 2010, section B).

(b) **Best interests of the child determination** - If the removal was by a voluntary placement agreement, it must be followed within 180 days by a judicial determination to the effect that such placement is in the best interests of the child (42 USC 672(e); 45 CFR section 1356.22(b)).

b. The child’s placement and care are the responsibility of either the Title IV-E agency administering the approved Title IV-E plan or any other public agency under a valid agreement with the cognizant Title IV-E agency (42 USC 672(a)(2)).
c. A child must meet the eligibility requirements of the former Aid to Families with Dependent Children (AFDC) program (i.e., meet the State-established standard of need as of July 16, 1996, prior to enactment of the Personal Responsibility and Work Opportunity Reconciliation Act) (42 USC 672(a)). Tribes must use the Title IV-A State plan (as in effect as of July 16, 1996) of the State in which the child resided at the time of removal (42 USC 679c(c)(1)(C)(ii)(II)). Program eligibility is limited to an individual defined as a “child.” This classification ordinarily ceases at the child’s 18th birthday (42 USC 672(a)(3), and 42 USC 675(8)(A)). If, however, the State in which the child was living at removal had as a Title IV-A State plan option (as in effect as of July 16, 1996), a Title IV-E agency may provide foster care maintenance payments on behalf of youth who have attained age 18, but are under the age of 19, and who are full-time students expected to complete their secondary schooling or equivalent vocational or technical training before reaching age 19 (45 CFR section 233.90(b)(3)).

Beginning on October 1, 2010, a Title IV-E agency may also amend its Title IV-E plan to provide that an individual in foster care who is over age 18 (where an existing eligibility age extension provision for a full-time student expected to complete secondary schooling prior to attaining age 19 is not applicable) and has not attained 19, 20, or 21 years old (as the Title IV-E agency may elect) remains eligible as a child when the youth meets prescribed conditions for continued maintenance payments. For a youth age 18 or older who is entering or re-entering foster care after attaining age 18 consistent with the criteria above, AFDC eligibility is based on the youth without regard to the parents/legal guardians or others in the assistance unit in the home from which the youth was removed as a younger child (e.g., a child-only case). A youth over age 18 must also (as elected by the Title IV-E agency) be (1) completing secondary school (or equivalent), (2) enrolled in post-secondary or vocational school, (3) participating in a program or activity that promotes or removes barriers to employment, (4) employed 80 hours a month, or (5) incapable of any of these due to a documented medical condition (42 USC 675(8)(B) and Program Instruction ACYF-CB-PI-10-11 dated July 9, 2010, section B).

Effective on April 8, 2010, the requirement to conduct annual AFDC redeterminations for purposes of determining continuing Title IV-E eligibility has been eliminated to ease an administrative burden. The Title IV-E agency must (for periods beginning on or after April 8, 2010) establish AFDC eligibility only at the time the child is removed from home or a voluntary placement agreement is entered (42 USC 672(a)(3)(A) and section 8.4A, Question and Answer No. 24 of the Child Welfare Policy Manual).
d. The provider, whether a foster family home or a child-care institution must be fully licensed by the proper State or tribal foster care licensing authority responsible for licensing such homes or child care institutions. The term “child care institution” as defined in 45 CFR section 1355.20 includes a private child care institution, or a public child care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but does not include detention facilities, forestry camps, training schools, or facilities operated primarily for the purpose of detention of children who are determined to be delinquent (42 USC 671(a)(10) and 672(c)). Effective October 1, 2010, the existing statutory definition of a child care institution includes a supervised setting in which an individual who has attained 18 years of age is living independently, consistent with conditions the Secretary establishes in regulations (42 USC 672(c)(2)).

e. The foster family home provider must satisfactorily have met a criminal records check, including a fingerprint-based check, with respect to prospective foster and adoptive parents (42 USC 671(a)(20)(A)). This involves a determination that such individual(s) have not committed any prohibited felonies in accordance with 42 USC 671(a)(20)(A)(i) and (ii). The requirement for a fingerprint-based check took effect on October 1, 2006 unless prior to September 30, 2005 the State has elected to opt out of the criminal records check requirement or State legislation was required to implement the fingerprint-based check, in which case a delayed implementation is permitted until the first quarter of the State’s regular legislative session following the close of the first regular session beginning after October 1, 2006. The requirement applies to foster care maintenance payments for calendar quarters beginning on or after the State’s effective date for implementation (Pub. L. No. 109-248, Section 152(c)(1) and (3)). States that opted out of the criminal records check requirement at Section 471(a)(20) of the Social Security Act prior to September 30, 2005 had until October 1, 2008 to implement the fingerprint-based check requirement. Effective October 1, 2008, a State is no longer permitted to opt out of the fingerprint-based check requirement. The opt-out provision does not impact tribes since they only became eligible to administer a Title IV-E plan on October 1, 2009.

The statutory provisions apply to all prospective foster parents who are newly licensed or approved after the Title IV-E agency’s authorized date for implementation of the fingerprint-based background check provisions. Title IV-E agencies may also require that certain other adult individuals living in the home be subject to a criminal records check. The completion or lack of completion of criminal records checks for persons other than prospective foster parents does not, however, impact Title IV-E eligibility (42 USC 671(a)(20)(B); Pub. L. No. 109-248, Section 152(c)(2); 45 CFR
sections 1356.30(b) and (c); and the Child Welfare Policy Manual section 8.4F Q/A#4).

f. A Title IV-E agency must check, or request a check of, a State-maintained child abuse and neglect registry in each State the prospective foster and adoptive parents and any other adult(s) living in the home have resided in the preceding 5 years before the State can license or approve a prospective foster or adoptive parent. This requirement became effective on October 1, 2006 unless the State requires legislation to implement the requirement, in which case a delayed implementation is permitted until the first quarter of the State’s regular legislative session following the close of the first regular session beginning after October 1, 2006. The requirement applies to foster care maintenance payments for calendar quarters beginning on or after that date. Tribes first became eligible to administer a Title IV-E plan effective October 1, 2009 and must, therefore, comply with this requirement (42 USC 671(a)(20)(B); Pub. L. No. 109-248, Section 152(c)(2) and (3)).

g. The licensing file for the child-care institution must contain documentation that verifies that safety considerations with respect to staff of the institution have been addressed (45 CFR section 1356.30(f)).

h. Foster care administrative costs for the provision of child-placement services generally are allowable only when performed on behalf of a foster child that is eligible to receive Title IV-E foster care maintenance payments (42 USC 674(a)(3)(E) and 45 CFR section 1356.60). The following exceptions apply:

(1) Activities specifically associated with the determination or redetermination of Title IV-E eligibility are allowable regardless of the outcome of the eligibility determination (DAB Decision No. 844).

(2) Otherwise allowable activities performed on behalf of Title IV-E eligible foster children placed in unallowable facilities and unlicensed relative homes can be allowable under limited circumstances as follows:

(a) For the lesser of 12 months or the average length of time it takes the State or tribe to issue a license or approval of the home when the child, otherwise Title IV-E eligible, is placed in the home of a relative who has an application pending for a foster family home license or approval (42 USC 672(i)(1)(A)).
(b) For not more than one calendar month for an otherwise Title IV-E eligible child transitioning from an unlicensed or unapproved facility to a licensed or approved foster family home or child care institution (42 USC 672(i)(1)(B)).

(3) In the case of any other child not in foster care who is potentially eligible for benefits under a Title IV-E plan approved under this part and at imminent risk of removal from the home, only if-

(a) Reasonable efforts are being made in accordance with 42 USC 671(a)(15) to prevent the need for, or if necessary to pursue, removal of the child from the home; and

(b) The Title IV-E agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home (42 USC 672(i)(2)).

(c) Pre-placement administrative costs may be paid on behalf of a child determined to be a candidate for foster care only if all of the following requirements are met:

(i) A child who is a potentially Title IV-E eligible child is at imminent risk of removal from the home and the Title IV-E agency is either pursuing the removal of the child from the home or providing reasonable efforts to prevent the removal in accordance with Section 471(a)(15) of the Social Security Act (42 USC 672(i)(2)(A)).

(ii) No earlier than the month in which the Title IV-E agency has made and documented a determination that the child is a candidate for foster care as evidenced by at least one of the following (section 8.1D, Question and Answer No. 2 of the Child Welfare Policy Manual):

(A) A defined case plan which clearly indicates that, absent effective preventive services, foster care is the planned arrangement for the child.

(B) An eligibility determination form which has been completed to establish the child’s eligibility under Title IV-E. Eligibility forms used to document a child’s candidacy for foster care should include evidence that
the child is at serious risk of removal from home.

(C) Evidence of court proceedings in relation to the removal of the child from the home, in the form of a petition to the court, a court order or a transcript of the court’s proceedings. These proceedings include those where the Title IV-E agency is required to obtain a judicial determination sanctioning or approving such an attempt to prevent removal with respect to reasonable efforts or initiates efforts to obtain the judicial determinations related to the removal of a child from home.

(iii) The Title IV-E agency determines that the planned out-of-home placement for the child will be a foster care setting (section 8.1D, Question and Answer No. 11 of the Child Welfare Policy Manual).

(iv) In order to claim child specific candidate administrative costs, the Title IV-E agency may either (section 8.1C, Question and Answer No. 3 of the Child Welfare Policy Manual):

(A) individually determine those children who are Title IV-E foster care candidates and claim 100 percent of the child specific allowable administrative costs incurred on behalf of these children, or

(B) allocate costs to benefiting programs considering a determination both of candidacy for foster care and of potential Title IV-E eligibility; using a Title IV-E foster care participation rate is one acceptable means of allocation.

(v) The Title IV-E agency re-determines at least every 6 months that the child remains at imminent risk of removal from the home. If the Title IV-E agency does not make this determination at the 6-month point, it must cease claiming administrative costs on behalf of the child (42 USC 672(i)(2)(B) and section 8.1D, Question and Answer No. 5 of the Child Welfare Policy Manual).
(vi) Candidate administration on behalf of eligible children is limited to any allowable Title IV-E administrative cost that comports with or is closely related to one of the listed activities at 45 CFR section 1356.60(c)(2). The costs of investigations, physical or mental examinations or evaluations and services related to the prevention of placement are not foster care administrative costs and are therefore not reimbursable (section 8.1B, Question and Answer No. 1 of the Child Welfare Policy Manual).

2. **Eligibility for Group of Individuals or Area of Service Delivery** – Not Applicable

3. **Eligibility for Subrecipients** – Not Applicable

**F. Equipment and Real Property Management**

Equipment that is capitalized and depreciated or is claimed in the period acquired and charged to more than one program is subject to 45 CFR section 95.707(b) in lieu of the requirements of the A-102 Common Rule/2 CFR part 200 (applies to States only).

**G. Matching, Level of Effort, Earmarking**

1. **Matching**

The percentage of required State/tribe funding and associated Federal funding (“Federal financial participation” (FFP)) varies by type of expenditure as follows:

a. Third party in-kind contributions cannot be used to meet the State’s cost sharing requirements (Child Welfare Policy Manual 8.1F Q/A#2 8/16/02). The matching and cost sharing provisions of 45 CFR section 92.24 do not apply to this program (45 CFR sections 1355.30(c) and 1355.30(n)(1); 45 CFR section 201.5(e)). However, for program expenditures made in FY 2012 and thereafter, tribes receiving Title IV-E funds are permitted to use in-kind funds from any allowable third-party sources to provide up to the full required non-Federal share of administrative or training costs (42 USC 679c(c)(1)(D), 45 CFR section 1356.68(c)).

b. The percentage of Federal funding in foster care maintenance payments will be the Federal Medical Assistance Program (FMAP) percentage. This percentage varies by State and is available at [http://www.aspe.hhs.gov/health/fmap.htm](http://www.aspe.hhs.gov/health/fmap.htm) (42 USC 674(a)(1); 45 CFR Section 1356.60(a)).

Effective October 1, 2009, separate tribal FMAP rates, which are based upon the tribe’s service area and population, apply to Foster Care program maintenance payments incurred by tribes that are participating in Title IV-
E programs through either direct operation of an approved Title IV-E plan or through operation of a Title IV-E agreement or contract with a State Title IV-E agency. The methodology for calculating tribal FMAP rates was provided through a final notice in the Federal Register that is available at [http://www.gpo.gov/fdsys/pkg/FR-2011-08-01/pdf/2011-19358.pdf](http://www.gpo.gov/fdsys/pkg/FR-2011-08-01/pdf/2011-19358.pdf). Information on specific tribal FMAP rates for many tribes applicable for each FY and a table where such rates can be calculated for unlisted tribes is posted on the Children’s Bureau’s website and is available at [http://www.acf.hhs.gov/programs/cb/focus-areas/tribes](http://www.acf.hhs.gov/programs/cb/focus-areas/tribes). The calculated FMAP rate for each tribe applies unless it is exceeded by the FMAP rate for any State in which the tribe is located (42 USC 679B(d) and 42 USC 679B(e)).

c. The percentage of Federal funding in expenditures for short- and long-term training at educational institutions of employees or prospective employees, and short-term training of current or prospective foster or adoptive parents and members of staff of State/tribe-licensed or State/tribe-approved child-care institutions (including travel and per diem) is 75 percent (42 USC 674(a)(3)(A) and (B); 45 CFR section 1356.60(b)).

d. The percentage of Federal funding in expenditures for short-term training of (1) relative guardians; (2) State/tribe-licensed or State/tribe-approved child welfare agencies providing services to children receiving Title IV-E assistance; (3) child abuse and neglect court personnel; (4) agency, child or parent attorneys; (5) guardians ad litem; and (6) court appointed special advocates is subject to an increasing FFP rate for these additional trainee groups as follows: 55 percent in FY 2009; 60 percent in FY 2010; 65 percent in FY 2011; 70 percent in FY 2012; 75 percent in FY 2013 and thereafter (42 USC 674(a)(3)(B), as added by Section 203(b), Pub. L. No. 110-351).

e. The percentage of Federal funding for expenditures for planning, design, development, and installation and operation of a statewide or tribal service area-wide data collection system meeting specified requirements (and expenditures for hardware components for such systems) is 50 percent (42 USC 674(a)(3)(C) and (D); 42 USC 679; 45 CFR section 1356.60(d)).

f. The percentage of Federal funding for expenditures for planning, design, development, and installation and operation of a S/TACWIS (for expenditure periods through July 31, 2018 only) or a CCWIS is 50 percent (42 USC 674(a)(3)(C) and (D); 45 CFR sections 1355.52 and 1356.60(e)).

g. The percentage of Federal funding of all other allowable administrative expenditures is 50 percent (42 USC 674 (a)(1)(E); 45 CFR section 1356.60(c)).

2. **Level of Effort** – Not Applicable
3. **Earmarking** – Not Applicable

**H. Period of Performance**

This program operates on a cash accounting basis and each year’s funding and accounting is discrete. To be eligible for Federal funding, claims must be submitted to ACF within 2 years after the calendar quarter in which the Title IV-E agency made the expenditure. This limitation does not apply to prior period decreasing adjustments and any claim qualifying for a time limits exception in accordance with 45 CFR section 95.19 (42 USC 1320b–2; 45 CFR sections 95.7, 95.13, and 95.19).

**L. Reporting**

1. **Financial Reporting**
   a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
   b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
   d. CB-496, *Title IV-E Programs Quarterly Financial Report (OMB No. 0970-0205)* – Title IV-E agencies report current expenditures and information on children assisted for the quarter that has just ended and estimates of expenditures and children to be assisted for the next quarter. Prior quarter adjustment (increasing and decreasing) expenditures applicable to earlier quarters must also be separately reported on this form.

   **Key Line Items** – The following line items contain critical information:

   - Part 1, *Expenditures, Estimates and Caseload Data, columns (A) through (D) (Sections A and D (Foster Care Program))*
   - Part 2, *Prior Quarter Expenditure Adjustments – Foster Care, columns (A) through (E)*
   - Part 3, *Foster Care, Adoption Assistance and Guardianship Assistance Demonstration Projects, columns (A) through (F)*

2. **Performance Reporting** – Not Applicable

3. **Special Reporting** – Not Applicable
N. Special Tests and Provisions

1. Payment Rate Setting and Application

Compliance Requirement – Title IV-E agencies establish payment rates for maintenance payments (e.g., payments to foster parents, child care institutions or directly to youth). Payment rates may also be established for Title IV-E administrative expenditures (e.g., payments to child placement agencies or other contractors, which may be either subrecipients or vendors) and for other services. Payment rates must provide for proper allocation of costs between foster care maintenance payments, administrative expenditures, and other services in conformance with the cost principles. The Title IV-E agency’s plan approved by ACF must provide for periodic review of payment rates for foster care maintenance payments at reasonable, specific, time-limited periods established by the Title IV-E agency to assure the rate’s continuing appropriateness for the administration of the Title IV-E program (42 USC 671(a)(11); 45 CFR section 1356.21(m)(1); 45 CFR section 1356.60(a)(1) and (c)).

Audit Objectives – Determine whether (1) the Title IV-E agency reviewed foster care maintenance payment rates for continued appropriateness in accordance with its established periodicity schedule; (2) the Title IV-E agency established foster care maintenance and administrative expenditure payment rates which provide only for costs which are necessary for the proper and efficient administration of the program and which are for allowable costs (i.e., reasonable, allowable, and properly allocated in compliance with the applicable cost principles and program requirements); and (3) charges to the program were based upon the established payment rates properly applied and the charges to the program were properly classified as foster care maintenance payments or administrative expenditures.

Suggested Audit Procedures

a. Identify the Title IV-E agency’s schedule for the required periodic review to determine the continued appropriateness of amounts paid as foster care maintenance payments and ascertain if the current foster care maintenance payment rates were last reviewed and adjusted in accordance with the Title IV-E agency established schedule.

b. Review the Title IV-E agency’s policies and procedures for establishing foster care maintenance and administrative expenditure payment rates to ascertain if these policies and procedures will properly determine that the costs charged to the program based upon these payment rates will be allowable.

c. Test a sample of Title IV-E foster care maintenance and administrative expenditure payment rates to ascertain if the rates have been properly calculated in accordance with the Title IV-E agency’s policies and procedures to ensure only allowable costs are charged to the program.
d. Test a sample of Title IV-E foster care rate based maintenance payments to ascertain if they were based upon the established payment rates per the Title IV-E agency’s rate schedule and that these rates were properly applied to ensure that only costs allowable as maintenance payments were charged to the program.

e. Test a sample of Title IV-E foster care rate based administrative expenditures to ascertain if they were based upon the established payment rates per the Title IV-E agency’s rate schedule and that these rates were properly applied to ensure that only costs allowable as administrative expenditures were charged to the program.

2. **Operation of a Foster Care Demonstration Project (Applicable Only for Title IV-E Agencies with ACF Approval to Operate a Foster Care Demonstration Project)**

**Compliance Requirement** – Those Title IV-E agencies that receive approval to operate a foster care demonstration project for a specified period of time must do so in accordance with ACF-approved terms and conditions that define the operational parameters and the waivers granted. The funding for operation of such a project is subject to a cost neutrality limit that is calculated either through an experimental design (involving experimental group cases and either a control or matched comparison group process) or an established capped allocation table for identified populations (including agency-wide) in specific funding categories.

All Title IV-E agencies that operate a foster care demonstration project are also simultaneously continuing to operate the traditional (non-demonstration) foster care program for some portion of the agency’s service population and/or funding categories. Operation of a foster care demonstration project, therefore, includes both the continuation of assistance payments and, where applicable, administration or training under the existing approved Title IV-E Plan and provision of project interventions or other waiver-based services for an identified population. Demonstration project operational costs, to the extent that they provide payments, administration or training that is allowable for traditional Title IV-E foster care funding, must be in compliance with all applicable Title IV-E requirements (unless waived) and are subject to separate identification as part of financial reporting. Funding is also available, subject to separate ACF approvals, for the costs of demonstration project developmental and evaluation costs.

**Audit Objectives** – Determine for those Title IV-E agencies with an approved operational foster care demonstration project whether (1) the Title IV-E agency properly tracked and classified those costs consisting of demonstration project operational, developmental, or evaluation costs; (2) the Title IV-E agency separately identified those project operational costs that are reportable as Title IV-E allowable costs (without a waiver) from other project operational costs; (3) the Title IV-E agency properly identified the applicable project operational cost neutrality limits and cumulative project operational costs for each relevant funding category; and (4) the Title IV-E agency properly tracked and classified those costs consisting of Title IV-E foster care (non-demonstration) costs.
Suggested Audit Procedures

a. Determine whether a Title IV-E agency is operating a foster care demonstration project and, if so, review the applicable terms and conditions as approved by ACF.

b. Review the Title IV-E agency’s cost tracking procedures for segregating costs properly classified as a component of the approved foster care demonstration project as developmental costs; evaluation costs, or operational costs.

c. Test a sample of Title IV-E claims (current quarter and any prior quarter adjustments) reported on Form CB-496 Part 3 designated as foster care demonstration project developmental or evaluation costs to determine that the claims are properly classified and reported and that they comply with applicable approvals.

d. Test a sample of Title IV-E claims (current quarter and any prior quarter adjustments) reported on Form CB-496 Part 3 designated as foster care demonstration project operational costs in each of the funding categories reported to determine that the claims are properly classified as project operational costs based on (1) the funding category is within the scope of the project’s operational costs, (2) the type of cost, (3) the population served, and (4) the applicable period.

e. Test a sample of Title IV-E claims (current quarter and any prior quarter adjustments) reported on Form CB-496 Part 3 designated as foster care demonstration project operational costs in each of the funding categories reported to determine that the claims are properly reported as either “Title IV-E Operations” costs (i.e., Title IV-E allowable without the approved demonstration project) or as “Project Intervention and Other Waiver Based Expenditures” (i.e., Title IV-E allowable only with the approved demonstration project).

f. Review the Title IV-E agency’s Form CB-496 Part 3 reported “Cumulative Cost Neutrality Limit” (for the current quarter and the next quarter estimate) in applicable funding categories to ensure that it is consistent with a calculation through the applicable period as designated in the demonstration project’s approved terms and conditions or, if applicable, an ACF approved quarterly payment schedule.

g. Review the Title IV-E agency’s Form CB-496 Part 3 reported “Currently Reported and Cumulatively Funded Operational Costs” (for the current quarter and the next quarter estimate) in applicable funding categories to ensure that it is consistent with a calculation through the applicable period based on any such claims submitted on reports for previous periods.
h. Test a sample of Title IV-E claims (current quarter and any prior quarter adjustments) reported on Form CB-496 Part 1 as foster care (non-demonstration) costs in each of the funding categories identified in the project’s approved terms and conditions as included within project operational costs to determine that the claims are properly classified as outside of project operational costs based on (1) specific exclusions contained in the project’s approved terms and conditions, (2) the type of cost, (3) the population served, and (4) the applicable period.
I. PROGRAM OBJECTIVES

The objective of the Adoption Assistance program is to facilitate the placement of children with special needs in permanent adoptive homes and thus prevent long, inappropriate stays in foster care.

II. PROGRAM PROCEDURES

Administration and Services

The Adoption Assistance program is administered at the Federal level by the Children’s Bureau, Administration on Children, Youth and Families, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). The Adoption Assistance program provides Federal matching funds to Title IV-E agencies with approved Title IV-E plans that provide ongoing subsidy and/or non-recurring payments to parents who adopt eligible children with special needs and enter into an adoption assistance agreement. Depending on the circumstances, the child may also need to meet the eligibility requirements of the Aid to Families with Dependent Children (AFDC) program (i.e., meet the State-established standard of need as of July 16, 1996, prior to enactment of the Personal Responsibility and Work Opportunity Reconciliation Act [PRWORA]) or the Supplemental Security Income (SSI) program. In cases where program eligibility requires an assessment of SSI program eligibility, the child will need to meet either all criteria or for an applicable child [defined in III.E.1.a.(1)(a), Eligibility for Individuals, of this program supplement] only the medical and disability criteria. Tribes must use the Title IV-A State plan (as in effect as of July 16, 1996) of the State in which the child resided at the time of removal in determining the child’s AFDC eligibility (42 USC 679c(c)(1)(C)(ii)(II)).

An adoption assistance agreement is a written agreement between the prospective adoptive parents, the Title IV-E agency, and other relevant agencies (such as a private adoption agency) specifying the nature and amount of assistance to be given on a monthly basis to parents who adopt eligible special needs children. A child with special needs is defined as a child who the Title IV-E agency has determined cannot or should not be returned home; has a specific factor or condition, as defined by the State or tribe, because of which it is reasonable to conclude that the child cannot be adopted without financial or medical assistance; and for whom a reasonable effort has been made to place the child without providing financial or medical assistance (42 USC 673(a)(2)).

Funding is provided to the 50 States, the District of Columbia, Puerto Rico, and the U. S. Virgin Islands. Federally recognized Indian tribes, Indian tribal organizations and tribal consortia may also apply for Title IV-E funding via the submission of a Title IV-E plan. Funding is based on an approved Title IV-E plan and amendments, as required by changes in statutes, rules, and regulations, submitted to and approved by the ACF Children’s Bureau Associate Commissioner. The Adoption Assistance program is an open-ended entitlement program. Federal financial participation in State or tribal expenditures for adoption assistance agreements is provided at the

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Medicaid match rate for medical assistance payments, which varies among States and tribes. Monthly payments to families made on behalf of eligible adopted children also vary from Title IV-E agency to Title IV-E agency. Federal financial participation (FFP) is made at an open-ended 50 percent match rate for administrative expenditures and at an open-ended 75 percent for most categories of State/tribal Title IV-E training expenditures. In addition, the program authorizes Federal matching funds for Title IV-E agencies that reimburse the non-recurring adoption expenses of adoptive parents of special needs children (regardless of AFDC or SSI eligibility) as administrative expenditures at an open-ended 50 percent FFP rate.

Since Federal fiscal year (FFY) 2010, Title IV-E agencies have been required to enter into an adoption assistance agreement with the prospective adoptive parents of any child who meets specified criteria by applying differing, and less restrictive, program eligibility criteria (specified in III.E.1.a.(1)(a) and (c), “Eligibility - Eligibility for Individuals,” of this program supplement). This results in some number of children who, under previously applied program eligibility criteria, would not have been determined as Title IV-E eligible, but who will now be determined as Title IV-E eligible for adoption assistance. Each Title IV-E agency is required to calculate and spend an amount equal to any savings in Title IV-E agency expenditures as a result of applying the differing program eligibility criteria for a FFY for services permitted under Title IV-B or IV-E. These non-Federal funds are a component of this program and are hereafter referred to as “adoption savings”.

Beginning in FFY 2015, each Title IV-E agency is required to annually calculate and report on adoption savings. The calculation must be in accordance with procedures established by the Children’s Bureau. The report must identify the methodology used to calculate the savings, how savings are spent, and on what services.

The designated Title IV-E agency for this program also administers ACF funding provided for other Social Security Act programs (e.g., Foster Care (CFDA 93.658), Guardianship Assistance (CFDA 93.090) at agency option and Independent Living Services (CFDA 93.674) programs (Title IV-E of the Social Security Act); Child Welfare Services (CFDA 93.645) and Promoting Safe and Stable Families (CFDA 93.556) programs (Title IV-B of the Social Security Act, as amended) (CFDA 93.556 funds available to States and those tribes qualifying for at least a minimum grant of $10,000); and the Social Services Block Grant program (CFDA 93.667) (Title XX of the Social Security Act, as amended) (States only). The Title IV-E agency may either directly administer the Adoption Assistance program or supervise its administration by local level agencies. Where the program is administered by a State, in accordance with the approved Title IV-E plan, it must be in effect in all political subdivisions of the State, and, if administered by them, program requirements must be mandatory upon them. Where the program is administered by a tribe, it must be in effect in all political subdivisions within the tribal service area(s) and for all populations to be served under the plan. If the program is administered by a political subdivision of a tribe, program requirements must be mandatory upon them. (42 USC 671(a)(1-4) and 42 USC 679B(c)(1)(B))
Source of Governing Requirements

The Adoption Assistance program is authorized by Title IV-E of the Social Security Act, as amended (42 USC 670 et seq.). This includes those amendments made by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351) and the Preventing Sex Trafficking and Strengthening Families Act (Pub. L. No. 113-183). Implementing regulations are published at 45 CFR parts 1355 and 1356.

States and tribes are required to adopt and adhere to their own statutes and regulations for program implementation, consistent with the requirements of Title IV-E and the approved Title IV-E Plan.

The regulations at 45 CFR part 75 specifying uniform administrative requirements, cost principles, and audit requirements for HHS awards are applicable to the Adoption Assistance program. However, in accordance with 45 CFR sections 75.101(e)(1)(iii) and 75.101(e)(2), except for 45 CFR section 75.202, the guidance in subpart C of 45 CFR part 75 does not apply.

Availability of Other Program Information

The Children’s Bureau manages a policy issuance system that provides further clarification of the law and guides States and tribes in implementing the Adoption Assistance program. This information may be accessed at http://www.acf.hhs.gov/programs/cb/laws_policies/index.htm.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. Adoption Assistance Subsidies – Funds may be expended for adoption assistance subsidy payments made on behalf of eligible children (see III.E.1, “Eligibility – Eligibility for Individuals”), in accordance with a written and binding adoption assistance agreement. Subsidy payments are made to adoptive parents based on the need(s) of the child (i.e. developmental, cognitive, emotional behavioral) and the circumstances of the adopting parents (42 USC 673(a)(2)). Subsidy payment amounts cannot be based on any income eligibility requirements of the prospective adoptive parents (45 CFR section 1356.41(c)). Adoption assistance subsidy payments cannot exceed the foster care maintenance payment (in accordance with the Title IV-E agency’s rate schedule) the child would have received in a foster family home; however, the amount of the subsidy payments may be up to 100 percent of that foster care maintenance payment rate (42 USC 673(a)(3)).

2. Administrative Costs

   a. Program Administration – Funds may be expended for costs directly related to the administration of the program. Approved public assistance cost allocation plans (States) or approved cost allocation methodologies (tribes) will identify which costs are allocated and claimed under this program (45 CFR section 1356.60(c)).

   b. Nonrecurring Costs – Funds may be expended by a Title IV-E agency under an adoption assistance agreement for nonrecurring expenses up to $2,000 (gross amount), for any adoptive placement (45 CFR section 1356.41(f)(1)). Nonrecurring adoption expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees and other expenses that are directly related to the legal adoption of a child with special needs. Other expenses may include those costs of adoption incurred by or on behalf of the adoptive parents, such as, the adoptive home study, health and psychological examination, supervision of the placement prior to adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoptions process (45 CFR section 1356.41(i)).

   c. Adoption Placement Costs – Funds expended by the Title IV-E agency for adoption placements (including nonrecurring costs) are considered an administrative expenditure and are subject to the matching requirements in III.G.1.e, “Matching, Level of Effort, Earmarking – Matching” (45 CFR section 1356.41(f)(1)).
3. **Training**

   a. Funds may be expended for short-term training of current or prospective adoptive parents and members of the staff of State/tribe-licensed or State/tribe-approved child care institutions (including travel and per diem) at the initiation of or during their period of care (42 USC 674(a)(3)(B) and 45 CFR section 1356.60(b)(1)(ii)).

   b. Funds may be expended for short-term training of (1) relative guardians; (2) State/tribe-licensed or State/tribe-approved child welfare agencies providing services to children receiving Title IV-E assistance; (3) child abuse and neglect court personnel; (4) agency, child or parent attorneys; (5) guardians ad litem; and (6) court appointed special advocates (42 USC 674(a)(3)(B), as amended by Section 203 of Pub. L. No. 111-351).

   c. Funds may be expended for training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the agency administering the plan (42 USC 674(a)(3)(A)).

4. **Demonstration Projects**

   Under Section 1130 of the Social Security Act, Title IV-E agencies may be granted authority to operate a demonstration project as set forth in ACF-approved terms and conditions. Any such terms and conditions applicable to the program identify the specific provisions of the Social Security Act that are waived, the additional activities that are deemed as allowable, and the scope and duration (which may not exceed a maximum of 5 total years unless specifically approved for further continuation) of the demonstration project. The demonstration project must remain cost neutral to the Federal government, as provided for in a methodology contained in the approved project terms and conditions involving either a matched comparison group or a capped allocation (42 USC 1320a–9 and Section 201 of Pub. L. No. 112-34).

B. **Allowable Costs/Cost Principles**

   Both States and tribes are subject to the requirements of OMB cost principles in OMB Circular A-87/2 CFR part 200, subpart E, as implemented by HHS at 45 CFR part 75. States also are subject to the cost allocation provisions and rules governing allowable costs of equipment of 45 CFR part 95 (45 CFR sections 1355.57, 95.503, and 95.705).
E. Eligibility

1. Eligibility for Individuals

a. Adoption assistance subsidy payments may be paid on behalf of a child only if all of the following requirements are met:

(1) Categorical Eligibility

(a) Applicable and Non-Applicable Children – An applicable child is a child for whom an adoption assistance agreement was entered into in fiscal year (FY) 2010 or later and who meets the applicable age requirement (differs over a 9 fiscal year phase-in period beginning in FY 2010), or a child who has been in foster care under the responsibility of the Title IV-E agency for at least 60 consecutive months, or a sibling to either such child if both are to have the same adoption placement (42 USC 673(e)(2) and (e)(3)). The applicable age requirement is met only if the child has attained that age any time before the end of the Federal fiscal year during which the adoption assistance agreement is entered into. The applicable age for FY 2010 agreements includes children who will turn age 16 or older in that FY. In each subsequent FY, the age to apply the revised “applicable child” program rules decreases by 2 years (e.g., children who turn 14 or older in FY 2011, children who turn 12 or older in FY 2012, children who turn 10 or older in FY 2013, children who turn 8 or older in FY 2014, children who turn 6 or older in FY 2015, children who turn 4 or older in FY 2016, and children who turn 2 or older in FY 2017) until children of any age may be eligible according to the revised criteria in FY 2018 (42 USC 673(e)(1)(B)).

A child who is referred to as “not an applicable child” is one for whom an adoption assistance agreement was entered into in FY 2009 or earlier or in a later FY if the applicable child requirements pertinent to the FY in which the adoption assistance agreement was entered into are not satisfied. In this instance, the revised “applicable child” eligibility criteria do not apply and the eligibility requirements in place prior to October 1, 2009 apply (42 USC 673(a)(2)(A)(i)).
(b) Adoption agreements entered into prior to the beginning of FY 2010, or agreements entered into during FY 2010 or thereafter for a “non-applicable child” – The child is categorically eligible if:

(i) the child was eligible, or would have been eligible, for the former AFDC program (i.e., met the State-established standard of need as of July 16, 1996, prior to enactment of the PRWORA (tribes must use the Title IV-A State plan in effect as of July 16, 1996 of the State in which the child resided at the time of removal in determining the child’s AFDC eligibility (42 USC 679c(c)(1)(C)(ii)(II))) except for his/her removal from the home of a relative pursuant to either a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home of removal would have been contrary to the welfare of the child; or

(ii) the child is eligible for SSI; or

(iii) the child is a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to his/her minor parent (42 USC 673(a)(2)(A)(i)(I)).

(c) Adoption agreements entered into during FY 2010 or thereafter for an “applicable child” – The child is categorically eligible if the child:

(i) at the time of the initiation of adoption proceedings, was in the care of a public or private child placement agency by way of a voluntary placement, voluntary relinquishment or a court-ordered removal with a judicial determination that remaining at home would be contrary to the child’s welfare; or

(ii) meets the disability or medical requirements of the SSI program; or

(iii) was residing with a minor parent in foster care (who was placed in foster care by way of a voluntary placement, voluntary relinquishment or court-ordered removal); or
(iv) was eligible for adoption assistance in a previous adoption in which the adoptive parents have died or had their parental rights terminated (42 USC 673(a)(2)(A)(ii)(I) and 673(a)(2)(C)(ii)); and

(v) does not fit within the following prohibited class for the payment of an adoption assistance payment (including payments of non-recurring expenses under 42 USC 673(a)(1)(B)(i)), i.e., an “applicable child” who is not a citizen or resident of the U.S. and was either adopted outside the U.S. or brought to the U.S. for the purpose of being adopted (42 USC 673(a)(7) as added by Pub. L. No. 110-351).

(2) The following additional eligibility provisions must be met in addition to the establishment of categorical eligibility:

(a) The child was determined by the Title IV-E agency as someone who cannot or should not be returned to the home of his or her parents (42 USC 673(c)(1));

(b) The child was determined by the Title IV-E agency to be a child with special needs. Special needs means that there is a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance under Title IV-E and medical assistance under Title XIX. In the case of an applicable child, the child is also considered to have special needs if that applicable child meets all of the medical or disability requirements for SSI and the Title IV-E agency determines that it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance under Title IV-E and medical assistance under Title XIX. The criteria for the factor or condition element of the special needs determination will be met if an applicable child meets all the medical or disability requirements for SSI (42 USC 673(c)(1)(B) and 673(c)(2)(B), as amended/added by Pub. L. No. 110-351).
(c) The Title IV-E agency has made reasonable efforts to place the child for adoption without a subsidy. The only exception to this requirement is where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child (42 USC 673(c)(1)(B) and 673(c)(2) as amended/added by Pub. L. No. 110-351).

(d) The agreement for the subsidy was signed and was in effect before the final decree of adoption and contains information concerning the nature of services; the amount and duration of the subsidy; the child’s eligibility for Title XX services and Title XIX Medicaid; and covers the child should he/she move out of State with the adoptive family (42 USC 675(3)).

(e) The prospective adoptive parent(s) must satisfactorily have met a criminal records check, including a fingerprint-based check (42 USC 671(a)(20)(A)). This involves a determination that such individual(s) have not committed any prohibited felonies in accordance with 42 USC 671(a)(20)(A)(i) and (ii). The requirement for a fingerprint-based check took effect on October 1, 2006, unless prior to September 30, 2005 the State has elected to opt out of the criminal records check requirement or State legislation was required to implement the fingerprint-based check, in which case a delayed implementation is permitted until the first quarter of the State’s regular legislative session following the close of the first regular session beginning after October 1, 2006. The requirement applies to adoption assistance payments for calendar quarters beginning on or after the State’s effective date for implementation (Pub. L. No. 109-248, Section 152(c)(1) and (3)). States that opted out of the criminal records check requirement at Section 471(a)(20) of the Social Security Act prior to September 30, 2005 had until October 1, 2008 to implement the fingerprint-based check requirement. Effective October 1, 2008, a State is no longer permitted to opt out of the fingerprint-based check requirement. The opt-out provision does not impact tribes since they only became eligible to administer a Title IV-E plan on October 1, 2009.

The statutory provisions apply to all prospective adoptive parents who are newly approved after the Title IV-E agency’s authorized date for implementation of the
fingerprint-based background check provisions. Title IV-E agencies may also require that certain other adult individuals living in the adoptive home be subject to a criminal records check. The completion or lack of completion of criminal records checks for persons other than prospective adoptive parents does not, however, impact Title IV-E eligibility (42 USC 671(a)(20)(B); Pub. L. No. 109-248, Section 152(c)(2); 45 CFR sections 1356.30(b) and (c); and the Child Welfare Policy Manual section 8.4F Q/A#4).

(f) The prospective adoptive parent(s) and any other adult living in the home who has resided in the provider home in the preceding 5 years must satisfactorily have met a child abuse and neglect registry check. This requirement became effective on October 1, 2006 unless the State requires legislation to implement the requirement, in which case a delayed implementation is permitted until the first quarter of the State’s regular legislative session following the close of the first regular session beginning after October 1, 2006. The requirement applies to foster care maintenance payments for calendar quarters beginning on or after that date. Tribes first became eligible to administer a Title IV-E plan effective on October 1, 2009 and must, therefore, comply with this requirement (42 USC 671(a)(20)(B); Pub. L. No. 109-248, Sections 152(c)(2) and (3)).

(g) Once a child is determined eligible to receive Title IV-E adoption assistance, he or she remains eligible and the subsidy continues until (i) the age of 18 (or 21 if the Title IV-E agency determines that the child has a mental or physical disability which warrants the continuation of assistance); (ii) the Title IV-E agency determines that the parent is no longer legally responsible for the support of the child; or (iii) the Title IV-E agency determines the child is no longer receiving any support from the parents (42 USC 673(a)(4)(A) and (B)).

Beginning on October 1, 2010, a Title IV-E agency may amend its Title IV-E plan to provide for a definition of a “child” as an individual who has not attained 19, 20, or 21 years of age (as the Title IV-E agency may elect) (42 USC 675(8)(B)(iii)). This definition of a child will then permit payment of adoption assistance for a child who is over age 18 (where the Title IV-E agency does not determine that the child has a mental or physical disability which warrants the continuation of assistance up to age 21).
if such a youth is part of an adoption assistance agreement that is in effect under Section 473 of the Social Security Act and the youth had attained 16 years of age before the agreement became effective. As an additional requirement, a youth over age 18 must also (as elected by the Title IV-E agency) be (i) completing secondary school (or equivalent), (ii) enrolled in post-secondary or vocational school, (iii) participating in a program or activity that promotes or removes barriers to employment, (iv) employed 80 hours a month, or (v) incapable of any of these due to a documented medical condition (42 USC 675(8)(B)).

b. Nonrecurring expenses of adoption may be paid on behalf of a child only if all of the following requirements are met:

1. The agreement may be a separate document or part of an agreement for State/tribe or Federal adoption assistance payment or services (45 CFR section 1356.41(b)).

2. The agreement indicates the nature and amount of the nonrecurring expenses to be paid (45 CFR section 1356.41(a)).

3. The agreement was signed at the time of, or prior to, the final decree of adoption and claims must be filed with the Title IV–E agency within 2 years of the date of the final decree of adoption (45 CFR section 1356.41(e)(2)).

4. The State or tribe has determined that the child is a child with special needs (45 CFR section 1356.41(d)).

5. The child has been placed for adoption in accordance with applicable State or tribal laws (45 CFR section 1356.41(d)).

6. The child need not meet the categorical eligibility requirements at Section 473(a)(2) (45 CFR section 1356.41(d)).

7. The costs incurred by or on behalf of adoptive parents are not otherwise reimbursed from other sources (45 CFR section 1356.41(g)).

c. There may be no income-eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance subsidy payments or nonrecurring expenses of adoption (45 CFR sections 1356.40(c) and 1356.41(c)).

d. In the case of a child adopted after the dissolution of a guardianship where the child was receiving Title IV-E guardianship assistance payments, the child’s eligibility for adoption assistance is to be determined without
consideration of the placement of the child with the relative guardian and any kinship guardianship assistance payments made on behalf of the child. Thus, if such a child is adopted, the Title IV-E agency would apply the adoption assistance criteria for the child as if the guardianship had never occurred (42 USC 673(a)(1)(D) as added by Section 101(c) of Pub. L. No. 110-351).

2. **Eligibility for Group of Individuals or Area of Service Delivery** – Not Applicable

3. **Eligibility for Subrecipients** – Not Applicable

**F. Equipment and Real Property Management**

Equipment that is capitalized and depreciated or is claimed in the period acquired and charged to more than one program is subject to 45 CFR section 95.707(b) in lieu of the requirements of the A-102 Common Rule/2 CFR part 200 (applies to States only).

**G. Matching, Level of Effort, Earmarking**

1. **Matching**

   The percentage of required State/tribal funding and associated Federal funding (“Federal financial participation” (FFP)) varies by type of expenditure as follows:

   a. Third party in-kind contributions cannot be used to meet the State’s cost sharing requirements (Child Welfare Policy Manual Section 8.1F Q/A#2 8/16/02). The matching and cost sharing provisions of 45 CFR section 92.24/45 CFR section 75.306 do not apply to this program (45 CFR sections 1355.30(c) and 1355.30(n)(1); 45 CFR section 201.5(e)). However, for program expenditures made in FY 2012 and thereafter, tribes receiving Title IV-E are permitted to use in-kind funds from any allowable third-party sources to provide up to the full required non-Federal share of administrative or training costs (42 USC 679c(c)(1)(D), 45 CFR section 1356.68(c)).

   b. **Adoption Assistance Subsidy Payments** – The percentage of Title IV-E funding in Adoption Assistance subsidy payments will be the Federal Medical Assistance Program (FMAP) percentage. This percentage varies by State and is available at [http://www.aspe.hhs.gov/health/fmap.htm](http://www.aspe.hhs.gov/health/fmap.htm) (42 USC 674(a)(1); 45 CFR section 1356.60(a)).

   Effective October 1, 2009, separate tribal FMAP rates, which are based upon the tribe’s service area and population, apply to Foster Care program maintenance payments incurred by tribes that are participating in Title IV-E programs through either direct operation of an approved Title IV-E plan or through operation of a Title IV-E agreement or contract with a State.
Title IV-E agency. The methodology for calculating tribal FMAP rates was provided through a final notice in the Federal Register that is available at http://www.gpo.gov/fdsys/pkg/FR-2011-08-01/pdf/2011-19358.pdf. Information on specific tribal FMAP rates for many tribes applicable for each FY and a table where such rates can be calculated for unlisted tribes is posted on the Children’s Bureau’s website and is available at http://www.acf.hhs.gov/programs/cb/focus-areas/tribes. The calculated FMAP rate for each tribe applies unless it is exceeded by the FMAP rate for any State in which the tribe is located (42 USC 679B(d) and 42 USC 679B(e)).

c. Staff and Adoptive Parent Training – The percentage of Federal funding in expenditures for short- and long-term training at educational institutions of employees or prospective employees, and short-term training of current or prospective foster or adoptive parents and members of staff of State/tribe-licensed or State/tribe-approved child care institutions (including travel and per diem) is 75 percent (42 USC 674(a)(3)(A) and (B); 45 CFR section 1356.60(b)).

d. Professional Partner Training – The percentage of Federal funding in expenditures for short-term training of (1) relative guardians; (2) State/tribe-licensed or State/tribe-approved child welfare agencies providing services to children receiving Title IV-E assistance; (3) child abuse and neglect court personnel; (4) agency, child or parent attorneys; (5) guardians ad litem; and (6) court appointed special advocates is subject to an increasing FFP rate for these additional trainee groups as follows: 55 percent in FY 2009; 60 percent in FY 2010; 65 percent in FY 2011; 70 percent in FY 2012; 75 percent in FY 2013 and thereafter (42 USC 674(a)(3)(B), as added by Section 203(b) of Pub .L. No. 110-351).

e. Administrative Costs

(1) The percentage of Federal funding for expenditures for planning, design, development, and installation and operation of a statewide or tribal service area-wide automated child welfare information system meeting specified requirements (and expenditures for hardware components for such systems) is 50 percent (42 USC 674(a)(3)(C) and (D); 45 CFR sections 1355.52 and 1356.60(d)).

(2) The percentage of Federal funding for adoption placement non-recurring cost expenditures is 50 percent for Title IV-E agency expenditures up to $2000 for each adoptive placement (45 CFR section 1356.41(f)(1)).

(3) The percentage of Federal funding of all other allowable administrative expenditures, is 50 percent (42 USC 674(a)(3)(E); 45 CFR sections 1356.41(f) and 1356.60(c)).
2.1 Level of Effort – Maintenance of Effort

A Title IV-E agency is required to spend an amount equal to any savings (hereafter referred to as “adoption savings”) in State or tribal expenditures under Title IV-E as a result of applying the differing program eligibility rules to applicable children for a fiscal year for any services that may be provided under Title IV-B or IV-E (42 USC 673(a)(8)) as follows:

a. For periods prior to FFY 2015, Title IV-E agencies had the flexibility to determine the methodology for calculating adoption savings and were not required to provide a specific accounting of adoption savings funds to ACF.

b. Effective October 1, 2014, all Title IV-E agencies must:

   (1) Calculate the adoption savings (if any) resulting from the application of differing program eligibility rules (42 USC 673(a)(2)(A)(ii)) to all applicable children for a fiscal year, using a methodology specified by ACF or an alternate methodology proposed by the Title IV-E agency and approved by ACF (42 USC 673(a)(8)(A) as amended by Pub. L. No. 113-183 and Program Instruction ACYF-CB-PI-15-06, dated May 22, 2015).

   (2) Report (see III.L.1.d, “Reporting – Financial Reporting,” of this program supplement) annually to ACF (i) the methodology used to make the calculation of adoption savings, without regard to whether any savings are found; (ii) the amount of any annual adoption savings; and (iii) how such adoption savings are spent, accounting for and reporting the spending separately from any other spending reported to ACF under Title IV-B or IV-E ((42 USC 673(a)(8)(B) as amended by Pub. L. No. 113-183 and Program Instruction ACYF-CB-PI-15-09, dated December 2, 2015).

   (3) Adoption savings must be expended for services that may be provided under the Title IV-B or IV-E programs; at least 30 percent of which must be spent on post-adoption services, post-guardianship services and services to support positive permanent outcomes for children at risk of entering foster care. At least two-thirds (2/3) of the 30 percent must be spent on post-adoption and post-guardianship services ((42 USC 673(a)(8)(D)(i) as amended by Pub. L. No. 113-183).
There is no requirement that adoption savings be expended in the same FFY for which they are calculated. Title IV-E agencies must, however, use adoption savings to supplement and not supplant any Federal or non-Federal funds used to provide any service under Title IV-B or IV-E ((42 USC 673(a)(8)(D)(ii), as amended by Pub. L. No. 113-183). (Note: The auditor would be required to test compliance with the earmarking requirements of paragraph (b)(3) only during the audit period in which the Title IV-E agency reports (or expects to report) in its annual report (see paragraph (b)(2)) that the earmarking percentages have been met for one or more FFYs for which they are applicable).

2.2 Level of Effort – Supplement Not Supplant – Not Applicable

3. Earmarking – Not Applicable

H. Period of Performance

This program operates on a cash accounting basis and each year’s funding and accounting is discrete. To be eligible for Federal funding, claims must be submitted to ACF within 2 years after the calendar quarter in which the Title IV-E agency made the expenditure. This limitation does not apply to prior period decreasing adjustments and any claim qualifying for a time limits exception in accordance with 45 CFR section 95.19 (42 USC 1320b–2; 45 CFR sections 95.7, 95.13, and 95.19).

L. Reporting

1. Financial Reporting

a. SF-270, Request for Advance or Reimbursement – Not Applicable

b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable


d. CB-496, Title IV-E Programs Quarterly Financial Report (OMB No. 0970-0205) – Title IV-E agencies report current expenditures and information on children assisted for the quarter that has just ended and estimates of expenditures and children to be assisted for the next quarter. Prior quarter adjustment (increasing and decreasing) expenditures applicable to earlier quarters must also be separately reported on this form.

Beginning with the FFY 2015 reporting period, the Annual Adoption Savings Calculation and Accounting Report, CB-496 Part 4, must be submitted to provide information on the calculation and expenditure of adoption savings. The CB-496 Part 4 is due once a year with the CB-496 quarterly submission for the fourth quarter of the FFY. This report
captures adoption savings calculations based on utilization of the
Children’s Bureau methodology, or an approved alternate methodology,
and relevant CB-496 Part 1 reported expenditures for periods within the
current FFY (current quarter and prior quarter adjustments for those
periods).

A separate calculation of adoption savings is required for any relevant
reported prior-quarter adjustment of expenditures (increasing or
decreasing) submitted on a Form CB-496 Part 1 report for periods within
the current FFY but identified (Part 2, Column D) as applicable to periods
in prior FFYs subject to adoption savings reporting. Since FFY 2015 is
the first FFY subject to CB-496 Part 4 reporting, the first Part 4
submission that may contain entries for prior reported FFYs (Column B) is
the submission for the FFY 2016 reporting period.

The CB-496 Part 4 also contains a report of the expenditure of adoption
savings for the current reporting FFY. The report separately identifies
amounts expended during the current reporting FFY (Column A) and
amounts spent in an earlier FFY subject to adoption savings reporting
(Column B), but not previously reported.

The CB-496 Part 4 report further contains information on cumulative
(beginning with FFY 2015) calculated and expended adoption savings
amounts.

Key Line Items – The following line items contain critical information:

Part 1, Expenditures, Estimates and Caseload Data, columns (A) through
(D) (Sections B and D (Adoption Assistance Program))

Part 2, Prior Quarter Expenditure Adjustments – Adoption Assistance,
columns (A) through (E)

Part 3, Foster Care, Adoption Assistance and Guardianship Assistance
Demonstration Projects, columns (A) through (F)

Part 4, Annual Adoption Savings Calculation and Accounting Report,
columns (A) through (C)

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.667 SOCIAL SERVICES BLOCK GRANT

I. PROGRAM OBJECTIVES

The purpose of the Social Services Block Grant (SSBG) program is to provide funds to States (including the District of Columbia and five Territories) to provide services for individuals, families, and entire population groups in one or more of the following areas: (1) achieving or maintaining economic self-support and self-sufficiency to prevent, reduce, or eliminate dependency; (2) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests; (3) preserving, rehabilitating, or reuniting families; (4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of intensive care; and (5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

II. PROGRAM PROCEDURES

Administration and Services

The SSBG program is administered by the Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Funds are awarded based on the State’s population following receipt and review of the State’s report on the proposed use of funds for the coming year, which serves as the State’s plan. States have the flexibility to determine what services will be provided, consistent with the statutory goals and objectives, who is eligible, and how funds will be distributed among services and entities within the State, including whether to provide services directly or obtain them from other public or private agencies and individuals. The State must also conduct a public hearing on the proposed use and distribution of funds, as included in the report, as a prerequisite to the receipt of SSBG funds.

Source of Governing Requirements

The SSBG program is authorized under Title XX of the Social Security Act, as amended, and is codified at 42 USC 1397 through 1397e. The implementing regulations for this and other block grant programs authorized by Omnibus Budget Reconciliation Act of 1981 are published at 45 CFR part 96. Those regulations include both specific requirements and general administrative requirements in lieu of 45 CFR part 92 (the HHS implementation of the A-102 Common Rule)/45 CFR part 75 (the HHS implementation of 2 CFR part 200) for the covered block grant programs. Requirements specific to SSBG are in 45 CFR sections 96.70 through 96.74.

As discussed in Appendix I to this Supplement, “Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200,” States are to use the fiscal policies that apply to their own funds in administering SSBG. Procedures must be adequate to assure the proper disbursal of and accounting for Federal funds paid to the grantee, including procedures for monitoring the assistance provided (45 CFR section 96.30).
Under the block grant philosophy, each State is responsible for designing and implementing its own SSBG program, within very broad Federal guidelines. States must administer their SSBG program according to their approved plan and any amendments and in conformance with their own implementing rules and policies.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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<th>Compliance Requirements</th>
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A. Activities Allowed or Unallowed

1. Services provided with SSBG funds may include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, family planning services, training and related services, employment services, information, referral, counseling services, the preparation and delivery of meals, health support services, and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, and alcoholics and drug addicts (42 USC 1397a(a)). Uniform definitions for these services are included in Appendix A to 45 CFR part 96 – Uniform Definitions of Services.
Expenditures for these services may include expenditures for administration, including planning and evaluation, personnel training and retraining directly related to the provision of those services (including both short- and long-term training at educational institutions), and conferences and workshops, and assistance to individuals participating in such activities (42 USC 1397a(a)).

2. A State may purchase technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering the SSBG program (42 USC 1397a(e)).

3. A State may transfer up to 10 percent of its annual allotment to the following block grants for support of health services, health promotion and disease prevention activities, low-income home energy assistance, or any combination of these activities: Preventive Health and Health Services Block Grant (CFDA 93.991); Block Grants for Prevention and Treatment of Substance Abuse (CFDA 93.959); Maternal and Child Health Services Block Grant to the States (CFDA 93.994); Low-Income Home Energy Assistance (CFDA 93.568); and Community Services Block Grant (93.569) (42 USC 1397a(d); 45 CFR section 96.72).

4. Funds may not be used for:
   a. Purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any facility (unless the restriction is waived by ACF) (42 USC 1397(d)(a)(1)).
   b. Cash payments for costs of subsistence or for the provision of room and board (other than costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary shelter provided as a protective service) (42 USC 1397(d)(a)(2)).
   c. Wages of any individual as a social service (other than payment of wages of Temporary Assistance for Needy Families (TANF) (CFDA 93.558) recipients employed in the provision of child day care services) (42 USC 1397(d)(a)(3)).
   d. Medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug-dependent individual) unless it is an integral but subordinate part of an allowable social service under SSBG (unless the restriction is waived by ACF) (42 USC 1397(d)(a)(4)).
   e. Social services (except services to an alcoholic or drug-dependent individual or rehabilitation services) provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution (42 USC 1397(d)(a)(5)).
f. The provision of any educational service that the State makes generally available to its residents without cost and without regard to their income (42 USC 1397(d)(a)(6)).

g. Any child day care services unless such services meet applicable standards of State and local law (42 USC 1397(d)(a)(7)).

h. The provision of cash payments as a service (this limitation does not apply to payments to individuals with respect to training or attendance at conferences or workshops) (42 USC 1397(d)(a)(8)).

i. Any item or service (other than an emergency item of service) furnished by an entity, physician, or other individual during the period of exclusion from reimbursement by various provisions of Federal regulations (42 USC 1397(d)(a)(9)).

B. Allowable Costs/Cost Principles

As discussed in Appendix I of this Supplement, “Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200,” SSBG is exempt from the provisions of the OMB cost principles. State cost principles requirements apply to SSBG.

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2. Level of Effort – Not Applicable

3. Earmarking

The State shall use all of the amount transferred in from TANF (CFDA 93.558) only for programs and services to children or their families whose income is less than 200 percent of the official poverty guideline as revised annually by HHS (42 USC 604(d)(3)(A) and 9902(2)). Additional information on this transfer in is provided in IV, “Other Information.”

The poverty guidelines are issued each year in the Federal Register and HHS maintains a web page that provides the poverty guidelines (http://aspe.hhs.gov/poverty/).

H. Period of Performance

SSBG funds must be expended by the State in the fiscal year allotted or in the succeeding fiscal year (42 USC1397a(c)).
L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

IV. OTHER INFORMATION

Transfers out of SSBG

As discussed in III.A, “Activities Allowed or Unallowed,” funds may be transferred out of SSBG to other Federal programs. The amounts transferred out of SSBG are subject to the requirements of the program into which they are transferred and should not be included in the audit universe and total expenditures of SSBG when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amount transferred out should not be shown as SSBG expenditures but should be shown as expenditures for the program into which they are transferred.

Transfers into SSBG

A State may transfer up to 10 percent of the combined total of the State family assistance grant, supplemental grant for population increases, and bonus funds for high performance and illegitimacy reduction, if any, (all part of TANF) for a given fiscal year to carry out programs under the SSBG. Such amounts may be used only for programs or services to children or their families whose income is less than 200 percent of the poverty level. The amount of the transfers is reflected on the quarterly ACF-196/ACF-196R, TANF Financial Report. The amounts transferred into this program are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.718 HEALTH INFORMATION TECHNOLOGY REGIONAL EXTENSION CENTERS PROGRAM

I. PROGRAM OBJECTIVES

The purpose of the Health Information Technology Regional Extension Centers (REC) program is to furnish assistance, defined as education, outreach, and technical assistance, to help providers in their geographic service areas select, successfully implement, and meaningfully use certified electronic health record (EHR) technology to improve the quality and value of health care. Regional centers will also help providers achieve, through appropriate available infrastructures, exchange of health information in compliance with applicable statutory and regulatory requirements, and patient preferences.

II. PROGRAM PROCEDURES

The Health Information Technology for Economic and Clinical Health (HITECH) Act, part of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5) authorizes incentive payments for eligible Medicare and Medicaid providers’ meaningful use of certified EHR technology. The detailed criteria to qualify for meaningful use incentive payments are established by the Secretary of HHS through the formal rulemaking process with Stage 1 Meaningful Use criteria released July 13, 2010. In 2015, providers are expected to have adopted and be actively utilizing an EHR in compliance with the meaningful use definition or they will be subject to financial penalties under Medicare (per Sections 4101(b) and 4102(b) of ARRA).

Providers seeking to meaningfully use EHRs face a variety of challenging tasks. Those tasks include assessing needs, selecting and negotiating with a system vendor or reseller, implementing project management, and instituting workflow changes to improve clinical performance and ultimately, outcomes. Past experience has shown that robust local technical assistance can result in effective implementation of EHRs and quality improvement throughout a defined geographic area.

The REC program, administered by the Office of the National Coordinator for Health Information Technology (ONC), within the Office of the Secretary, Department of Health and Human Services, has established 62 regional centers, each serving a defined geographic area. Entities eligible to serve as regional centers are domestic, nonprofit institutions or organizations, or group thereof.

Awards under this program were made as 4-year cooperative agreements with one 4-year budget period. Each regional center will provide federally supported individualized technical assistance to a minimum of 1,000 priority primary-care providers in the 4 years of the cooperative agreement. Funding for years 3 and 4 are contingent upon the Regional Extension Center receiving a positive biennial evaluation at the end of year 2.
Pursuant to requirements of the HITECH Act, priority in providing technical assistance under the REC program must be given to providers that are primary-care providers (physicians and/or other health care professionals with prescriptive privileges, such as physician assistants and nurse practitioners) in any of the following settings:

a. individual and small group practices (ten or fewer professionals with prescriptive privileges) primarily focused on primary care;

b. public and critical access hospitals;

c. community health centers and rural health clinics; and

d. other settings that predominantly serve uninsured, underinsured, and medically underserved populations.

The regional centers are expected to leverage and undertake activities that are in synergy with the expertise, capability, and activities of federally supported practice networks, where locally available, including, but not limited to, those supported by the Indian Health Service, the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, the Department of Veterans Affairs, the Department of Defense, and relevant Centers for Medicare & Medicaid Services demonstration projects.

**Source of Governing Requirements**

This program is authorized by Section 3012 of the Public Health Service Act, as added by ARRA, specifically Title XIII of Division A and Title IV of Division B (the HITECH Act) (42 USC 300jj-32). There are no program regulations for this program.

**Availability of Other Program Information**

Additional program information can be found at [http://healthit.gov/providers-professionals/regional-extension-centers-recs](http://healthit.gov/providers-professionals/regional-extension-centers-recs).

**III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.
### Compliance Requirements

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#### A. Activities Allowed or Unallowed

1. Project funds (cooperative agreement funds and required cost-sharing amounts) may be used in two categories: core support, which includes outreach and educational activities, management activities, local workforce support, and participation peer-learning and knowledge transfer activities, and direct assistance support, for use in providing direct on-site technical assistance to providers. Consistent with the category funding limitations established in the award for the two categories of support, project funds may be used for the following types of activities:

   a. Planning and implementing outreach, education, and on-site technical assistance programs necessary to assist providers in the REC’s geographic service area to meet meaningful use criteria established by the Secretary of HHS. This dissemination of knowledge about the effective strategies and practices to select, implement, and meaningfully use certified EHR technology to improve quality and value of healthcare includes activities such as (1) materials designed to be widely and rapidly disseminated, both for provider self-study and for use by other regional centers; (2) support of regional communities of practice for providers and those who support their health IT implementation; (3) health IT training events for clinical professionals and their support staff; and (4) instruction and assistance on using health IT to enhance the patient-provider relationship and encourage patient self-management. Training events, programs, and communities of practice may be co-sponsored with other local resources, such as (but not necessarily limited to) State and local health services oversight agencies, professional organizations, provider organizations, and consumer organizations.
b. Participating in activities of the consortium facilitated by the REC and comprised of all of the regional centers, including (1) participating in national meetings and hosting regional network meetings; (2) using the client management, tracking, reporting application (furnished through the Health Information Technology Research Center); and (3) making tools and materials developed using funding provided through the cooperative agreement available for sharing with other regional centers, interested stakeholders, and the public, directly and/or via the REC.

c. Activities related to assessing the health IT needs of priority primary-care providers and selecting and negotiating contracts with vendors or resellers (of EHR systems, hardware and network infrastructure, and IT services), as well as assisting those providers in holding vendors accountable for adhering to service-level agreements. This includes designing group purchasing plans and helping providers select the highest-value option (defined as that which offers the greatest opportunity to achieve and maintain meaningful use of EHRs and improved quality of care at the most favorable cost of ownership and operation, including both the initial acquisition of the technology, cost of implementation, and ongoing maintenance and predictable needed upgrades over time).

d. Practice and workflow redesign necessary to achieve meaningful use of EHRs. This includes working with the priority primary-care providers and their EHR vendor(s) to implement and troubleshoot the use of the EHR system for the consistent documentation of essential clinical information in structured format; instituting electronic administrative transactions, electronic prescribing, electronic laboratory ordering and resulting, sharing key clinical data across practice settings; providing patient access to their health information; public health reporting; and policies and practices that protect the privacy and security of personal health information.

e. Assistance to priority primary-care providers in connecting to available health information exchange infrastructure(s), including local health information exchange organizations and state-based shared utilities or directory services, in compliance with applicable statutory and regulatory requirements, patient preferences, and the State Plans for health information exchange (HIE) (developed and HHS-approved under cooperative agreements issued by ONC pursuant to Section 3013 of the PHS Act as added by ARRA (CFDA 93.719).

f. Activities that support providers in implementing best practices with respect to the privacy and security of personal health information, including (1) implementation and maintenance of physical and network security, user-based access controls, disaster recovery, encryption and storage of backup media; (2) human resources training and policies; and (3) identification of state laws and regulatory requirements that impact
privacy and security policies for electronic interoperable health information exchange.

g. Reviewing the utilization of the EHRs within participating practices, and providing appropriate feedback and support to improve low utilization of features essential for meaningful use (e.g., electronic prescribing).

h. Helping priority primary-care providers to understand, and implement technology and process changes needed to attain meaningful use requirements and demonstrate this attainment, as defined by the Secretary through Medicare and Medicaid regulations and guidance.

i. Partnering with local resources, such as community colleges, to promote integration of health IT into the initial and ongoing training of health professionals and supporting staff. Regional centers may provide internship opportunities for local training programs, provide instructors for didactic programs, and use local training programs’ graduates to fulfill the workforce needs of their extension activities and the implementation, maintenance, and use needs of the centers’ participating providers.

2. Project funds may not be used for the following:

a. Pre-award costs.

b. Purchase or improvement of land, or purchase, construction, or making permanent improvements to any building except for minor remodeling. (42 USC 300-jj(c) and Funding Opportunity Announcement, Sections I. and IV.6).

E. Eligibility

1. Eligibility for Individuals – Not Applicable

2. Eligibility for Group of Individuals or Area of Service Delivery

Each regional center shall aim to provide assistance and education to all providers in a region, but shall prioritize any direct assistance first to the following:

a. Public or not-for-profit hospitals or critical access hospitals.

b. Federally qualified health centers (as defined in Section 1861(aa)(4) of the Social Security Act).

c. Entities that are located in rural and other areas that serve uninsured, underinsured, and medically underserved individuals (regardless of whether such area is urban or rural).
d. Individual or small group practices (or a consortium thereof) that are primarily focused on primary care.

Note: A practice otherwise meeting the definition of individual or small-group physician practice may participate in shared-services and/or group purchasing agreements, and/or reciprocal agreements for patient coverage, with other physician practices without affecting their status as individual or small-group practices for purposes of the regional centers.

(42 USC 300jj-32(c)(4)(D) and Funding Opportunity Announcement, Appendix E).

3. Eligibility for Subrecipients – Not Applicable

G. Matching, Level of Effort, Maintenance of Effort

1. Matching

Based on an assessment of current national economic conditions, the Secretary of HHS waived the 50 percent limitation on HHS funding for annual capital and operating and maintenance funds needed to establish and maintain a regional center (42 USC 300-jj(c)(5)). In place of these funding requirements, the Secretary has structured the funding partnership between HHS and the regional centers that requires recipients to contribute 10 percent of project costs each year of the cooperative agreement.

2. Level of Effort – Not Applicable

3. Earmarking – Not Applicable

I. Procurement and Suspension and Debarment

Regional centers that choose to offer group purchasing of EHR software, IT support services, and/or hardware must provide a choice of offerings. The selection process for vendors must be open and competitive and the selection committee must include representatives of the priority primary-care providers actively practicing within the regional center’s geographic service area (Funding Opportunity Announcement, Section I).

J. Program Income

Program income generated by the REC shall be retained by the REC and first be used to finance the non-federal share of the project. After the cost sharing requirement is met, program income generated shall be added to funds committed to the project by ONC and used to further eligible project or program objectives (Funding Opportunity Announcement, Sections III and IV).
L. Reporting

1. Financial Reporting
   a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
   b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.767 CHILDREN’S HEALTH INSURANCE PROGRAM (CHIP)

I. PROGRAM OBJECTIVES

Title XXI of the Social Security Act (Act) authorizes the Children’s Health Insurance Program (CHIP) to assist State efforts in initiating and expanding the provision of child health assistance to uninsured, low-income children. Under Title XXI, States may provide child health assistance primarily for obtaining health benefits coverage through (1) obtaining coverage under a separate child health program that meets specific requirements; (2) expanding benefits under the State’s Medicaid plan under Title XIX of the Act; or (3) a combination of both. To be eligible for funds under this program, States must submit a State child health plan (State plan), which must be approved by the Secretary of the Department of Health and Human Services (HHS).

II. PROGRAM PROCEDURES

Administration and Services

At the Federal level, CHIP is administered by HHS, through the Center for Medicaid and CHIP Services (CMCS) of the Centers for Medicare and Medicaid Services (CMS).

Title XXI authorizes grants to States that initiate or expand health insurance programs for low-income, uninsured children. Under Title XXI, CHIP is jointly financed by the Federal and State governments and is administered by the States. Within broad Federal guidelines, each State determines the design of its program, eligible groups, benefit packages, payment levels for coverage and administrative and operating procedures. CHIP provides a capped amount of funds to States on a matched basis. Federal payments under Title XXI to States are based on State expenditures under approved plans that could be effective on or after October 1, 1997.


State Plans

Title XXI State plans and amendments to those plans are approved in CMS’s central office. The amendments are reviewed by an intra-Departmental team, which must decide upon approval or disapproval within a 90-day period. This “90-day clock” can be stopped by sending a formal written request for additional information from the State, and can be restarted at the same point when a response is formally received. Copies of State plans are available on Medicaid.gov.
Waivers

The State may apply for a waiver of CHIP Federal requirements. Waivers are intended to provide flexibility needed to enable States to try new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs of particular areas or groups of enrollees. Waivers allow exceptions to State plan requirements that permit the State to implement innovative programs or activities on a time-limited basis. Such demonstration projects are subject to specific safeguards for the protection of enrollees and the program. The Secretary will approve only demonstration projects that are consistent with key principles of the CHIP statute. States’ waiver authority is found at 42 USC 1397gg(e), which extends to CHIP the Medicaid waiver authority at 42 USC 1315.

Source of Governing Requirements

This program is authorized by Section 490l(a) of the Balanced Budget Act of 1997 (BBA), Pub. L. No. 105-33, as amended by Pub. L. No. 105-100, which added Title XXI to the Social Security Act (Act), and subsequent amendments to Title XXI. Title XXI authorizes CHIP to assist State efforts to initiate and expand the provision of child health assistance to uninsured, low-income children. Title XXI is codified at 42 USC 1397aa-1397jj. The regulations for this program are found at 42 CFR part 457.

In addition to 45 CFR part 92 and OMB Circular A-87/45 CFR part 75 (the HHS implementation of 2 CFR part 200), this program also is subject to the requirements of 45 CFR part 95.

Availability of Other Program Information

States and other interested parties can access information on the Department’s policies on this and other issues at http://www.medicaid.gov/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.
A. Activities Allowed or Unallowed

1. **Activities Allowed** – States have general flexibility in allocating their individual allotments toward activities needed to conduct the CHIP (42 USC 1397ee(a)). In addition to expenditures for child health assistance under the plan for targeted low-income children, other allowable activities, to the extent permitted by 42 USC 1397ee(c), include payment of other child health assistance for targeted low-income children; expenditures for health services initiatives for improving the health of children (targeted and other low income) under the plan; expenditures for outreach activities; and other reasonable costs incurred by the State to administer the plan (42 USC 1397ee).

2. **Activities Unallowed** – Federal funds may not be expended under the State plan to pay for any abortion or to assist in the purchase, in whole or in part, of health coverage that includes coverage of abortion, except if necessary to save the life of the mother or if the pregnancy is the result of incest or rape (42 USC 1397ee(c)).

E. Eligibility

1. **Eligibility for Individuals**

   The auditor should not test eligibility for determinations based on Modified Adjusted Gross Income (MAGI-based determination). Detailed testing is performed under the Medicaid and CHIP Eligibility Review Pilots, which serve as CMS’ oversight of Medicaid and CHIP eligibility determinations during the initial years of Affordable Care Act implementation. Auditors should test eligibility determinations prior to October 1, 2013, as described below.

   a. States have flexibility in determining eligibility levels for individuals for whom the State will receive enhanced matching funds within the
guidelines established under the Act. Generally, a State may not cover children with higher family income without covering children with a lower family income, nor deny eligibility based on a child having a preexisting medical condition. States are required to include in their State plans a description of the standards used to determine eligibility of targeted low-income children. State plans should be consulted for specific information concerning individual eligibility requirements (42 USC 1397bb(b)).

States have the option to extend eligibility to low-income targeted pregnant women. There is no income eligibility level for pregnant women in CHIP that is lower than the State’s Medicaid level, and States must cover pregnant women up to 185 percent of the Federal poverty level before they can elect the option to include pregnant women in the CHIP State plan (Pub. L. No. 111-3, Section 111).

b. Qualified aliens, as defined at 8 USC 1641, who entered the United States on or after August 22, 1996, are not eligible for a separate child health program under Title XXI (CHIP) for a period of 5 years, beginning on the date the alien became a qualified alien, unless the alien is exempt from this 5-year bar under the terms of 8 USC 1613, or unless the State has adopted the option to provide coverage to these lawfully residing children, as authorized under Section 214 of CHIPRA (42 USC 1396b(v)(4)(ii)). States must provide coverage under a separate child health program under Title XXI to all other otherwise eligible qualified aliens who are not barred from coverage under 8 USC 1613 (42 CFR section 457.320(b)(6)).

c. States may elect to provide medical assistance, notwithstanding section 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to children and pregnant women who are lawfully residing in the United States and who are otherwise eligible for such assistance. This optional coverage in CHIP is only applicable if the State has elected to apply this allowance with respect to such category of children or pregnant women under Title XIX (Pub. L. No. 111-3, Section 214 (42 USC 1396b(v)(4)).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

3. Eligibility for Subrecipients – Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The State matching rate for its CHIP expenditures is determined in accordance with the Federal matching rate for such expenditures, referred to as the enhanced Federal medical assistance percentage (Enhanced FMAP) for a State. That is, the CHIP State matching rate is calculated by subtracting the Medicaid FMAP rate
from 100, taking 30 percent of the difference, and then adding it to the Medicaid FMAP rate. The Enhanced FMAP is calculated in accordance with 42 USC 1397ee(b), which provides that the Enhanced FMAP for a State shall never exceed 85 percent. Calculated FMAPs and enhanced FMAPs may be found at http://www.aspe.hhs.gov/health/fmap.htm (42 USC 1397ee(a) and (b)).

A qualifying State may elect to be paid from the State’s allotment for any of FYs 2009 through 2015, an amount equal to the additional amount that would have been paid to the State under Title XIX with respect to expenditures if the enhanced FMAP had been substituted for the FMAP (42 USC 1397ee(g)(4)). The qualifying States are Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, New Mexico, Rhode Island, Tennessee, Vermont, Washington, and Wisconsin (as determined by CMS on the basis of the criteria in Pub. L. No. 108-74, Section 1(g)(2) and Pub. L. No. 108-127, Section 1).

2.1 Level of Effort – Maintenance of Effort

a. In order to receive Federal matching funds for CHIP expenditures at the enhanced matching rate, each State must continue to maintain its Medicaid eligibility standards and the methodologies that were applied in its Medicaid State plans as of June 1, 1997 (42 USC 1397ee(d)(1) and 1397jj(b)).

b. Three States, New York, Florida and Pennsylvania, maintain “existing comprehensive State-based programs.” For these three States only, beginning with FY 1999, the amount of the State’s allotment for a fiscal year is reduced by the amount that the “children’s health insurance expenditures” for the previous fiscal year is less than the total of such expenditures for FY 1996. For purposes of this provision, the term “children’s health insurance expenditures” means the State share of Title XXI (CHIP) expenditures; the State share of expenditures under Title XIX (Medicaid) attributable to an enhanced FMAP under section 1905(u) of the Act (42 USC 1396d(u)); and State expenditures for health benefits coverage under an existing comprehensive State-based program (42 USC 1397cc(d)(1) and 1397ee(d)(2)).

2.2 Level of Effort – Supplement Not Supplant – Not Applicable

3. Earmarking

Expenditures not directly related to providing child health insurance assistance under the plan are limited to 10 percent of the State’s total expenditures through CHIP. The following expenditures are subject to the 10 percent limit:

(a) payment for other child health assistance for targeted low-income children;
(b) expenditures for health services initiatives under the State child health assistance plan for improving the health of children; (c) expenditures for outreach activities; and (d) other reasonable costs incurred by the State to administer the
State child health assistance plan (42 USC 1397ee(c)). States may apply for a waiver, or variance of this 10 percent cap under 42 USC 1397ee(c)(2). If applicable, information regarding such a waiver is in the State plan.

The 10 percent limit is applied on an annual fiscal-year basis and is calculated based on: (a) the total amounts of expenditures, and (b) the quarter in which such expenditures are claimed by the State for the fiscal year (42 USC 1397ee).

H. Period of Performance

The availability of amounts for FY 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year (i.e., the year of award and one subsequent fiscal year) (42 USC 1397dd(e)).

L. Reporting

1. Financial Reporting

a. SF-270, Request for Advance or Reimbursement – Not Applicable

b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

c. SF-425, Federal Financial Report – Applicable for cash status; Not Applicable for expenditure reporting

d. CMS-64, Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (OMB No. 0938-0067) (Note: The Paperwork Reduction Act clearance for this report expires in January 2015)

e. CMS-21, Quarterly Children’s Health Insurance Program Statement of Expenditures for Title XXI (OMB No. 0938-0731)

Key Line Items – The following line items contain critical information:

CMS-21 Base – The CMS-21 consists of three parts: CMS-21 Base, CMS-21B, and CMS-21C. Only CMS-21 Base is expected to be tested for compliance.

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.775  STATE MEDICAID FRAUD CONTROL UNITS
CFDA 93.777  STATE SURVEY AND CERTIFICATION OF HEALTH CARE PROVIDERS AND SUPPLIERS (Title XVIII) MEDICARE
CFDA 93.778  MEDICAL ASSISTANCE PROGRAM (Medicaid; Title XIX)

Note: In accordance with 2 CFR section 200.519, when the auditor is using the risk-based approach for determining major programs, the auditor should consider that the Department of Health and Human Services (HHS) has identified the Medical Assistance Program (Medicaid) as a program of higher risk.

Medicaid is the largest dollar Federal grant program and under OMB budgetary guidance and Pub. L. No. 107-300, HHS is required to provide an estimate of improper payments for Medicaid. Improper payments mean any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and includes any payment to an ineligible recipient, and any payment for an ineligible service, any duplicate payment, payments for services not received, and any payments that does not account for credit for applicable discounts.

While not precluding an auditor from determining that the Medicaid cluster qualifies as a low-risk program (e.g., because prior audits have shown strong internal controls and compliance with Medicaid requirements), the above should be considered as part of the risk assessment process and audit documentation should support the consideration.

I. PROGRAM OBJECTIVES

Medical Assistance Program

The objective of the Medical Assistance Program (Medicaid or Title XIX of the Social Security Act, as amended, (42 USC 1396 et seq.)) is to provide payments for medical assistance to low-income persons.

State Medicaid Fraud Control Units

States are required as part of their Medicaid State plans to maintain a State Medicaid Fraud Control Unit (MFCU), unless the Secretary of HHS determines that certain safeguards are met regarding fraud and abuse and waives the requirement. The mission of the MFCUs is to investigate and prosecute fraud by Medicaid providers. The State MFCUs also review complaints alleging abuse or neglect of patients in health care facilities receiving payments under the State Medicaid plan, and may review complaints of misappropriation of patients’ private funds in such facilities. States are required to refer all suspected violations of applicable Medicaid laws and regulations by providers to the MFCU. Federal requirements for the establishment and continued operations of the units are contained in 42 USC 1396b(a)(6), 1396b(b)(3), and 1396b(q); and 42 CFR part 1007. A key requirement of the governing regulations is that a unit must be a single identifiable entity of State government.
The HHS Office of the Inspector General (OIG) is the agency responsible for the Federal oversight of the State MFCUs. In order to receive the Federal grant funds necessary to sustain their operations, the units must submit a re-application for Federal assistance to the OIG on an annual basis.

**State Survey and Certification of Health Care Providers and Suppliers**

The objective of the State Survey and Certification of Health Care Providers and Suppliers program is to determine whether the providers and suppliers of health care services under the Medicare program are in compliance with regulatory health and safety standards and conditions of participation/coverage. For certain types of providers, compliance with these health and safety standards also are required as a condition of Medicaid participation, and the Medicaid program contributes to covering program costs accordingly. This program is administered in a manner similar to Medicaid and includes an approved State plan that addresses Federal requirements.

Even though the State MFCUs and State Survey and Certification of Health Care Providers and Suppliers have substantially less Federal expenditures than the Medicaid Assistance Program, they are clustered with Medicaid because these programs provide significant controls over the expenditures of Medicaid funds. It is unlikely that the expenditures for these two programs would be material to the Medicaid cluster; however, noncompliance with the requirements to administer these controls may be material.

### II. PROGRAM PROCEDURES

The following paragraphs are intended to provide a high-level, overall description of how Medicaid generally operates. It is not practical to provide a complete description of program procedures because Medicaid operates under both Federal and State laws and regulations and States are afforded flexibility in program administration. Accordingly, the following paragraphs are not intended to be used in lieu of or as a substitute for the Federal and State laws and regulations applicable to this program.

**Administration**

The U.S. Department of Health and Human Services (HHS) Centers for Medicare and Medicaid Services (CMS) administers the Medicaid program in cooperation with State governments. The Medicaid program is jointly financed by the Federal and State governments and administered by the States. For purposes of this program, the term “State” includes the 50 States, the District of Columbia, and five U.S. Territories: Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Medicaid operates as a vendor payment program, with States paying providers of medical services directly. Participating providers must accept the Medicaid reimbursement level as payment in full. Within broad Federal rules, each State decides eligible groups, types and range of services, payment levels for services, and administrative and operating procedures.
State Plans

States administer the Medicaid program under a State plan approved by CMS. The Medicaid State plan is a comprehensive written statement submitted by the State Medicaid agency describing the nature and scope of its Medicaid program. A State plan for Medicaid consists of preprinted material that covers the basic requirements, and individualized content that reflects the characteristics of each particular State’s program. The State plan is referenced to the applicable Federal regulation for each requirement and will contain references to applicable State regulations.

The State plan contains all information necessary for CMS to determine whether the State plan can be approved to serve as a basis for determining the level of Federal financial participation in the State program. The State plan must specify a single State agency (hereinafter referred to as the “State Medicaid agency”) established or designated to administer or supervise the administration of the State plan. The State plan must also include a certification by the State Attorney General that cites the legal authority for the State Medicaid agency to determine eligibility.

The State plan also specifies the criteria for determining the validity of payments disbursed under the Medicaid program. This encompasses the system the State will use to ensure that payments are disbursed only to eligible providers for appropriately priced services that are covered by the Medicaid program and provided to eligible beneficiaries. Payments must also be based on claims that are adequately supported by medical records, and payments must not be duplicated.

A State plan or plan amendment will be considered approved unless CMS sends the State written notice of disapproval or a request for additional information within 90 days after receipt of the State plan or plan amendment. Copies of the State plan are available from the State Medicaid agency.

Waivers

The State Medicaid agency may apply for a waiver of Federal requirements. Waivers are intended to provide the flexibility needed to enable States to try new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs of particular areas or groups of beneficiaries. Waivers allow exceptions to State plan requirements and permit a State to implement innovative programs or activities on a time-limited basis, and are subject to specific safeguards for the protection of beneficiaries and the program.

Actions that States may take if waivers are obtained include (1) implementing a primary care case-management system or a specialty physician system; (2) Designating an entity to act as a central broker in assisting Medicaid beneficiaries to choose among competing health care plans; (3) sharing with beneficiaries (through the provision of additional services) cost-savings made possible through the beneficiaries’ use of more cost effective medical care; (4) limiting beneficiaries’ choice of providers to providers that fully meet reimbursement, quality, and utilization standards, which are established under the State plan and are consistent with access, quality, and efficient and economical furnishing of care; and (5) including as medical assistance,
under its State plan, home and community-based services furnished to beneficiaries who would otherwise need inpatient care that is furnished in a hospital or nursing facility, and is reimbursable under the State plan. A State may also obtain a waiver of statutory requirements to provide an array of home and community-based services, which may permit an individual to avoid institutionalization (42 CFR part 441, subpart G). Depending on the type of requirement being waived, a waiver may be effective for initial periods ranging from 2 to 5 years, with varying renewal periods. Copies of waivers are available from the State Medicaid agency.

Payments to States

Once CMS has approved a State plan and waivers, it makes quarterly grant awards to the State to cover the Federal share of Medicaid expenditures for services, training, and administration. The amount of the quarterly grant is determined on the basis of information submitted by the State Medicaid agency (in quarterly estimate and quarterly expenditure reporting). The grant award authorizes the State to draw Federal funds as needed to pay the Federal financial participation portion of qualified Medicaid expenditures. The HHS Payment Management System, Division of Payment Management (PMS-DPM) in Rockville, Maryland, disburses Federal funds to States, including funding under Medicaid.

State Expenditure Reporting

Thirty days after the end of the quarter, States electronically submit the CMS-64, Quarterly Statement of Expenditures for the Medical Assistance Program. The CMS-64 presents expenditures and recoveries and other items that reduce expenditures for the quarter and prior period expenditures. The amounts reported on the CMS-64 and its attachments must be actual expenditures for which all supporting documentation, in readily reviewable form, has been compiled and is available immediately at the time the claim is filed. States use the Medicaid Budget and Expenditure System to electronically submit the CMS-64 directly to CMS.

Eligibility

Eligibility for Medicaid is based on financial (e.g., income/resources) and non-financial (e.g., age, pregnancy, disability, citizenship/immigration status) criteria. The States must cover mandatory eligibility groups. States may provide coverage to members of optional groups and medically needy individuals (individuals who are eligible for Medicaid after deducting medical expenditures from their income). Eligibility criteria will be specified in the individual State plan.

States must provide limited Medicaid coverage for “Qualified Medicare Beneficiaries” (QMB). These are aged and disabled persons who are entitled to Medicare Part A, whose income does not exceed 100 percent of the Federal poverty level, and whose resources do not exceed three times the SSI resource limit, adjusted annually by the increase in the consumer price index (Section 1860D-14(a)(3)(D) of the Social Security Act (42 USC 1395w-114)).

The State plan will specify if determinations of eligibility are made by agencies other than the State Medicaid agency and will define the relationships and respective responsibilities of the State Medicaid agency and the other agencies. States must allow individuals and families to apply online, by telephone, via mail, or in person and must require that all initial applications are signed under penalty of perjury. Electronic, including telephonically recorded, signatures and
handwritten signatures transmitted via any other electronic transmission must be accepted. The State agency must have facts in the case record to support the agency’s eligibility determination, including a record of having verified citizenship or immigration status for each individual. The State must provide notice of its decision concerning eligibility and provide timely and adequate notice of the basis for discontinuing assistance. (42 CFR sections 435.907, 435.913, and 435.914; 42 USC 1320b-7).

Services

Medicaid expenditures include medical assistance payments for eligible recipients for such services as hospitalization, prescription drugs, nursing home stays, outpatient hospital care, and physicians’ services, and expenditures for administration and training. In order for a medical assistance payment to be considered valid, it must comply with the requirements of Title XIX, as amended, (42 USC 1396 et seq.) and implementing Federal regulations. Determinations of payment validity are made by individual States in accordance with approved State plans under broad Federal guidelines.

Some States have managed care arrangements under which the State enters into a contract with an entity, such as an insurance company, to arrange for medical services to be available for beneficiaries. The State pays a fixed rate per person (capitation rate) without regard to the actual medical services utilized by each beneficiary.

Medicaid expenditures also include administration and training, the State Survey and Certification Program, and State Medicaid Fraud Control Units.

Medicare Buy-In Program

The Medicare Buy-In Program, also known as QMB (Qualified Medicare Beneficiary) and SLMB (Specified Low-Income Medicare Beneficiary), is designed to protect low-income Medicare beneficiaries from the significant and growing costs required to receive Medicare coverage, including out-of-pocket cost sharing expenses (deductibles and co-payments). The program connects the two largest public health programs in the country, Medicare and Medicaid, as Medicaid pays for all or part of the Medicare premium and deductible amounts for individuals who are financially eligible.

The QMB Program serves individuals with modest assets with combined incomes that do not exceed 100 percent of the Federal poverty level. For 2013, the asset limit for the QMB program is $6,680/individual and $10,020/couple. If individuals are eligible for the QMB program, the State Medicaid program pays their Medicare Part B premiums and cost-sharing amounts.

For individuals with slightly higher incomes, the SLMB Program pays only the Part B premium. To be eligible for the SLMB program, the individual/couple can have incomes between 100 and 120 percent of the poverty level. The SLMB program has the same asset limits as the QMB program.
Maintenance of Effort

The maintenance of effort (MOE) provisions in the Affordable Care Act generally ensure that States’ coverage for adults under the Medicaid program remains in place until January 1, 2014 and that coverage for children remains in place through September 30, 2019. Sections 1902(a)(74) and 1902(gg) of the Social Security Act require that, as a condition of receiving Federal Medicaid funding, States maintain Medicaid “eligibility standards, methodologies, and procedures” that are not more restrictive than those in effect on March 23, 2010. Certain exceptions may apply for States experiencing or projecting a deficit, which would permit Medicaid eligibility restrictions for certain non-pregnant, nondisabled adults.

Indian Care

Although Medicaid allows States to impose enrollment fees, premiums, and cost-sharing charges on Medicaid and Children’s Health Insurance Program (CHIP) participants, Section 5006 of ARRA precludes them from imposing these charges on Indian applicants, according to the guidance released by CMS. Medicaid regulations at 42 CFR section 447.56(a)(1)(x), which are effective January 1, 2014:

a. exempt Indians from paying enrollment fees, premiums or similar charges if they are eligible to receive or have received an item or service furnished by an Indian health care provider or through referral under contract health services (CHS);

b. exempt Indians from paying cost sharing (deductibles, coinsurance, copayments or similar charges) for Medicaid-covered services if they are currently receiving or have ever received an item or service furnished by an Indian health care provider or through referral under CHS; and

c. prohibit any reduction in payment due under Medicaid to the Indian health care provider serving an Indian (i.e., a State must pay these providers the full Medicaid payment rate for furnishing the service).

Control Systems

Utilization Control and Program Integrity

The State plan must provide methods and procedures to safeguard against unnecessary utilization of care and services, including those provided by long-term care institutions. In addition, the State must have (1) methods of criteria for identifying suspected fraud cases; (2) methods for investigating these cases; and (3) procedures, developed in cooperation with legal authorities, for referring suspected fraud cases to law enforcement officials.

These requirements may be met by the State Medicaid agency assuming direct responsibility for assuring the requirements or by contracting with a quality improvement organization (QIO) (formerly known as peer review organization (PRO)) to perform such reviews. The reviewer must establish and use written criteria for evaluating the appropriateness and quality of Medicaid services.
The State Medicaid agency must have procedures for the ongoing post-payment review, on a sample basis, for the necessity, quality, and timeliness of Medicaid services. The State Medicaid agency may conduct this review directly or may contract with a QIO.

Suspected fraud identified by utilization control and program integrity should be referred to the State Medicaid Fraud Control Units.

**Inpatient Hospital and Long-Term Care Facility Audits**

States are required to establish as part of the State plan standards and methodology for reimbursing inpatient hospital and long-term care facilities based on payment rates that represent the cost to efficiently and economically operate such facilities and provide Medicaid services. The State Medicaid agency must provide for the filing of uniform cost reports by each participating provider. These cost reports are used by the State Medicaid agency to aid in the establishment of payment rates. The State Medicaid agency must provide for periodic audits of the financial and statistical records of the participating providers. Such audits could include desk audits of cost reports in addition to field audits. These audits are an important control for the State Medicaid agency in ensuring that established payment rates are proper.

**ADP Risk Analyses and System Security Reviews**

The Medicaid program is highly dependent on extensive and complex computer systems that include controls for ensuring the proper payment of Medicaid benefits. States are required to establish a security plan for ADP systems that include policies and procedures to address (1) physical security of ADP resources; (2) equipment security to protect equipment from theft and unauthorized use; (3) software and data security; (4) telecommunications security; (5) personnel security; (6) contingency plans to meet critical processing needs in the event of short- or long-term interruption of service; (7) emergency preparedness; and (8) designation of an agency ADP security manager.

State agencies must establish and maintain a program for conducting periodic risk analyses to ensure appropriate, cost effective safeguards are incorporated into new and existing systems. State agencies must perform risk analyses whenever significant system changes occur. On a biennial basis state agencies shall review the ADP system security of installations involved in the administration of HHS programs. At a minimum, the reviews shall include an evaluation of physical and data security operating procedures, and personnel practices.

As part of complying with the above requirement, a state may obtain a Statement on Standards for Attestation Engagements (AT) Section 801, Reporting on Controls at a Service Organization SOC 1 type 2 report from its service organization (if the State has a service organization). A SOC 1 type 1 report does not address the effectiveness of a service organization’s controls and would need to be supplemented by additional testing of controls at the service organization.
The specific areas covered by a SOC 1 type 2 report differ according to each individual service organization’s operations; however, in every instance, the type 2 report procedures assess the sufficiency of the design of an organization’s controls and test their effectiveness. A number of commonly covered areas include:

a. Control Environment
b. Systems Development and Maintenance
c. Logical Security
d. Physical Access
e. Computer Operations
f. Input Controls
g. Output Controls
h. Processing Controls

*Medicaid Management Information System (MMIS)*

The MMIS is the mechanized Medicaid benefit claims processing and information retrieval system that States are required to have, unless this requirement is waived by the Secretary of HHS. HHS provides general systems guidelines (42 CFR sections 433.110 through 433.131) but it does not provide detailed system requirements or specifications for States to use in the development of MMIS systems. As a result, MMIS systems will vary from State to State. The system may be maintained and operated by the State or a contractor.

The MMIS is normally used to process payments for most medical assistance services. The MMIS’ Operations Management business area supports the Claims Receipt, Claims Adjudication, and Point-of-Service subsystems to process provider claims for Medicaid care and services to eligible medical assistance recipients. The MMIS incorporates many edits and controls to identify aberrant billing practices for follow-up by State staffs. However, the State may use systems other than MMIS to process medical assistance payments. In many cases the operation and maintenance of the MMIS is contracted out to a private contractor. The State plan will describe the administration of each State’s claims-processing subsystems.

Generally, the MMIS does not process claims from State agencies (e.g., State-operated intermediate care facility for the mentally retarded (ICF/MR)) and certain selected types of claims. The claims payments that are not processed through MMIS may be material to the Medicaid program.
Federal Oversight and Compliance Mechanisms

CMS oversees State operations through its organization consisting of a headquarters and 10 regional offices.

CMS program oversight includes budget review, reviews of financial and program reports, and on-site reviews, which are normally targeted to cover a specific area of concern. CMS conveys areas of national and local concerns to the States through the regions. Technical assistance is used extensively to promote improvements in State operation of the program but enforcement mechanisms are available. CMS considers the single audit as an important internal control in its monitoring of States.

Federal program oversight, because of its targeted nature, should not be used as a substitute for audit evidence gained through transaction testing.

Medicaid Program Payment Error Rate Measurement

The regulations at 42 CFR part 431, subpart Q, specify requirements for estimating improper payments in Medicaid.

Source of Governing Requirements

The auditor is expected to use the applicable laws and regulations (including the applicable State-approved plan) when auditing this program. The Federal law that authorizes these programs is Title XIX of the Social Security Act (Title XIX), enacted in 1965 and subsequently amended (42 USC 1396 et seq.). The Federal regulations applicable to the Medicaid program are found in 42 CFR parts 430 through 456, 1002, and 1007.

Awards under the Medical Assistance Program (CFDA 93.778) are subject to the HHS implementation of the A-102 Common Rule, 45 CFR part 92/the HHS implementation of 2 CFR part 200, 45 CFR part 75. This program also is subject to the requirements of 45 CFR part 95 and the cost principles under Office of Management and Budget Circular A-87/2 CFR part 200, subpart E.

Availability of Other Program Information

The HHS OIG issues fraud alerts, some of which relate to the Medicaid program. These alerts are available from the HHS OIG home page, Special Fraud Alerts section (https://oig.hhs.gov/compliance/alerts/index.asp).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

<table>
<thead>
<tr>
<th>Compliance Requirements</th>
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<tr>
<td>Y</td>
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</tbody>
</table>

General Audit Approach for Medicaid Payments

To be allowable, Medicaid costs for medical services must be (1) covered by the State plan and waivers; (2) reviewed by the State consistent with the State’s documented procedures and system for determining medical necessity of claims; (3) properly coded; and (4) paid at the rate allowed by the State plan. Additionally, Medicaid costs must be net of beneficiary cost-sharing obligations and applicable credits (e.g., insurance, recoveries from other third parties who are responsible for covering the Medicaid costs, and drug rebates), paid to eligible providers, and only provided on behalf of eligible individuals.

Due to the complexity of Medicaid program operations, it is unlikely the auditor will be able to support an opinion that Medicaid expenditures are in compliance with applicable laws and regulations (e.g., are allowable under the State plan) without relying upon the systems and internal controls. Examples of complexities include:

1. Dependence upon large and complex ADP systems to process the large volume of Medicaid transactions.
2. Medical services are provided directly to an eligible beneficiary, normally without prior approval by the State.

3. Medical service providers normally determine the scope and medical necessity of the services.

4. Notice to the State that service is rendered is after-the-fact when a claim for payment is issued.

5. Payments systems do not include a review of original detailed documentation supporting the claim prior to payment.

6. Complex billing charge structures and payment rates for medical services, including significance of proper coding of services (e.g., billing by diagnosis related groups (DRG)).

7. Different types of Medicaid payments (e.g., inpatient hospital, physicians, prescription drugs and drug rebates).

Medicaid has required control systems that should aid the auditor in obtaining sufficient audit evidence for Medicaid expenditures. These control systems are discussed in the preceding Program Procedures under Control Systems and are (1) utilization control and program integrity; (2) inpatient hospital and long term care facility audits; (3) ADP risk analyses and system security reviews (e.g., of the MMIS); and (4) the MMIS normally includes edits and controls that identify unusual items for follow up by the utilization control and program integrity function. The first three generally are performed by specialists retained by the State Medicaid agency. The following table indicates the major types of Medicaid payments to which these controls will likely relate:

<table>
<thead>
<tr>
<th>Type of Medicaid Payment</th>
<th>1</th>
<th>2</th>
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<tr>
<td>Inpatient Hospital</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Physicians (including dental)</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Prescription Drugs (net of rebates)</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Institutional Long-Term Care</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

Each of the above Medicaid payment types is tested for compliance with applicable laws and regulations under one of the following: III.A, “Activities Allowed or Unallowed;” III.B, “Allowable Costs/Cost Principles;” or III.E.1, “Eligibility – Eligibility for Individuals.” Based on the assessed level of control risk, the auditor should design appropriate tests of the allowability of Medicaid payments, which may include a sample of medical claims. Given the complexity of medical records, if medical claims are sampled, the auditor should consider
engaging the assistance of specialists in the medical community to assist in the review. The auditor may consider using the same specialists used by the State.

The auditor should consider the following in planning and performing tests of controls and compliance:

1. III.N, “Special Tests and Provisions,” includes required internal controls, which are compliance requirements (i.e., controls (1), (2), and (3), above), and audit objectives and procedures for each. The audit procedures will entail tests of work performed by the State Medicaid agency.

2. Tests of compliance with laws and regulations relating to III.A, B, and E, below, and the compliance requirements enumerated in III.N should be coordinated.

A. Activities Allowed or Unallowed

1. Funds can be used only for Medicaid benefit payments (as specified in the State plan, Federal regulations, or an approved waiver), expenditures for administration and training, expenditures for the State Survey and Certification Program, and expenditures for State Medicaid Fraud Control Units (42 CFR sections 435.10, 440.210, 440.220, and 440.180).

2. Case Management Services – The State plan may provide for case management services as an optional medical assistance service. The term “case management services” means services that will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

Medicaid case management services are divided into two separate categories:

Administrative case management – Services must be identifiable with Title XIX benefit (e.g., outreach services provided by public school districts to Medicaid recipients).

Medical/targeted case management – Services must be provided to an eligible Medicaid recipient. Services do not have to be specifically medical in nature and can include securing shelter, personal needs, etc. (e.g., services provided by community mental health boards, county offices of aging).

Case management services is an area of risk because of the high growth of expenditures and prior experience that indicates problems with the documentation of case management expenditures.

With the exception of case management services provided through capitation (a process in which payment is made on a per beneficiary basis) or prepaid health plans, Federal regulations typically require the following documentation for case management services: date of service; name of recipient; name of provider agency and person providing the service; nature, extent, or units of service; and place of service (42 USC 1396n(g); 42 CFR part 434).
3. **Managed Care** – A State may obtain a waiver of statutory requirements in order to develop a system that more effectively addresses the health care needs of its population. For example, a waiver may involve the use of a program of managed care for selected elements of the client population or allow the use of program funds to serve specified populations that would be otherwise ineligible (Section 1115 of the Social Security Act (42 USC 1315)). Managed care providers must be eligible to participate in the program at the time services are rendered, payments to managed care plans should only be for eligible clients for the proper period, and the capitation payment should be properly calculated. Medicaid medical services payments (e.g., hospital and doctors charges) should not be made for services that are covered by managed care. States should ensure that capitated payments to providers are discontinued when a beneficiary is no longer enrolled for services.

4. **Medicaid Health Insurance Premiums** – A State may enroll certain Medicare-eligible recipients under Medicare Part B and pay the premium, deductibles, cost sharing, and other charges (42 CFR section 431.625).

5. **Disproportionate Share Hospital** – Federal financial participation is available for aggregate payments to hospitals that serve a disproportionate number of low-income patients with special needs. The State plan must specifically define a disproportionate share hospital and the method of calculating the rate for these hospitals. Specific limits for the total disproportionate share hospital payments for the State and the individual hospitals are contained in the legislation (42 USC 1396r-4).

6. **Home and Community-Based Services** – A State may obtain a waiver of statutory requirements to provide an array of home and community-based services which may permit an individual to avoid institutionalization (42 CFR part 441, subpart G). The HHS OIG has issued a special fraud alert concerning home health care. Problems noted include cost report frauds, billing for excessive services or services not rendered, and use of unlicensed staff. The full alert was published in the Federal Register on August 10, 1995, (page 40847) and is available from the HHS OIG home page, Special Fraud Alerts section (http://oig.hhs.gov/fraud/fraudalerts.asp).

7. **Medicare Part B Buy-In** – 42 CFR section 431.625(d)(1) and CMS Medicaid Manual – State Buy-in (Pub24) Sections 110 and 180 specify that Federal Financial Participation (FFP) is not available for States buy-in for non-cash Medical Assistance Only groups, e.g., the special income level group or the medically needy. FFP is available only for those individuals who are considered as some class of cash recipients or deemed to be a cash recipient or one of the Medicare Savings Program (MSP) groups.

8. **Electronic Health Records (EHR)** – States participating in the EHR incentive program can receive 90 percent FFP for approved processes, systems, and activities necessary to ensure the EHR incentive payments are being properly
made (Section 1903t of the Social Security Act, as amended by Section 4201 of the Health Information Technology for Economic and Clinical Health (HITECH) Act (42 USC 1396b)).

B. Allowable Costs/Cost Principles

Recoveries, Refunds, and Rebates (Costs must be the net of all applicable credits)

1. States must have a system to identify medical services that are the legal obligation of third parties, such as private health or accident insurers. Such third-party resources should be exhausted prior to paying claims with program funds. Where a third-party liability is established after the claim is paid, reimbursement from the third party should be sought (42 USC 1396K; 42 CFR sections 433.135 through 433.154).

2. The State is required to credit the Medicaid program for (1) State warrants that are canceled and uncashed checks beyond 180 days of issuance (escheated warrants) and (2) overpayments made to providers of medical services within specified time frames (42 CFR sections 433.300 through 433.320, and 433.40).

Under Section 6506 of the Affordable Care Act (42 USC 1396b(d)(2)), States now have up to 1 year (rather than 60 days) from the date of discovery of an overpayment for Medicaid services to recover, or to attempt to recover, such overpayment before making an adjustment to refund the Federal share of the overpayment. Except in the case of overpayments resulting from fraud, the adjustment to refund the Federal share must be made no later than the deadline for filing the quarterly expenditure report (Form CMS-64) for the quarter in which the 1-year period ends, regardless of whether the State recovers the overpayment.

3. Before calculating the amount of Federal financial participation, certain revenues received by a State will be deducted from the State’s medical assistance expenditures. The revenues to be deducted are (1) donations made by health providers and entities related to providers (except for bona fide donations and, subject to a limitation, donations made by providers for the direct costs of out-stationed eligibility workers); and (2) impermissible health care-related taxes that exceed a specified limit (42 USC 1396b(w); 42 CFR section 433.57).

“Provider-related donations” are any donations or other voluntary payments (in-cash or in-kind) made directly or indirectly to a State or unit of local government by (1) a health care provider, (2) an entity related to a health care provider, or (3) an entity providing goods or services under the State plan and paid as administrative expenses. “Bona fide provider-related donations” are donations that have no direct or indirect relationship to payments made under Title XIX (42 USC 1396 et seq.) to (1) that provider, (2) providers furnishing the same class of items and services as that provider, or (3) any related entity (42 CFR sections 433.58(d) and 433.66(b)).
Permissible health care-related taxes are those taxes which are broad-based taxes, uniformly applied to a class of health care items, services, or providers, and which do not hold a taxpayer harmless for the costs of the tax, or a tax program for which CMS has granted a waiver. Health care-related taxes that do not meet these requirements are impermissible health care-related taxes (42 CFR section 433.68(b)).

These provisions apply to all 50 States and the District of Columbia, except those States whose entire Medicaid program is operated under a waiver granted under Section 1115 of the Social Security Act (42 CFR part 433).

4. Section 1927 of the Social Security Act (42 USC 1396r-8) allows States to receive rebates for drug purchases the same as other payers receive. Drug manufacturers are required to provide a listing to CMS of all covered outpatient drugs and, on a quarterly basis, are required to provide their average manufacturer’s price and their best prices for each covered outpatient drug. Based on these data, CMS calculates a unit rebate amount for each drug, which it then provides to States. No later than 60 days after the end of the quarter, the State Medicaid agency must provide to manufacturers drug utilization data, including drug utilization data of those Medicaid beneficiaries enrolled in managed care organizations. Within 30 days of receipt of the utilization data from the State, the manufacturers are required to pay the rebate or provide the State with written notice of disputed items not paid because of discrepancies found.

E. Eligibility

1. Eligibility for Individuals

The auditor should not test eligibility for determinations based on Modified Adjusted Gross Income (MAGI-based determination). Detailed testing is performed under the Medicaid and CHIP Eligibility Review Pilots, which serve as CMS’ oversight of Medicaid and CHIP eligibility determinations during the initial years of Affordable Care Act implementation. Since the Medicaid and CHIP Eligibility Review Pilots do not focus on non-MAGI-based cases (i.e., Aged, Blind, and Disabled), the auditor should test non-MAGI determinations, as described below.

a. The State Medicaid agency or its designee is required to determine client eligibility in accordance with eligibility requirements defined in the approved State plan (42 CFR section 431.10).

b. There are specific requirements that must be followed to ensure that individuals meet the financial and non-financial requirements for Medicaid. These include that the State or its designee shall:

(1) Accept an application submitted online, by telephone, via mail, or in person and include in each applicant’s case records facts to
support the agency’s decision on the application (42 USC 1320b-7(d); 42 CFR sections 435.907 and 435.913).

(2) Request information from other agencies in the State and other State and Federal programs to the extent that such information is useful in verifying the financial eligibility of an individual. As described in the State’s verification plan submitted to the Secretary of HHS, this may include information from the agencies administering State unemployment compensation laws, the State Wage Information Collection Agency, the Social Security Administration (SSA), the Internal Revenue Service, the State-administered supplementary payment programs under Section 1616(a) of the Social Security Act, and any State program administered under a plan approved under Titles I, X, XIV, or XVI of the Act. States may also use information related to eligibility or enrollment from the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, CHIP, or the Exchange (Marketplace). If information provided by or on behalf of an individual is reasonably compatible with information obtained from the electronic data sources, then the agency must determine or renew eligibility based on such information and may not require the individual to provide any further documentation. If the information is not reasonably compatible, then the agency must provide the individual with a reasonable period of time to explain the discrepancy or furnish additional information (42 CFR sections 435.948 and 435.952).

(3) Require, as a condition of eligibility, that each individual seeking Medicaid furnish his or her Social Security number (SSN). This requirement does not apply if the individual (a) is not eligible to receive an SSN, (b) does not have an SSN and may be issued an SSN only for a valid non-work reason, or (c) because of well-established religious objections, refuses to obtain a SSN. In re-determining eligibility, if the case record does not contain the required SSN, the agency must require the recipient to furnish the SSN (42 USC 1320b-7(a)(1); 42 CFR sections 435.910 and 435.920).

(4) Verify each SSN of each applicant and recipient with SSA to ensure that each SSN furnished was issued to that individual and to determine whether any others were issued (42 CFR sections 435.910(g) and 435.920).

(5) Verify and document the citizenship and immigration status of each applicant (42 USC 1320b-7(d)).
c. Qualified aliens, as defined at 8 USC 1641, who entered the United States on or after August 22, 1996, are not eligible for Medicaid for a period of 5 years, beginning on the date the alien became a qualified alien, unless the alien is exempt from this 5-year bar under the terms of 8 USC 1613. States must provide Medicaid to certain qualified aliens in accordance with the terms of 8 USC 1612(b)(2), provided that they meet all other eligibility requirements. States may provide Medicaid to all other otherwise eligible qualified aliens who are not barred from coverage under 8 USC 1613 (the 5-year bar). All aliens who otherwise meet the Medicaid eligibility requirements are eligible for treatment of an emergency medical condition under Medicaid, as defined in 8 USC 1611(b)(1)(A), regardless of immigration status or date of entry.

d. As discussed in the General Audit Approach for Medicaid Payments, the auditor will likely combine III.A, “Activities Allowed or Unallowed,” III.B, “Allowable Costs/Cost Principles,” and III.E, “Eligibility.” Therefore, compliance requirements related to amounts provided to, or on behalf of eligible, were combined with III.A, “Activities Allowed or Unallowed.”

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

3. Eligibility for Subrecipients – Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The State is required to pay part of the costs of providing health care to the poor and part of the costs of administering the program. Different State participation rates apply to medical assistance payments. There are also different Federal financial participation rates for the different types of costs incurred in administering the Medicaid program, such as administration (including administration of family planning services), training, computer, and other costs (42 CFR sections 433.10 and 433.15). The auditor should refer to the State plan for the matching rates.

2. Level of Effort

A State waiver may contain a level-of-effort requirement.

3. Earmarking

A State waiver may contain an earmarking requirement.
L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable
   c. SF-425, Federal Financial Report – Applicable for expenditure reporting for the administrative costs of the State MFCUs; Not Applicable for expenditure reporting all other components of the cluster
   d. CMS-64, Quarterly Statement of Expenditures for the Medical Assistance Program (OMB No. 0938-0067) – Required to be used in lieu of the SF-425, Federal Financial Report (for all components of the cluster other administrative costs of the State MFCUs), prepared quarterly, and submitted electronically to CMS within 30 days after the end of the quarter. (Note: The Paperwork Reduction Act clearance for this report expires in January 2015)

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

N. Special Tests and Provisions

1. Utilization Control and Program Integrity

Compliance Requirements – The State plan must provide methods and procedures to safeguard against unnecessary utilization of care and services, including long-term care institutions. In addition, the State must have (1) methods or criteria for identifying suspected fraud cases; (2) methods for investigating these cases; and (3) procedures, developed in cooperation with legal authorities, for referring suspected fraud cases to law enforcement officials (42 CFR parts 455, 456, and 1002).

Suspected fraud should be referred to the State Medicaid Fraud Control Units (42 CFR part 1007).

The State Medicaid agency must establish and use written criteria for evaluating the appropriateness and quality of Medicaid services. The agency must have procedures for the ongoing post-payment review, on a sample basis, of the need for and the quality and timeliness of Medicaid services. The State Medicaid agency may conduct this review directly or may contract with a QIO.
Audit Objectives – To determine whether the State has established and implemented procedures to (1) safeguard against unnecessary utilization of care and services, including long term care institutions; (2) identify suspected fraud cases; (3) investigate these cases; and (4) refer those cases with sufficient evidence of suspected fraud cases to law enforcement officials.

Suggested Audit Procedures

a. Obtain and evaluate the adequacy of the procedures used by the State Medicaid agency to conduct utilization reviews and identifying suspected fraud.

(1) Consider the qualifications of the personnel conducting the reviews and identifying suspected fraud. Ascertain that the individuals possess the necessary skill or knowledge by considering the following: (a) professional certification, license, or specialized training; (b) the reputation and standing of licensed medical professionals in the view of peers; and (c) experience in the type of tasks to be performed.

(2) Consider if the personnel performing the utilization review and identifying suspected fraud are sufficiently organized outside the control of other Medicaid operations to objectively perform their function.

(3) Ascertain if the sampling plan implemented by the State Medicaid agency or the QIO was properly designed and executed.

b. Test a sample of the cases examined by State Medicaid agency or the QIO and ascertain if such examinations were in accordance with the agency’s procedures.

c. Test a sample of the identified suspected cases of fraud and ascertain if the agency took appropriate steps to investigate and, if appropriate, make a referral.

d. Based on the above procedures, consider the degree of reliance that can be placed on the utilization review and identification of suspected fraud in performing tests under III.A, “Activities Allowed or Unallowed;” III.B, “Allowable Costs/Cost Principles;” and III.E.1, “Eligibility – Eligibility for Individuals.”

2. Inpatient Hospital and Long-Term Care Facility Audits

Compliance Requirement – The State Medicaid agency pays for inpatient hospital services and long-term care facility services through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated providers. The State Medicaid agency must provide for the filing of uniform cost reports for each participating provider. These cost reports are used to establish payment rates. The State Medicaid agency must provide for the periodic audits of financial and statistical records of participating providers. The specific audit requirements will be established by the State Plan (42 CFR section 447.253).
Audit Objective – To determine whether the State Medicaid agency performed inpatient hospital and long-term care facility audits as required.

Suggested Audit Procedures

a. Review the State Plan and State Medicaid agency operating procedures and document the types of audits performed (e.g., desk audits, field audits), the methodology for determining when audits are conducted, and the objectives and procedures of the audits.

b. Through examination of documentation, ascertain that the sampling plan was carried out as planned.

c. Select a sample of audits and ascertain if the audits were in compliance with the State Medicaid agency’s audit procedures.

d. Based on the above, consider the degree of reliance that can be placed on the inpatient hospital and long term-care facility audits in performing tests under III.A, “Activities Allowed or Unallowed;” III.B, “Allowable Costs/Cost Principles;” and III.E.1, “Eligibility – Eligibility for Individuals.”

3. ADP Risk Analysis and System Security Review

Compliance Requirement – State agencies must establish and maintain a program for conducting periodic risk analyses to ensure that appropriate, cost effective safeguards are incorporated into new and existing systems. State agencies must perform risk analyses whenever significant system changes occur. State agencies shall review the ADP system security installations involved in the administration of HHS programs on a biennial basis. At a minimum, the reviews shall include an evaluation of physical and data security operating procedures, and personnel practices. The State agency shall maintain reports on its biennial ADP system security reviews, together with pertinent supporting documentation, for HHS on-site reviews (45 CFR section 95.621).

Audit Objective – To determine whether the State Medicaid agency has performed the required ADP risk analyses and system security reviews.

Suggested Audit Procedures

a. Review the State Medicaid agency’s policies and procedures, and document the frequency, timing, and scope of ADP security reviews. This should include any SOC 1 type 2 reviews following Statement on Standards for Attestation Engagements (AT) Section 801, Reporting on Controls at a Service Organization, that may have been performed on outside processors (service organizations).

b. Consider the appropriateness and extent of reliance on such reviews based on the qualifications of the personnel performing the risk analyses and security reviews and their organizational independence from the ADP systems.
c. Review the work performed during the most recent risk analysis and security review.

d. Based on the above, consider the degree of reliance that can be placed on the ADP Risk Analysis and System Security Reviews in performing tests under III.A, “Activities Allowed or Unallowed;” III.B, “Allowable Costs/Cost Principles;” and III.E.1, “Eligibility – Eligibility for Individuals.”

4. Provider Eligibility

Compliance Requirement – In order to receive Medicaid payments, providers of medical services furnishing services must be licensed in accordance with Federal, State, and local laws and regulations to participate in the Medicaid program (42 CFR sections 431.107 and 447.10; and Section 1902(a)(9) of the Social Security Act (42 USC 1396a(a)(9)) and the providers must make certain disclosures to the State (42 CFR part 455, subpart B, sections 455.100 through 455.106).

Audit Objectives – To determine whether providers of medical services are licensed to participate in the Medicaid program in accordance with Federal, State, and local laws and regulations, and whether the providers have made the required disclosures to the State.

Suggested Audit Procedures

a. Obtain an understanding of the State plan’s provisions for licensing and entering into agreements with providers.

b. Select a sample of providers receiving payments and ascertain if:

(1) The provider is licensed in accordance with the State Plan.

(2) The agreement with the provider complies with the requirements of the State Plan, including the disclosure requirements of 42 CFR 455 subpart B.

5. Provider Health and Safety Standards

Compliance Requirement – Providers must meet the prescribed health and safety standards for hospital, nursing facilities, and ICF/MR (42 CFR part 442). The standards may be modified in the State plan.

Audit Objective – To determine whether the State ensures that hospitals, nursing facilities, and ICF/MR that serve Medicaid patients meet the prescribed health and safety standards.

Suggested Audit Procedures

a. Obtain an understanding of the State Plan provisions that ensure that payments are made only to institutions that meet prescribed health and safety standards.
b. Select a sample of payments for each provider type (i.e., hospitals, nursing facilities, and ICF/MR) and ascertain if the State Medicaid agency has documentation that the provider has met the prescribed health and safety standards.

6. Medicaid Fraud Control Unit

Compliance Requirement – States are required as part of their Medicaid State plans to maintain a MFCU, unless the Secretary of HHS determines that certain safeguards are met regarding fraud and abuse and waives the requirement.

Audit Objective – To determine whether the State ensures suspected criminal violations are referred to an office with authority to prosecute cases of provider fraud.

Suggested Audit Procedures

a. Determine whether the State has a MFCU and, if not, if it has received a waiver from the Secretary, HHS, and has alternate policies and procedures in place to detect Medicaid fraud and abuse.

b. Obtain an understanding of the States policies and procedures that ensure violations of Medicaid laws and regulations by providers are identified and are referred to an office with authority to prosecute cases of provider fraud.

c. Select a sample of violations of Medicaid laws and regulations by providers and ascertain if the cases were referred to the State MFCU or, if the State does not have a MFCU, to an office with authority to prosecute cases of provider fraud.

IV. OTHER INFORMATION

Transfers into Medicaid (Title XIX)

As described in Part 4, CHIP (CFDA 93.767), III.A.1, “Activities Allowed or Unallowed,” qualifying States may apply certain Medicaid program expenditures against their available CHIP allotments. In particular, qualifying States may use such Medicaid expenditures in amounts up to 20 percent of their available CHIP allotments through 2008 and, beginning April 1, 2009, as authorized by the Children’s Health Insurance Program Reauthorization Act (CHIPRA), Public Law 111-3 of 2009, up to 100 percent of their available CHIP allotments for FY 2009 and following fiscal years. The qualifying States, determined by CMS using the criteria in Pub. L. No. 108-74, Section 1(g)(2) and Pub. L. No. 108-127, Section 1, are Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, New Mexico, Rhode Island, Tennessee, Vermont, Washington, and Wisconsin.

Amounts transferred into the State’s Medicaid program are subject to the requirements of the Medicaid program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.
Improper Payments

Auditors should be alert to the following which have been identified in audit findings both as non-compliance and material weaknesses.

1. *Eligibility Determinations*

   Findings related to eligibility determinations found internal control deficiencies including:
   
   - eligibility determination and renewal were not performed timely or performed within the timeliness standards,
   - lack of internal controls over obtaining adequate documentation used to support eligibility determinations,
   - the data inputted into the eligibility system were not accurate,
   - clients information were not verified according to the State’s verification plan, and
   - program staff did not have sufficient knowledge of program requirements and policies due to high turnover and lack of training.

2. *Medicaid Claims Processing*

   Findings related to Medicaid claims processing found significant weaknesses including:
   
   - inadequate documentation to support the payments claimed in the CMS-64;
   - payments reported on the CMS-64 were not readily traceable to the individual claims or information in the sub-system or the financial statements;
   - inadequate internal control over utilization, fraud and accuracy of the Medicaid claims;
   - lack of understanding of when to report payments in the CMS-64;
   - lack of internal control in drawing down ARRA funds;
   - inadequate internal control to assure that payments to providers were made in compliance with Federal regulations, e.g. payments for services that were not medically necessary and providers were not eligible Medicaid providers; and
   - review of cost report and recoupment of rate adjustments were not timely.
3. Other areas of weaknesses identified included--

- inadequate monitoring and oversight of subcontractors;

- inadequate monitoring and oversight to assure provider licensing, agreements or required certification were in effect and up-to-date, and that the related documentation were in file or in the Medicaid Management Information System (MMIS);

- inadequate internal control related to implementation of MMIS replacement system;

- inadequate internal control regarding user access to the MMIS including terminated employees’ user access rights; and

- MMIS was not programmed and updated timely and accurately with proper information.

**Medicaid EHR Incentive Payment Program**

Title IV, Division B of ARRA established voluntary Medicare and Medicaid EHR incentive payments to eligible professionals, eligible hospitals and critical access hospitals, and certain Medicare Advantage organizations for the adoption and demonstration of meaningful use of certified EHR technology, as one component of the HITECH Act.

Section 4201 of the HITECH Act amends section 1903 of the Act to provide 100 percent Federal financial participation (FFP) to States for incentive payments to certain eligible providers participating in the Medicaid program to purchase, implement, operate (including support services and training for staff) and meaningfully use certified EHR technology.

Auditors should be aware that funds made available to States for the Medicaid incentive program and the State’s expenditure of those funds, including payments to eligible providers and costs of State administration of the program, are subject to the audit provisions of 2 CFR part 200, subpart F. Providers and other eligible entities receiving incentive funds are not subject to the audit provisions of 2 CFR part 200, subpart F by virtue of receipt of those funds.
I. PROGRAM OBJECTIVES

The objective of this program is to improve access to a comprehensive continuum of high-quality community-based primary medical care and support services in metropolitan areas that are disproportionately affected by the incidence of Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS). The statute refers to both people living with HIV and those who have AIDS (as reported to and confirmed by the Centers for Disease Control and Prevention (CDC). These terms are used interchangeably in this compliance supplement but refer to this total universe of eligible individuals.

Emergency financial assistance, in the form of formula-based funding, supplemental project-based funding, and formula-based Minority AIDS Initiative (MAI) funding is provided to eligible metropolitan areas (EMAs) and transitional grant areas (TGAs) to develop, organize, and operate health and support services programs for people living with HIV and their care givers. The supplemental grants are discretionary awards and are awarded, following competition, to EMAs and TGAs that demonstrate need beyond that met through the formula award. They must also demonstrate the ability to use the supplemental amounts quickly and cost effectively. Other criteria, contained in annual application guidance documents, may also apply. All EMAs and TGAs that are receiving formula assistance are also receiving supplemental assistance, and will continue to receive such assistance unless they fail to meet the legislative requirements related to unobligated balances.

II. PROGRAM PROCEDURES

Administration and Services

The Health Resources and Services Administration (HRSA), a component of the Department of Health and Human Services (HHS), administers the HIV emergency relief programs. Eligibility for Ryan White HIV/AIDS Program (RWHAP) Part A grants depends, in part, on the number of confirmed AIDS cases within a statutorily specified “metropolitan area.” The Secretary of HHS uses the Office of Management and Budget’s (OMB) census-based definitions of a Metropolitan Statistical Area (MSA) in determining the geographic boundaries of a RWHAP metropolitan area. HHS relies on the OMB geographic boundaries in effect when a jurisdiction was or is (if newly eligible) initially funded under RWHAP Part A. A metropolitan area is not eligible if it does not have an overall population of 50,000 or more.

HRSA uses data reported to and confirmed by CDC to determine eligibility. An EMA is a metropolitan area for which there has been reported to, and confirmed by, the Director of the CDC a cumulative total of more than 2,000 cases of AIDS for the most recent 5 calendar-year period for which data are available. A TGA is a metropolitan area for which there has been reported to, and confirmed by, the Director of the CDC a cumulative total of at least 1000, but fewer than 2000, cases of AIDS during the most recent period of 5 calendar years for which data
are available. MAI funding is awarded using a formula that is based on the distribution of living HIV/AIDS cases among racial and ethnic minorities.

After subtracting the amount available for MAI project assistance, HRSA must make at least two-thirds (66 2/3 percent) of the appropriated amount available for the EMAs’ and TGAs’ formula allocation and award the remainder as supplemental funding on the basis of demonstrated need and other factors. EMAs and TGAs are funded from the formula, supplemental, and MAI allocation on the basis of a single application and a combined award.

Funds are made available to the chief elected official of the EMA or TGA in accordance with statutory requirements and program guidelines. Day-to-day responsibility for the grant is ordinarily delegated to the jurisdiction’s public health department, and some administrative functions may be outsourced to a private entity. The chief elected official of the jurisdiction is also required to establish or designate an HIV health services planning council, which carries out a planning process, coordinating with other State, local and private planning and service organizations, and establishes the priorities for allocating funds. Newly eligible areas designated as TGAs in FY 2007 and beyond are exempt from the requirement to establish and use an HIV health services planning council, but must provide a process for obtaining community input as prescribed in the RWHAP Part A legislation.

Consistent with funding and service priorities established through the public planning process, the receiving jurisdiction uses the funds to provide assistance to public entities or private non-profit or for-profit entities to deliver or enhance HIV/AIDS-related core medical and support services and, within established limits, for associated administrative activities. Administrative activities include EMA or TGA oversight of service provider performance and adherence to their subrecipient obligations. Most of these service providers are non-profit organizations.

Source of Governing Requirements

This program is authorized under Sections 2601 - 2610 of Title XXVI of the Public Health Service (PHS) Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. No. 111-87), and is codified at 42 USC 300ff-11 through 300ff-20. The MAI is authorized under Section 2693(b)(2)(A) of the Public Health Service Act, 42 USC 300ff-121(b)(2)(A).

There are no program regulations specific to this program.

Availability of Other Program Information

Additional information about this program is available at [http://hab.hrsa.gov/](http://hab.hrsa.gov/).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. Activities Allowed

Funds may be used only for core medical services, support services, clinical quality management, and administrative expenses (42 USC 300ff-14(a)).

a. Core medical services with respect to people living with HIV (including co-occurring conditions, i.e., one or more adverse health conditions of an individual living with HIV, without regard to whether the individual has AIDS or whether the conditions arise from HIV) means (1) outpatient and ambulatory health services; (2) AIDS Drug Assistance Program treatments; (3) AIDS pharmaceutical assistance; (4) oral health care; (5) early intervention services meeting the requirements of 42 USC 300ff-14(e); (6) health insurance premium and cost sharing assistance for low-income individuals; (7) home health care; (8) medical nutrition therapy; (9) hospice services; (10) home and community-based health services; (11) mental health services; (12) substance abuse outpatient care; and
(13) medical case management, including treatment adherence services (42 USC 300ff-14(c)(3)).

b. Support services means services that are needed for people living with HIV to achieve their medical outcomes (those outcomes affecting the HIV-related clinical status of an individual living with HIV) (for example, respite care for persons caring for people living with HIV, outreach services, medical transportation, linguistic services, referrals for health care and support services, and such other services specified by HRSA) (42 USC 300ff-14(d)).

c. Clinical quality management means assessing the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infections, and as applicable, developing strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services (42 USC 300ff-14(h)(5)(A)).

d. Administrative expenses at the recipient level include activities related to (1) routine grant administration and monitoring (for example, development of applications, receipt and disbursement of program funds, development and establishment of reimbursement and accounting systems, development of a clinical quality management program, preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements); (2) contract development, solicitation review, award, monitoring, and reporting; and (3) activities carried out by the HIV health services planning council (42 USC 300ff-14(h)(3) and 300ff-12(b)).

e. Subrecipient administrative expenses include usual and recognized overhead activities, including those that are reimbursed through approved indirect cost rates; management oversight of funded activities; and other types of program support such as quality assurance, quality control, and related activities (42 USC 300ff-14(h)(4)).

2. Activities Unallowed

a. Funds may not be used to make payment for any item or service if payment has already been made or can reasonably be expected to be made under any State compensation program, under an insurance policy or any Federal or State health benefits program, or by an entity that provides health services on a pre-paid basis except for programs administered by or providing the services of the Indian Health Service (42 USC 300ff-15(a)(6)).
b. Funds may not be used to purchase or improve land or to purchase, construct or make permanent improvement to any building. Minor remodeling is allowed (42 USC 300ff-14(i)).

c. Funds may not be used to make cash payments to intended recipients of RWHAP services (42 USC 300ff-14(i)) and Ryan White HIV/AIDS Program Services: Eligible Individuals and Allowable Uses of Funds, Policy Clarification Notice #16-02 (https://hab.hrsa.gov/sites/default/files/hab/program-grants-management/ServiceCategoryPCN_16-02Final.pdf).

d. Funds may not be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug (Consolidated Appropriations Act, 2016, Division H, Title V, Section 520 (Pub. L. No. 114-113) and subsequent appropriations, as applicable). Other elements of syringe services programs may be allowable if in compliance with applicable HHS and HRSA-specific guidance.

e. Funds may not be used for AIDS programs or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual (42 USC 300ff-84).

E. Eligibility

1. Eligibility for Individuals

Eligible beneficiaries are low-income individuals or families of people living with HIV. To the maximum extent practicable, services are to be provided to eligible individuals regardless of their ability to pay for the services and their current or past health condition (42 USC 300ff-15(a)(7)(A)).

2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable

3. Eligibility for Subrecipients

The EMA or TGA may make funds available to public or private non-profit entities or to private for-profit entities if they are the only available providers of quality HIV care in the area (42 USC 300ff-14(b)(2)).

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable
2.1 **Level of Effort – Maintenance of Effort**

Each political subdivision within the metropolitan area is required to maintain its level of expenditures for HIV-related services to people living with HIV (or, effective with FY 2007 awards, core medical and support services) at a level equal to its level of such expenditures for the preceding fiscal year. Political subdivisions within the EMA or TGA may not use funds received under RWHAP Part A to maintain the required level of HIV-related services (42 USC 300ff-15(a)(1)(B) and (C) and 42 USC 300ff-19(d)(3)).

2.2 **Level of Effort – Supplement Not Supplant**

Funds received under RWHAP Part A must be used to supplement not supplant State funds made available in the year for which the grant is awarded to provide HIV-related core medical and support services to low-income people living with HIV (42 USC 300ff-15(a)(1)(A)).

3. **Earmarking**

a. Unless waived by the Secretary, HHS (or designee), not less than 75 percent of the amount remaining after reserving amounts for EMA or TGA administration and clinical quality management shall be used to provide core medical services to eligible individuals in the eligible area (including services regarding the co-occurring conditions of those individuals) (42 USC 300ff-14(c)(1)).

b. Not more than 10 percent of the amounts awarded to the EMA or TGA may be used for administration (42 USC 300ff-14(h)(1)).

c. The aggregate of expenditures for administrative expenses by subrecipients may not exceed 10 percent of the total amount of grant funds subawarded by the recipient (without regard to whether particular entities spend more than 10 percent for such purposes) (42 USC 300ff-14(h)(2)).

d. The chief elected official of an eligible area shall establish a quality management program to determine whether the services provided under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infection and, as applicable, to develop strategies for bringing these services into conformity with the guidelines. Funds used for this purpose may not exceed the lesser of 5 percent of the amount received under the grant or $3,000,000, and are not considered administrative expenses for purposes of the limitation under paragraph 3.b above (42 USC 300ff-14(h)(5)).

e. Unless waived by the Secretary of HHS, for the purpose of providing health and support services to women, youth, infants, and children living with HIV, including treatment measures to prevent the perinatal
transmission of HIV, the chief elected official of an eligible area, in accordance with the priorities of the planning council, shall use for each of these populations not less than the percentage of RWHAP Part A funds in a fiscal year constituted by the ratio of the population involved (women, youth, infants, or children) in the area with HIV/AIDS to the general population in the area of individuals with HIV/AIDS (42 USC 300ff-14(f)). This information is provided by HRSA in the annual application guidance (Appendix II, Estimated Number/Percent of Women, Infants, and Children Living with AIDS in eligible metropolitan areas and transitional grant areas).

H. Period of Performance

Funds made available under a grant award are available for obligation through the end of the one-year period beginning on the date on which funds first became available, i.e., the beginning date of the budget period shown on the Notice of Award. Funds made available under the formula portion of the award that remain unobligated at the end of this period will be cancelled unless a waiver allowing for carryover of the funds is approved by the Secretary, HHS or designee. If carryover is approved, the funds remain available for a one-year period beginning on the ending date of the budget period under which the funds were awarded. Funds awarded for supplemental grants that remain unobligated at the end of the budget period for which awarded may not be carried over (42 USC 300ff-13(c)).

J. Program Income

The Notice of Award provides guidance on the use of program income. The addition method is used for this program. Program income must be used for activities described in III.A.1, “Activities Allowed.”

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.917  HIV CARE FORMULA GRANTS (Ryan White HIV/AIDS Program Part B)

I. PROGRAM OBJECTIVES

The objective of this program is to assist States and Territories in improving the quality, availability, and organization of healthcare and support services for low-income, uninsured, and underinsured people living with Human Immunodeficiency Virus (HIV).

II. PROGRAM PROCEDURES

Administration and Services

The Department of Health and Human Services (HHS) administers the RWHAP Part B through the Health Resources and Services Administration (HRSA)’s HIV/AIDS Bureau (HAB). Grants are awarded annually, on a formula basis, to all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands following submission of an application to, and approval by, HAB. The responsible State agency, usually the State health department, is designated by the Governor.

The application addresses how the State plans to address each of the six specified program components: (1) HIV care consortia, (2) home and community-based care, (3) health insurance continuation program, (4) provision of treatments, (5) State direct services, and (6) Minority AIDS Initiative (MAI). This includes the State’s plans for the AIDS Drug Assistance Program (ADAP). ADAP is earmarked funding provided to the State as a separate formula amount in addition to the base formula grant amount.

States may use a variety of service delivery mechanisms. States may provide some or all services directly, or may enter into subawards with local HIV care consortia, associations of public and non-profit healthcare and support service providers, and community-based organizations that plan, develop, and deliver services for low-income, uninsured, and underinsured people living with HIV. The State also may delegate some of its authority to monitor provider agreements to a “lead agency” (fiscal agent), with specific responsibilities contained in a formal agreement between the State and that agency. Finally, the State may provide subawards to healthcare or other service providers.

Source of Governing Requirements

The RWHAP Part B formula grant program is authorized under Sections 2611-2623 of Title XXVI of the Public Health Service Act as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. No. 111-87) and codified at 42 USC 300ff-21 through 300ff-31b. The MAI is authorized under Section 2693(b)(2)(B) of the Public Health Service Act, 42 USC 300ff-121(b)(2)(B).

There are no regulations specific to the RWHAP Part B.
Availability of Other Program Information

Further information about the RWHAP Part B is available at http://www.hab.hrsa.gov.

Additional information on allowable uses of funds under this program is contained in policy notices and standards found at:

- http://hab.hrsa.gov/program-grants-management/policy-notices-and-program-letters, and

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. Activities Allowed

a. Grant funds (and required matching funds) may be used for core medical services, support services, planning and evaluation, clinical quality management, and administrative expenses (42 USC 300ff-22(a); 42 USC 300ff-28(b)).

1. Core medical services with respect to people living with HIV (including the co-occurring conditions of the individual) means (1) outpatient and ambulatory health services; (2) AIDS Drug Assistance Program treatments; (3) AIDS pharmaceutical assistance; (4) oral healthcare; (5) early intervention services meeting the requirements of 42 USC 300ff-22(d); (6) health insurance premium and cost sharing assistance for low-income individuals; (7) home healthcare; (8) medical nutrition therapy; (9) hospice services; (10) home and community-based health services; (11) mental health services; (12) substance abuse outpatient care; and (13) medical case management, including treatment adherence services (42 USC 300ff-22(b)(3)).

2. Support services means services that are needed for people living with HIV to achieve their medical outcomes (those outcomes affecting the HIV-related clinical status of people living with HIV) (for example, respite care for persons caring for people living with HIV, outreach services, medical transportation, linguistic services, referrals for healthcare and support services, and such other services specified by HRSA). Expenditures for or through consortia are considered support services ((42 USC 300ff-22(c); 42 USC 300ff-23(f)).

3. Clinical quality management means assessing the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infections, and as applicable, developing strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services (42 USC 300ff-28(b)(3)(E)(i)).

4. Administrative expenses at the recipient level include activities related to (1) routine grant administration and monitoring (for example, development of applications, receipt and disbursal of program funds, development and establishment of reimbursement and accounting systems, development of a clinical quality management program, preparation of routine programmatic and
financial reports, and compliance with grant conditions and audit requirements); (2) contract development, solicitation review, award, monitoring, and reporting; and (3) planning and evaluation activities (42 USC 300ff-28(b)(3)(C)).

(5) Subrecipient administrative expenses include usual and recognized overhead activities, including those that are reimbursed through approved indirect cost rates; management oversight of funded activities; and other types of program support, such as quality assurance, quality control, and related activities (42 USC 300ff-28(b)(3)(D)).

b. Any drug rebates received on drugs purchased from funds provided to establish a program of therapeutics must be used to support the types of activities otherwise eligible for funding under RWHAP Part B, with priority given to activities related to providing therapeutics (42 USC 300ff-26(g)). To assess whether a State or subrecipient is giving priority to activities related to providing therapeutics, the State (or subrecipient) should be able to demonstrate, that, before undertaking any type of activities other than ADAP purchases for medications or insurance that are allowed under paragraph 1. a. above, it (1) has no waiting list for ADAP services; (2) the ADAP formulary includes the required classes of HIV antiretroviral medications and opportunistic infection-related medications; and (3) the financial eligibility to access the ADAP is established at no less than 200 percent of the Federal poverty level (the poverty guidelines are available at http://aspe.hhs.gov/poverty/ and are also published each year in the Federal Register).

c. Rebates may be used for allowable RWHAP Part B services that exceed the recipient’s RWHAP Part B implementation work plan. Rebates are not part of the recipient’s RWHAP Part B award, and, therefore, are not subject to the 10 percent administrative cost cap nor to the requirement to spend 75 percent on core medical services (see III.G.3.b and h, “Matching, Level of Effort, and Earmarking – Earmarking,” below). Rebates can be used to meet both a recipient’s State matching and maintenance of effort (MOE) requirements. (42 USC 300ff-26(g) and Policy Clarification Notice #15-04, Utilization and Reporting of Pharmaceutical Rebates, https://hab.hrsa.gov/sites/default/files/hab/Global/pcn_15-04_pharmaceutical_rebates.pdf.

2. Activities Unallowed

a. Funds may not be used to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility (42 USC 300ff-28(b)(6)).
b. Funds may not be used to make cash payments to intended recipients of RWHAP services (42 USC 300ff-28(b)(6) and Ryan White HIV/AIDS Program Services: Eligible Individuals and Allowable Uses of Funds, Policy Clarification Notice #16-02 (https://hab.hrsa.gov/sites/default/files/hab/program-grants-management/ServiceCategoryPCN_16-02Final.pdf).

c. Funds may not be used to make payments for any item or service to the extent that payment has been made or can reasonably be expected to be made for that item or service under any State compensation program, under an insurance policy, or under any Federal or State health benefits program (or by an entity that provides health services on a prepaid basis except for a program administered by or providing the services of the Indian Health Service (42 USC 300ff-27(b)(7)(F)).

d. Funds may not be used for inpatient hospital services, or nursing home or other long-term care facilities (42 USC 300ff-24(c)(3)).

e. Funds may not be used to pay any costs associated with creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools) or to pay any amount expended by a State under Title XIX of the Social Security Act (Medicaid) (42 USC 300ff-25(b)).

f. Funds may not be used to develop materials designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual (42 USC 300ff-84).

g. Funds may not be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug (Consolidated Appropriations Act (Pub. L. No. 114-113), 2016, Division H, Title V, Section 520 and subsequent appropriations, as applicable). Other elements of syringe services programs may be allowable if in compliance with applicable HHS and HRSA-specific guidance.

h. ADAP rebates cannot be shared with other entities including, but not limited to, RWHAP Part A recipients, high-risk insurance pools, Marketplace plans, Medicaid, or any other State or Federal program (42 USC 300ff- 31(b)).
E. **Eligibility**

1. **Eligibility for Individuals**

   To be eligible to receive assistance in the form of therapeutics, an individual must have a medical diagnosis of HIV/AIDS and be (a) a low-income individual, (b) a resident of the State, and (c) uninsured or underinsured, as defined by the State (42 USC 300ff-26(b)).

2. **Eligibility for Group of Individuals or Area of Service Delivery**

   A State must use Emerging Communities funding in the geographic area specified as an Emerging Community, as defined in 42 USC 300ff-30(d)—a metropolitan area for which there has been reported to and confirmed by the Centers for Disease Control and Prevention a cumulative total of at least 500, but fewer than 1,000, cases of AIDS during the most recent period of 5 calendar years for which such data are available (42 USC 300ff-32(b)(1) and 300ff-30).

3. **Eligibility for Subrecipients**

   a. To receive funding from the State under a consortium agreement, an applicant consortium must agree to provide, directly or through agreements with other service providers, essential health services and essential support services, and must meet specified application and assurance requirements. These include conducting a needs assessment within the geographic area served and developing a plan (consistent with the State’s comprehensive plan required by 42 USC 300ff-27(b)(5)) to meet identified service needs following a consultation process (42 USC 300ff-23(c)(2)).

   b. For consortia otherwise meeting these requirements, the State shall give priority first to consortia that are receiving assistance from HRSA for adult and pediatric HIV-related care demonstration projects and then to any other existing HIV care consortia (42 USC 300ff-23(e)).

G. **Matching, Level of Effort, Earmarking**

1. **Matching**

   a. States and Territories (excluding Puerto Rico) with greater than one percent of the aggregate number of national cases of HIV/AIDS in the 2-year period preceding the Federal fiscal year in which the State is applying for a grant must, depending on the number of years in which this threshold requirement has been met, provide matching funds as follows (42 USC 300ff-27(d)):
<table>
<thead>
<tr>
<th>Year(s) in Which Matching Required</th>
<th>Minimum Percentage of Non-Federal Matching</th>
<th>Ratio of Non-Federal to Federal Expenditures</th>
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</thead>
<tbody>
<tr>
<td>First</td>
<td>16 2/3</td>
<td>$1 non-Federal/$5 Federal</td>
</tr>
<tr>
<td>Second</td>
<td>20</td>
<td>$1 non-Federal/$4 Federal</td>
</tr>
<tr>
<td>Third</td>
<td>25</td>
<td>$1 non-Federal/$3 Federal</td>
</tr>
<tr>
<td>Fourth and subsequent</td>
<td>33 1/3</td>
<td>$1 non-Federal/$2 Federal</td>
</tr>
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</table>

b. All recipients are subject to a matching requirement for ADAP supplemental funds in an amount equal to $1 for every $4 of Federal funds (42 USC 300ff-28(a)(2)(F)(ii)(III)). Those recipients that are required to match the base formula funds may request and receive a waiver from this additional matching requirement.

2.1 **Level of Effort – Maintenance of Effort**

The State will maintain HIV-related activities at a level that is equal to not less than the level of such expenditures by the State for the 1-year period preceding the fiscal year for which the State is applying for RWHAP Part B funds (42 USC 300ff-27(b)(7)(E)).

2.2 **Level of Effort – Supplement Not Supplant**

Funds awarded under a grant must supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved (42 USC 300ff-22(d)(2)(B)).

3. **Earmarking**

a. The State may not use more than 10 percent of the amounts received under the grant for planning and evaluation activities (42 USC 300ff-28(b)(2)).

b. The State may not use more than 10 percent of the amounts received under the grant for administration (42 USC 300ff-28(b)(3)(A)).

c. A State may not use more than a total of 15 percent of the amounts received for the combined costs for administration, planning and evaluation and clinical quality management (42 USC 300ff-28(b)(4)). States and Territories that receive a minimum allotment (between $50,000 and $500,000) may expend up to the amount required to support one full-time equivalent employee for any or all of these purposes (42 USC 300ff-28(b)(5)).
d. The aggregate of expenditures for administrative expenses by subrecipients may not exceed 10 percent of the total amount of grant funds subawarded by the State (without regard to whether particular entities spend more than 10 percent for such purposes) (42 USC 300ff-28(b)(3)(B)).

e. Unless waived by the Secretary, for the purpose of providing health and support services to women, youth, infants, and children living with HIV, including treatment measures to prevent the perinatal transmission of HIV, a State shall use for each of these populations not less than the percentage of RWHAP Part B funds in a fiscal year constituted by the ratio of the population involved (women, youth, infants, or children) in the State with AIDS to the general population in the State of individuals with AIDS (42 USC 300ff-22(e)). This information is provided to the State by HRSA in the annual application guidance (Appendix II, Estimated Number/Percent of Women, Infants, and Children Living with AIDS in States and Territories).

f. A State shall use a portion of the funds awarded to establish a program to provide therapeutics to treat HIV/AIDS or prevent the serious deterioration of health arising from HIV/AIDS in eligible individuals, including measures for the prevention and treatment of opportunistic infections. The specific amount for ADAP will be provided in the grant agreement. Of the specific amount in the grant agreement for this purpose, the State may use not more than 5 percent to encourage, support, and enhance adherence to, and compliance with, treatment regimens (including related medical monitoring) unless the Secretary (or designee) approves a 10 percent limit (42 USC 300ff-26(c)).

g. A State shall establish a clinical quality management program to determine whether the services provided under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infection and, as applicable, to develop strategies for bringing these services into conformity with the guidelines. Funds used for this purpose may not exceed the lesser of 5 percent of the amount received under the grant or $3,000,000, and are not considered administrative expenses for purposes of the limitation under paragraph 3.b above (42 USC 300ff-28(b)(3)(E)).

h. Unless waived by the Secretary, HHS (or designee), not less than 75 percent of the amount remaining after reserving amounts for State administration and a clinical quality management program shall be used to provide core medical services to eligible people living with HIV (including services regarding the co-occurring conditions of those individuals) (42 USC 300ff-22(b)).
H. Period of Performance

1. Not less than 75 percent of the amounts received by a State shall be obligated to specific programs and projects and made available for expenditure not later than 120 days after receipt (42 USC 300ff-28(c)).

2. Funds are available for obligation by the State through the end of the one-year period beginning on the date on which funds from the award first became available to the State (42 USC 300ff-31a(a)). For formula funds, an extension may be approved by the Secretary (or designee) for an additional one-year period beginning on the date on which the grant would have expired (42 USC 300ff-31a(c)).

3. If the State has an unobligated balance at the end of grant year (or extended period), the amount of the balance may be cancelled, requiring the State to return any amounts from such balance that have been disbursed to the State or the amount may be applied to a future-year award, at HRSA’s discretion (42 USC 300ff-31a(e)). In addition, a State may request that the Secretary deem any unobligated balances that are due to the expenditure of ADAP rebate funds to be reduced by the amount of the rebate funds actually expended (42 USC 300ff-31a(d)). ADAP rebates are not considered “Federal funds” and should not be reported as unobligated balances.

J. Program Income

1. The Notice of Award provides guidance on the use of program income. Generally, the addition method is used for this program; program income may also be used to satisfy all or part of the state matching requirements. Program income must be used for activities described in III.A.1, “Activities Allowed.”

2. The terms and conditions of award under the RWHAP Part B regarding program income do not apply to drug rebates. Rather, drug rebates must be used as specified in III.A.1.b and c, “Activities Allowed or Unallowed – Activities Allowed.”

L. Reporting

1. Financial Reporting

   a. SF-270, Request for Advance or Reimbursement – Not Applicable

   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. **Performance Reporting** – Not Applicable

3. **Special Reporting** – Not Applicable
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.918  GRANTS TO PROVIDE OUTPATIENT EARLY INTERVENTION SERVICES WITH RESPECT TO HIV DISEASE (Ryan White HIV/AIDS Program Part C)

I. PROGRAM OBJECTIVES

The objective of the Ryan White HIV/AIDS Program (RWHAP) Part C Early Intervention Services (EIS) is to provide outpatient, high-quality, early intervention services and primary care related to the Human Immunodeficiency Virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS).

II. PROGRAM PROCEDURES

Administration and Services

The Department of Health and Human Services (HHS) administers the RWHAP Part C EIS through the Health Resources and Services Administration (HRSA)’s HIV/AIDS Bureau (HAB). Grants are awarded to public and non-profit private entities, including federally qualified health centers under Section 1905(1)(2)(B) of the Social Security Act (42 USC 1396d (l)(2)(B)). Grants also are awarded to (1) non-State family planning organizations, (2) comprehensive hemophilia diagnostic and treatment centers, (3) rural health clinics, (4) health facilities operated by or pursuant to a contract with the Indian Health Service, (5) community-based organizations, clinics, hospitals, and other health facilities that provide early intervention services to those people living with HIV, or (6) non-profit private entities, including faith-based and community-based organizations, that provide comprehensive primary care services to populations at risk of HIV/AIDS. Providers must be qualified Medicaid-participating providers unless an exception is granted by HRSA (42 USC 300ff-52(a)(1)(A) through (G) and 42 USC 300ff-52(b)).

The RWHAP Part C EIS enables provision of a comprehensive continuum of outpatient HIV primary care services, including (1) HIV counseling and testing, (2) periodic medical evaluation and other clinical and diagnostic services, (3) provision of therapeutic measures, and (4) referrals for other health services and for the purpose of experimental treatment. Primary care for people living with HIV should start as early in the course of the infection as possible. However, entry into a RWHAP Part C EIS may take place at any point in the spectrum of the disease or the patient’s lifespan.

Minority AIDS Initiative (MAI) funds are provided to recipients based on the percentage of the RWHAP Part C EIS populations served within racial/ethnic minority communities.

Services may be provided directly by the recipient or through contractual agreements with other service providers.
Source of Governing Requirements

The RWHAP Part C EIS is authorized under Sections 2651 - 2667 of Title XXVI of the Public Health Service (PHS) Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. No. 111-87), and is codified at 42 USC 300ff-51 through 300ff-67. The MAI is authorized under Section 2693(b)(2)(C) of the Public Health Service Act (42 USC 300ff-121(b)(2)(C)).

The RWHAP Part C EIS has no specific program regulations.

Availability of Other Program Information

Further information about the RWHAP Part C EIS is available at http://www.hab.hrsa.gov/.

Additional information on allowable uses of funds under the RWHAP Part C EIS is contained in policy notices and standards found at http://www.hab.hrsa.gov/manageyourgrant/policiesletters.html.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. Activities Allowed

   a. Funds may be used for counseling (whether or not associated with testing) and testing for HIV (42 USC 300ff-51(e)(1)(A) and (B) and 42 USC 300ff-62(f)).

   b. Funds may be used to provide clinical and diagnostic services regarding HIV/AIDS and periodic medical evaluations of individuals living with HIV. Funds also may be used for providing therapeutic measures for preventing and treating the deterioration of the immune system and related conditions (including STD, hepatitis C, and tuberculosis) (42 USC 300ff-51(e)(1)(D) and (E)).

   c. Funds may be used to refer people living with HIV to providers of health and support services, as appropriate. This includes recipients of funding under the RWHAP Part A and Part B for the provision of health and support services; biomedical research facilities of institutions of higher education that offer experimental treatment for such disease; community-based organizations or other entities that provide such treatment; and, in the case of pregnant women, recipients of funding under RWHAP Part D (42 USC 300ff-51(e)(1)(C) and -51(e)(2)(A-C)).

   d. Funds may be used for core medical services for an individual living with HIV including, the co-occurring conditions of the individual. Core medical services encompass the following services: (1) outpatient and ambulatory health services; (2) AIDS Drug Assistance Program treatments defined under 42 USC 300ff-26; (3) AIDS pharmaceutical assistance; (4) oral healthcare; (5) early intervention services described in 42 USC 300ff-51(e); (6) health insurance premium and cost sharing assistance for low-income individuals in accordance with 42 USC 300ff-15; (7) home healthcare; (8) medical nutrition therapy; (9) hospice services; (10) home and community-based health services as defined under 42 USC 300ff-14(c); (11) mental health services; (12) substance abuse outpatient care; and (13) medical case management, including treatment adherence services (42 USC 300ff-51(b)(1)(A) and -51(c)).

   e. Funds may be used to pay the costs of providing support services that are needed for people living with HIV to achieve their medical outcomes. These services include, but are not limited to, respite care for people caring for people living with HIV, outreach services, medical transportation, translation, and referrals for healthcare and support services. Support services are subject to approval of the Secretary of HHS or designee (42 USC 300ff-51(b)(1)(B) and 51(d)).
f. Funds may be used for the establishment of a clinical quality management program to assess the extent to which medical services that are provided to patients are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infections, and, as applicable, to develop strategies for ensuring that such services are consistent with the guidelines, and to ensure that improvements in the access to and quality of HIV health services are addressed (42 USC 300ff-64 (g)(5)).

g. Funds may be used for administrative expenses (42 USC 300ff-51(b)(1)(C)).

2. Activities Unallowed

a. Funds may not be used to make payments for any item or service to the extent that payment has been made or can reasonably be expected to be made for that item or service under any State compensation program, under an insurance policy (except for a program administered by or providing the services of the Indian Health Service), or under any Federal or State health benefits program or by an entity that provides health services on a prepaid basis (42 USC 300ff-64(f)(1)).

b. Funds may not be awarded to for-profit entities to carry out required early intervention services unless they are the only available providers of quality HIV care in the area (42 USC 300ff-51(e)(3)(A)).

c. Funds may not be used to fund AIDS programs or to develop materials, designed to promote or encourage, directly, intravenous drug abuse or sexual activity, whether homosexual or heterosexual (42 USC 300ff-84).

d. Funds may not be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug (Consolidated Appropriations Act, 2016 (Pub. L. No. 114-113), Division H, Title V, Section 520 and subsequent appropriations, as applicable. Other elements of syringe services programs may be allowable if in compliance with applicable HHS and HRSA-specific guidance.

e. Funds received under this grant will not be expended for any purpose other than the purposes for which the grant was awarded (42 USC 300ff-64(g)(1)).

f. Funds may not be used to purchase or improve land or to purchase, construct or make permanent improvement to any building (42 USC 300ff-64(g)(1)).

g. Funds may not be used to make cash payments to intended recipients of RWHAP services (42 USC 300ff-28(b)(6) and Ryan White HIV/AIDS Program Services: Eligible Individuals and Allowable Uses of Funds,
Policy Clarification Notice #16-02

G. Matching, Level of Effort, Earmarking

1. **Matching** – Not Applicable

2.1 **Level of Effort** – *Maintenance of Effort*

A recipient must maintain its expenditures for early intervention services at a level equal to not less than the level of expenditures for such services for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant (42 USC 300ff-64(d)).

2.2. **Level of Effort** – *Supplement Not Supplant* – Not Applicable

3. **Earmarking**

a. A minimum of 50 percent of the funds awarded must be spent on providing the following early intervention services to individuals living with HIV: testing, referrals, other clinical and diagnostic services, periodic medical evaluations, and therapeutic measures—directly and on-site or at sites where other primary care services are rendered (42 USC 300ff-51(b)(2), (e)(1) and (2), and (e)(3)(A) and (B)).

b. Unless waived, a minimum of 75 percent of the funds remaining after clinical quality management and administration are deducted must be spent on core medical services for an individual living with HIV, including the co-occurring conditions of the individual (42 USC 300ff-51(c)(1)).

(1) Core medical services are defined as outpatient and ambulatory health services; AIDS Drug Assistance Program treatments defined under 42 USC 300ff-26; AIDS pharmaceutical assistance; oral healthcare; early intervention services described in 42 USC 300ff-51(e); health insurance premium and cost sharing assistance for low-income individuals in accordance with 42 USC 300ff-15; home health care; medical nutrition therapy; hospice services; home and community-based health services as defined under 42 USC 300ff-14(c); mental health services; substance abuse outpatient care; and medical case management including treatment adherence services (42 USC 300ff-51(e)(3)).

(2) A recipient may have applied for and received a waiver of the 75 percent requirement for core medical services if it is determined that, within the service area of the recipient, there are no waiting lists for the AIDS Drug Assistance Program and that core medical
services are available to all people living with HIV identified and eligible under the RWHAP Part C EIS (42 USC 300ff-51(c)(2)).

c. Not more than 10 percent of the approved Federal grant funds may be used for administrative expenses, including planning and evaluation, except that the costs of a clinical quality management program may not be considered administrative expenses for purposes of such limitation (42 USC 300ff-64(g)(3)).

J. Program Income

The Notice of Award provides guidance on the use of program income. The addition method is used for RWHAP Part C EIS. Program income must be used for activities described in III.A.1, “Activities Allowed.”

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable
I. PROGRAM OBJECTIVES

The objective of the Community Mental Health Services Block Grant (MHBG) program is to provide funds to States and Territories to enable them to carry out their respective plans for providing comprehensive community-based mental health services for adults with serious mental illness and children with serious emotional disturbances. To insure creative and cost effective delivery of services, States are encouraged to develop solutions to address the specific mental health concerns of their local communities.

II. PROGRAM PROCEDURES

Administration and Services

The Substance Abuse and Mental Health Services Administration (SAMHSA), an operating division of the Department of Health and Human Services (HHS), administers the block grant program. MHBG-funded activities include (1) a comprehensive, community-based system of mental health care for adults who have a serious mental illness and children and youth who have a serious emotional disturbances, including case management, treatment, rehabilitation, employment, housing, education, medical, dental, and other support services that enable individuals to function in the community and reduce the rate of psychiatric hospitalization; (2) outreach for homeless individuals who also suffer from serious mental illness and the development of special services for individuals with serious illness living in rural areas; (3) systemic integration of social, educational, juvenile justice, and substance abuse services with health and mental health services for children with a serious emotional disturbance to ensure that care is appropriate to their multiple needs (including services provided under the Individuals with Disabilities Act); (4) collecting and reporting an estimate of the incidence and prevalence in the State of serious mental illness among adults and serious emotional disturbance among children; and (5) staffing and training for mental health services providers necessary to implement the State plan.

MHBG funds are allocated to the States according to a formula legislated by Congress. States may then distribute these funds to cities, counties, or service providers within their jurisdictions. Funds may only be used for carrying out the State plan, evaluating programs and services carried out under the plan, or planning, administration, and education activities relating to providing services under the plan.

State Plan

The State must submit to SAMHSA an annual application that includes a plan to meet the community mental health services objectives described above and signed assurances required by the Act. The State plan addresses how the State intends to comply with the various requirements of Title XIX, Part B, subparts I and III of the Public Health Service Act (42 USC 300x) and its program objectives by addressing the five criteria listed in the statute.
Source of Governing Requirements

This program is authorized under Title XIX, Part B, subparts I and III of the Public Health Service Act (42 USC 300x et seq.). Criteria for the State plan may be found at 42 USC 300x-1. 45 CFR part 96 provides regulations for the general administrative requirements for the covered block grant programs. These regulations are in lieu of 45 CFR part 92 (the HHS implementation of the A-102 Common Rule)/45 CFR part 75 (the HHS implementation of 2 CFR part 200). In addition, States are to administer the MHBG program according to the plans that they submitted to SAMHSA.

As discussed in Appendix I to this Supplement, “Federal Programs Excluded from the A-102 Common Rule/Portions of 2 CFR Part 200,” States are to use the fiscal policies that apply to their own funds in administering MHBG. Procedures must be adequate to assure the proper disbursal of and accounting for Federal funds paid to the grantee, including procedures for monitoring the assistance provided (45 CFR section 96.30).

Under the block grant philosophy, each State is responsible for designing and implementing its own MHBG program, within very broad Federal guidelines. States must administer their MHBG program according to their approved plan and any amendments and in conformance with their own implementing rules and policies.

Availability of Other Program Information


III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.
### Compliance Requirements

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**A. Activities Allowed or Unallowed**

1. Services provided with grant funds shall be provided only through appropriate, qualified community programs (which may include community mental health centers, child mental health programs, psychosocial rehabilitation programs, mental health peer support programs and mental health primary consumer-directed programs). Services under the plan will be provided through community mental health centers only if the services are provided as follows:

   a. Services principally to individuals residing in a defined geographic area (service area);

   b. Outpatient services, including specialized outpatient services for children, the elderly, individuals with serious mental illness, and residents of the centers who have been discharged from inpatient treatment at a mental health facility;

   c. 24-hours-a-day emergency care services;

   d. Day treatment and other partial hospitalization services or psychosocial rehabilitation services; or

   e. Screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission (42 USC 300x-2(b) and (c)).
2. The State shall not use grant funds to:
   a. Provide inpatient hospital services. An inpatient is a person who is
      formally admitted to the inpatient service of a hospital for observation,
      care, diagnosis, or treatment;
   b. Make cash payments to intended recipients of health services;
   c. Purchase or improve land, purchase, construct, or permanently improve
      (other than minor remodeling) any building or any other facility, or
      purchase major medical equipment;
   d. Satisfy any requirement for the expenditure of non-Federal funds as a
      condition for the receipt of Federal funding; or
   e. Provide financial assistance to any entity other than a public or non-profit
      entity. A State is not precluded from entering into a procurement contract
      for services, since payments under such a contract are not financial
      assistance to the contractor (42 USC 300x-5(a)).

B. Allowable Costs/Cost Principles

As discussed in Appendix I to this Supplement, “Federal Programs Excluded from the
A-102 Common Rule and Portions of 2 CFR Part 200,” MHBG is exempt from the
provisions of OMB cost principles. State cost principles requirements apply to MHBG
(45 CFR section 96.30).

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2.1 Level of Effort – Maintenance of Effort

   a. The State shall for each fiscal year maintain aggregate State expenditures
      for community mental health services at a level that is not less than the
      average level of such expenditures maintained by the State for the 2 State
      fiscal years preceding the fiscal year of the grant. Expenditures for the
      2 previous fiscal years are reported in the State plan. The Secretary may
      exclude from the aggregate State expenditures funds appropriated to the
      principal agency for authorized activities which are of a non-recurring
      nature and for a specific purpose (42 USC 300x-4(b); Federal Register,
      July 6, 2001 (66 FR 35658) and November 23, 2001 (66 FR 58746-58747)
      as specified in II, “Program Procedures – Availability of Other Program
      Information”).

   b. The State shall for each fiscal year expend an amount not less than an
      amount equal to the amount expended in fiscal year 1994 for systems of
      integrated services for children with serious emotional disturbance
2.2 **Level of Effort – Supplement Not Supplant – Not Applicable**

3. **Earmarking**

   a. The State may not expend more than 5 percent of grant funds for administrative expenses with respect to the grant (42 USC 300x-5(b)).

   b. States must allocate 10 percent of grant funds awarded for Federal fiscal year (FFY) 2016 to implement programs showing strong evidence of effectiveness for individuals with a first episode psychosis. However, if a State signed a contract or allocated money to a subrecipient using FFY 2015 or FFY 2016 funds based on (1) the requirement in place prior to December 18, 2015 that allowed expenditures of such funds to provide treatment to individuals with early serious mental illness and (2) SAMHSA’s issuance of guidance on February 8, 2016, it may complete these initiatives through the end of the contract or by the end of September 30, 2016, whichever comes first.

   States must allocate 10 percent of grant funds awarded for FFY 2017 to implement programs showing strong evidence of effectiveness for individuals with a diagnosis of first episode psychosis only


H. **Period of Performance**

   Any amounts paid to the State for a fiscal year shall be available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts were paid (42 USC 300x-62).

L. **Reporting**

1. **Financial Reporting**

   a. SF-270, *Request for Advance or Reimbursement* – Not Applicable

   b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable


2. **Performance Reporting** – Not Applicable
3. **Special Reporting** – Not Applicable

N. **Special Tests and Provisions**

**Independent Peer Reviews**

**Compliance Requirement** – The State must provide for independent peer reviews which assess the quality, appropriateness, and efficacy of treatment services provided to individuals. At least 5 percent of the entities providing services in the State shall be reviewed. The entities reviewed shall be representative of the entities providing the services (42 USC 300x-53(a)). States may satisfy the independent peer review requirement by demonstrating that at least 5 percent of their entities providing services obtained accreditation, during their fiscal year, from a private accreditation body such as the Joint Commission on the Accreditation of Healthcare Organizations, the Commission on the Accreditation of Rehabilitation Facilities, or a similar organization.

**Audit Objectives** – Determine whether (1) the required number of entities was peer reviewed, and (2) the selection of entities for peer review was representative of entities providing services in the State. If the peer review requirement is not met by reliance on a private accreditation body, determine if peer reviewers were independent.

**Suggested Audit Procedures**

1. Ascertain the number of entities providing treatment services in the State.

2. Ascertain if the number of entities reviewed was at least 5 percent of the entities providing treatment services and whether the review requirement was satisfied by use of a private accreditation body.

3. Ascertain if the selection of entities for peer review was representative of entities providing services.

4. If the review requirement was not satisfied by use of a private accreditation body, select a sample of peer reviews and ascertain if the State ensured that the peer reviewers were independent.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.959 BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

I. PROGRAM OBJECTIVES

The objective of the Substance Abuse Prevention and Treatment Block Grant (SABG) program is to provide funds to States, Territories, and one Indian tribe for the purpose of planning, carrying out and evaluating activities to prevent and treat Substance Abuse (SA) and other related activities as authorized by the statute.

The SABG is the primary tool the Federal Government uses to fund State SA prevention and treatment programs. While the SABG provides Federal support to addiction prevention and treatment services nationally, it empowers the States to design solutions to specific addiction problems that are experienced locally.

II. PROGRAM PROCEDURES

Administration and Services

The Substance Abuse and Mental Health Services Administration (SAMHSA), an operating division of the Department of Health and Human Services (HHS), administers the SABG program. For purposes of this guidance, the term “State” includes the 50 States, the District of Columbia, American Samoa, Guam, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Marianas, Palau, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and the Red Lake Band of Chippewa Indians. The States generally subaward funds for the provision of services to public and non-profit organizations. Service providers may include for-profit organizations but for-profits may not receive financial assistance.

Examples of SABG activities are:

a. Alcohol Treatment and Rehabilitation – Direct services to patients experiencing primary problems for alcohol, such as outreach, detoxification, outpatient counseling, residential rehabilitation, hospital based care (not inpatient hospital services), abuse monitoring, vocational counseling, case management, central intake, and program administration.

b. Drug Treatment and Rehabilitation – Direct services to patients experiencing primary problems with illicit and licit drugs, such as outreach, detoxification, methadone maintenance and detoxification, outpatient counseling, residential rehabilitation, including therapeutic communities, hospital based care (not inpatient hospital services), vocational counseling, case management central intake, and program administration.

c. Primary Prevention Activities – Education, counseling, and other activities designed to reduce the risk of substance abuse.
The SABG funds are allocated to the States according to a formula legislated by Congress. States may then distribute these funds to cities, counties, or service providers within their jurisdictions based on need. Of the SABG funds dispensed to each State annually, Congress has specified that the State will expend not less than 20 percent for programs for individuals who do not require treatment for substance abuse. The programs should (1) educate and counsel the individuals on such abuse; and (2) provide for activities to reduce the risk of such abuse by the individuals. SABG statutory “set asides” were established to fund programs targeting special populations, such as services for substance using pregnant women and women with dependent children, and, in certain “designated States,” for screening for human immunodeficiency virus (HIV).

State Plan

The State must submit to SAMHSA for approval, an annual application which includes a State plan for SA prevention and treatment services objectives described above and signed assurances required by the Act and implementing regulations. The entire application, including the plan, must be reviewed by SAMHSA to ensure that all of the requirements of the law and regulations are met.

The State plan addresses how the State intends to comply with the various requirements of Title XIX, Part B, subparts II and III of the Public Health Service Act (42 USC 300x-21-66) and its program objectives and specific allocations by (1) conducting State and local demand and need assessments; (2) establishing statewide prevention and treatment improvement plans with specific multi-year goals for narrowing identified service gaps, implementing training efforts, and fostering coordination among SA treatment, primary health care, and human service agencies; and (3) addressing human resource requirements, clinical standards and identified treatment improvement goals, and ensuring coordination of all health and human services for addicted individuals.

The State shall make the plan public within the State in such a manner as to facilitate comment from any person (including any Federal or other public agency) during development of the plan (including any revisions) and after submission of the plan to SAMHSA.

Source of Governing Requirements

This program is authorized under Title XIX, Part B, subparts II and III of the Public Health Service Act (42 USC 300x-21-66). Implementing regulations are published at 45 CFR part 96. Those regulations include general administrative requirements for the covered block grant programs in lieu of 45 CFR part 92 (the HHS implementation of the A-102 Common Rule)/45 CFR part 75 (the HHS implementation of 2 CFR part 200). Requirements specific to SABG are in 45 CFR sections 96.120 through 96.137. In addition, grantees are to administer their SABG programs according to the plan that they submitted to SAMHSA.
As discussed in Appendix I to this Supplement, “Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200,” States are to use the fiscal policies that apply to their own funds in administering SABG. Procedures must be adequate to assure the proper disbursal of and accounting for Federal funds paid to the grantee, including procedures for monitoring the assistance provided (45 CFR section 96.30).

Availability of Other Program Information


III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. The State shall not use grant funds to provide inpatient hospital services except when it is determined by a physician that (a) the primary diagnosis of the individual is SA and the physician certifies this fact; (b) the individual cannot be safely treated in a community based non-hospital, residential treatment program; (c) the service can reasonably be expected to improve an individual’s condition or level of functioning; and (d) the hospital based SA program follows national standards of SA professional practice. Additionally, the daily rate of payment provided to the hospital for providing the services to the individual cannot exceed the comparable daily rate provided for community based non-hospital residential programs of treatment for SA and the grant may be expended for such services only to the extent that it is medically necessary (i.e., only for those days that the patient cannot be safely treated in a residential community based program) (42 USC 300x-31(a) and (b); 45 CFR sections 96.135(a)(1) and (c)).

2. Grant funds may be used for loans from a revolving loan fund for provision of housing in which individuals recovering from alcohol and drug abuse may reside in groups. Individual loans may not exceed $4,000 (45 CFR section 96.129).

3. Grant funds shall not be used to make cash payments to intended recipients of health services (42 USC 300x-31(a); 45 CFR section 96.135(a)(2)).

4. Grant funds shall not be used to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or any other facility, or purchase major medical equipment. The Secretary may provide a waiver of the restriction for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition (42 USC 300x-31(a); 45 CFR sections 96.135(a)(3) and (d)).

5. The State shall not use grant funds to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funding (42 USC 300x-31(a); 45 CFR section 96.135(a)(4)).

6. Grant funds may not be used to provide financial assistance (i.e., a subgrant) to any entity other than a public or non-profit entity. A State is not precluded from entering into a procurement contract for services, since payments under such a contract are not financial assistance to the contractor (42 USC 300x-31(a); 45 CFR section 96.135 (a)(5)).

7. The State shall not expend grant funds to purchase sterile needles or syringes for the hypodermic injection of any illegal drug, provide, that such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant State or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the State or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is
operating in accordance with State and local law (42 USC 300ee-5; 45 CFR section 96.135 (a)(6); and Pub. L. No. 114-113, Division H, Title V, Section 520).

8. Grant funds may not be used to enforce State laws regarding sale of tobacco products to individuals under age of 18, except that grant funds may be expended from the primary prevention set-aside of SABG under 45 CFR section 96.124(b)(1) for carrying out the administrative aspects of the requirements such as the development of the sample design and the conducting of the inspections (45 CFR section 96.130 (j)).

9. No funds provided directly from SAMHSA or the relevant State or local government to organizations participating in applicable programs may be expended for inherently religious activities, such as worship, religious instruction, or proselytization (42 USC 300x-65 and 42 USC 290kk; 42 CFR section 54.4).

B. **Allowable Costs/Cost Principles**

As specified in Appendix I to this Supplement, “Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200,” SABG is exempt from the provisions of the OMB cost principles. State cost principles requirements apply to SABG.

G. **Matching, Level of Effort, Earmarking**

1. **Matching** – Not Applicable

2.1 **Level of Effort** – *Maintenance of Effort*

a. The State shall for each fiscal year maintain aggregate State expenditures for authorized activities by the principal agency at a level that is not less than the average level of such expenditures maintained by the State for the 2 State fiscal years preceding the fiscal year for which the State is applying for the grant. The “principal agency” is defined as the single State agency responsible for planning, carrying out and evaluating activities to prevent and treat SA and related activities. The Secretary may exclude from the aggregate State expenditures funds appropriated to the principal agency for authorized activities which are of a non-recurring nature and for a specific purpose (42 USC 300x-30; 45 CFR sections 96.121 and 96.134; and Federal Register, July 6, 2001 (66 FR 35658) and November 23, 2001 (66 FR 58746-58747) as specified in II, “Program Procedures – Availability of Other Program Information”).

b. The State must maintain expenditures at not less than the calculated fiscal year 1994 base amount for SA treatment services for pregnant women and women with dependent children. The fiscal year 1994 base amount was reported in the State’s fiscal year 1995 application (42 USC 300x-27; 45 CFR section 96.124(c)).
c. Designated States shall maintain expenditures of non-Federal amounts for HIV services at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the first fiscal year for which the State receives such a grant. A designated State is any State whose rate of cases of HIV is 10 or more such cases per 100,000 individuals (as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the most recent calendar year for which the data are available.) (42 USC 300x-30; 45 CFR sections 96.128 (b) and (f)).

d. The State shall maintain expenditures of non-Federal amounts for tuberculosis services at a level that is not less than an average of such expenditures maintained by the State for the 2-year period preceding the first fiscal year for which the State receives such a grant (42 USC 300x-24; 45 CFR section 96.127).

2.2 Level of Effort – Supplement Not Supplant – Not Applicable

3. Earmarking

a. The State shall expend not less than 20 percent of SABG for primary prevention programs for individuals who do not require treatment of SA. The programs should educate and counsel the individuals on such abuse and provide for activities to reduce the risk of such abuse by the individuals (42 USC 300x-22; 45 CFR sections 96.124 (b)(1) and 96.125).

b. Designated States, i.e., any State whose cases of Acquired Immunodeficiency Syndrome (AIDS) is 10 or more per 100,000 individuals (as indicated by the number of such cases reported to and confirmed by the Centers for Disease Control and Prevention for the most recent calendar year for which data are available), shall expend not less than 2 percent and not more than 5 percent of the award amount to carry out one or more projects to make available to individuals early intervention services for HIV disease at the sites where the individuals are undergoing SA treatment. If the State carries out two or more projects, the State will carry out one such project in a rural area of the State unless the Secretary waives the requirement (42 USC 300x-24; 45 CFR section 96.128(a)(1), (b), and (d)). Note: The applicable percentage is based on the percent change in a current year allotment to the base year allotment under the Alcohol, Drug Abuse and Mental Health Services (ADMS) Block Grant. Any “designated State” whose percentage change in allotment is greater than 5 percent is required to obligate and expend 5 percent of the SABG allotment for the applicable Federal fiscal year to establish 1 or more projects designed to provide early intervention services for HIV at the site(s) at which individuals are receiving SA treatment.
c. The State may not expend more than 5 percent of the grant to pay the costs of administering the grant (42 USC 300x-31; 45 CFR section 96.135 (b)(1)).

d. The State may not expend grant funds for providing treatment services in penal or correctional institutions in an amount more than that expended for such programs by the State for fiscal year 1991 (42 USC 300x-31; 45 CFR section 96.135(b)(2)).

H. Period of Performance

Any amounts awarded to the State for a fiscal year shall be available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts were awarded (42 USC 300x-62).

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

N. Special Test and Provisions

Independent Peer Reviews

Compliance Requirement – The State must provide for independent peer reviews which assess the quality, appropriateness, and efficacy of treatment services provided to individuals. At least 5 percent of the entities providing services in the State shall be reviewed. The entities reviewed shall be representative of the entities providing the services. The State shall ensure that the peer reviewers are independent by ensuring that the peer review does not involve reviewers reviewing their own programs and the peer review is not conducted as part of the licensing or certification process (42 USC 300x-53(a); 45 CFR section 96.136). States may satisfy the independent peer review requirement by demonstrating that at least 5 percent of their entities providing services obtained accreditation, during their fiscal year, from a private accreditation body such as the Joint Commission on the Accreditation of Healthcare Organizations, the Commission on the Accreditation of Rehabilitation Facilities, or a similar organization.
Audit Objectives – Determine whether (1) the required number of entities was peer reviewed, and (2) the selection of entities for peer review was representative of entities providing services in the State. If the peer review requirement is not met by reliance on a private accreditation body, determine if peer reviewers were independent.

Suggested Audit Procedures

1. Ascertain the number of entities providing treatment services in the State.

2. Ascertain if the number of entities reviewed was at least 5 percent of the entities providing treatment services and whether the review requirement was satisfied by use of a private accreditation body.

3. Ascertain if the selection of entities for peer review was representative of entities providing services.

4. If the review requirement was not satisfied by use of a private accreditation body, select a sample of peer reviews and ascertain if the State ensured that the peer reviewers were independent.

IV. OTHER INFORMATION

As described in Part 4, Social Services Block Grant (SSBG) program (CFDA 93.667), III.A, “Activities Allowed or Unallowed,” a State may transfer up to 10 percent of its annual allotment under SSBG to this and other specified block grant programs.

Amounts transferred into this program are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.
DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.994  MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT TO THE STATES

I. PROGRAM OBJECTIVES

The objective of the program of grants to States under the Maternal and Child Health (MCH) Block Grant program is to provide funds to the 50 States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Federated States of Micronesia, Palau, the Marshall Islands, and the Northern Marianas (States) for improvement of the health of all mothers and children consistent with applicable health status goals and national health objectives established under the Social Security Act.

Specifically, MCH Block Grants are intended to (1) provide and assure mothers and children (especially those with low income or limited availability of services) access to quality maternal and child health services; (2) reduce infant mortality and the incidence of preventable diseases and disabling conditions among children; (3) reduce the need for inpatient and long-term care services; (4) increase the number of children appropriately immunized against disease and the number of low-income children receiving health assessments and follow-up diagnostic and treatment services; (5) promote the health of mothers and infants by providing prenatal, delivery, and postpartum care for low-income, at-risk pregnant women; (6) promote the health of children by providing preventive and primary care services for low-income children; (7) provide rehabilitation services for blind and disabled individuals under 16 years of age receiving benefits under Title XVI of the Social Security Act (Supplemental Security Income) to the extent medical assistance for such services is not provided under Title XIX (Medicaid); and (8) provide and promote family-centered, community-based, coordinated care for children with special health care needs and to facilitate the development of community-based systems of services for those children and their families.

II. PROGRAM PROCEDURES

Administration and Services

The MCH Block Grant program was created by the Omnibus Budget Reconciliation Act (OBRA) of 1981. Under that legislation, a number of categorical grants programs were consolidated into the single MCH Block Grant program. These were maternal and child health services for children with special health care needs; supplemental security income for children with disabilities; lead-based paint poisoning prevention programs; genetic disease programs; sudden infant death syndrome programs; and adolescent pregnancy grants. Extensive amendments to the authorizing statute in 1989 increased State programmatic and fiscal accountability under the program. These include requirements for States to define health status measures and to develop measurable objectives for program efforts as well as to report progress on key maternal and child health indicators.
The program is administered by the Division of State and Community Health, Maternal and Child Health Bureau (MCHB), Health Resources and Services Administration (HRSA), a component of the Department of Health and Human Services (HHS). MCH Block Grant funds are awarded to States in accordance with a pre-established formula after submission to and approval of their applications by HRSA. The application addresses how the State plans to implement prioritized tasks based on a statewide needs assessment (required to be conducted every 5 years) for all mothers and children, including those with special health care needs. The State health agency is responsible for overall program administration according to its approved plan but services may be carried out by the recipient or by local non-profit agencies that are funded in accordance with an allocation methodology determined by the recipient (and approved by HRSA).

**Source of Governing Requirements**

The MCH Block Grant program is authorized under the 1981 Omnibus Budget Reconciliation Act, as amended, and is codified at 42 USC 701 through 709. The implementing regulations for this and other HHS block grant programs are published at 45 CFR part 96. Those regulations include both specific requirements and general administrative requirements for the covered block grant programs in lieu of 45 CFR part 92 (the HHS implementation of the A-102 Common Rule)/45 CFR part 75 (the HHS implementation of 2 CFR part 200).

**Availability of Other Program Information**

Further information about this program is available at [http://www.mchb.hrsa.gov/](http://www.mchb.hrsa.gov/).

**III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

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A. Activities Allowed or Unallowed

1. Activities Allowed
   
   a. Funds may be used to provide health services and related activities, including planning, administration, education, and evaluation (42 USC 704(a)).
   
   b. Funds may be used to purchase technical assistance from public or private entities if required to develop, implement, or administer the MCH Block Grant (42 USC 704(c)).
   
   c. Funds may be used for salaries and other related expenses of National Health Service Corps personnel assigned to the State (42 USC 704(a)).
   
   d. Funds may be used to continue funding of special projects in the State funded under Title V of the Social Security Act prior to the enactment of the MCH Block Grant program on August 31, 1981 (42 USC 705(a)(5)(C)(i)).
   
2. Activities Unallowed
   
   a. Funds may not be used to purchase or improve land, to purchase, construct, or permanently improve buildings or facilities (other than minor remodeling), or to purchase major medical equipment unless a waiver has been granted by HRSA (42 USC 704(b)(3)).
   
   b. Funds may not be used to make cash payments to intended recipients of services (42 USC 704(b)(2)).
   
   c. Funds may not be provided for research or training to any entity other than a public or non-profit private entity (42 USC 704(b)(5)).
   
   d. Funds may not be used for inpatient services, other than for children with special health care needs or high-risk pregnant women and infants or other inpatient services approved by the Associate Administrator for Maternal and Child Health (42 USC 704(b)(1)). Infants are defined as persons less than one year of age (42 USC 706(a)(2)(E)).
   
   e. Funds may not be used to make payments for any item or service (other than an emergency item or service) furnished by an individual or entity excluded under Titles V, XVIII (Medicare), XIX (Medicaid), or XX (Social Services Block Grant) of the Social Security Act (42 USC 704(b)(6)).
   
   f. MCH Block Grant funds may not be transferred to other block grant programs (42 USC 702(a)(3) and 705(a)(5)(B)).
B. Allowable Costs/Cost Principles

As discussed in Appendix I to this Supplement, “Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200,” the MCH Block Grant program is exempt from the provisions of the OMB cost principles. State cost principles requirements apply to the MCH Block Grant program.

G. Matching, Level of Effort, Earmarking

1. Matching

Federal funds expended for the program must be matched 75 percent by State funds (42 USC 703(a)).

2.1. Level of Effort – Maintenance of Effort

The State must maintain the level of funds provided solely by the State for maternal and child health programs at a level at least equal to the level provided in FY 1989 (42 USC 705(a)(4)).

2.2. Level of Effort – Supplement Not Supplant – Not Applicable

3. Earmarking

a. Unless a lesser percentage is established in the State’s notice of award for a given fiscal year, the State must use at least 30 percent of payment amounts for preventive and primary care services for children (42 USC 705(a)(3)(A)).

b. Unless a lesser percentage is established in the State’s notice of award for a given fiscal year, the State must use at least 30 percent of payment amounts for services for children with special health care needs (42 USC 705(a)(3)(B)).

c. A State may not use more than 10 percent of allotted funds for administrative expenses (42 USC 704(d)).

H. Period of Performance

Funds available to States from their allotment for any fiscal year are available for obligation by the State in that fiscal year or in the succeeding fiscal year. No payment may be made to a State from allotments for a fiscal year for expenditures made after the end of the following fiscal year (42 USC 703(b)).

J. Program Income

Charges imposed by a State for services under this program must be pursuant to a published schedule of charges and adjusted to reflect the income, resources, and family size of the recipients. No charges may be imposed for low-income mothers or children (42 USC 705(a)(5)(D)). The official poverty guidelines, as revised annually by HHS, shall be used to determine whether an individual is considered low-income for this
purpose. The poverty guidelines are issued each year in the Federal Register. HHS maintains a web page that provides the poverty guidelines (http://aspe.hhs.gov/poverty/).

L. Reporting

1. Financial Reporting
   a. SF-270, Request for Advance or Reimbursement – Not Applicable
   b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting

Maternal and Child Health Services Block Grant Application/Annual Report (OMB No. 0915-0172) – The State must submit an annual report by July 15 of each year (at the time it submits the annual application). The reporting forms and instructions are contained in a document entitled “Guidance and Forms for the Title V Application/Annual Report.” Reports are prepared electronically.

Key Line Items – The following line items contain critical information:

Form 2 MCH Budget/Expenditure Details
Form 3a Budget and Expenditure Details by Types of Individuals Served
Form 3b Budget and Expenditure Details by Types of Services
Form 4 Number and Percentage of Newborns and Others Screened, Confirmed and Treated
Form 5a Unduplicated Count of Individuals Served Under Title V
Form 5b Total Recipient Count of Individuals Served by Title V
Form 6 Deliveries and Infants Served by Title V and Entitled to Benefits under Title XIX

IV. OTHER INFORMATION

Federal funds from other block grant programs (e.g., Social Services Block Grant (CFDA 93.667) and Preventive Health and Health Services Block Grant (CFDA 93.991)) may be transferred into the MCH Block Grant program. MCH Block Grant funds, however, may not be transferred to other block grant programs (42 USC 702(a)(3) and 705(a)(5)(B)). Funds transferred into the MCH Block Grant are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.