

### Subpart C—Selection of Grantees Through Competition

#### § 1304.20 Selection among applicants.

(a) In selecting an agency to be designated to provide Head Start, Early Head Start, Migrant or Seasonal Head Start or tribal Head Start or Early Head Start services, the responsible HHS official will consider the applicable criteria at Section 641(d) of the Head Start Act and any other criteria outlined in the funding opportunity announcement.

(b) In competitions to replace or potentially replace a grantee the responsible HHS official will also consider the extent to which the applicant supports continuity for participating children, the community and the continued employment of effective, well qualified personnel.

(c) In competitions to replace or potentially replace a current grantee, the responsible HHS official will give priority to applicants that have demonstrated capacity in providing effective, comprehensive, and well-coordinated early childhood education and development services and programs to children and their families.

### Subpart D—Replacement of American Indian and Alaska Native Grantees

#### § 1304.30 Procedure for identification of alternative agency.

(a) An Indian tribe whose Head Start grant has been terminated, relinquished, designated for competition or which has been denied refunding as a Head Start agency, may identify an alternate agency and request the responsible HHS official to designate such agency as an alternative agency to provide Head Start services to the tribe if:

(1) The tribe was the only agency that was receiving federal financial assistance to provide Head Start services to members of the tribe; and,

(2) The tribe would be otherwise precluded from providing such services to its members because of the termination or denial of refunding.

(b)(1) The responsible HHS official, when notifying a tribal grantee of the intent to terminate financial assist-

ance or deny its application for refunding, or its designation for competition must notify the grantee that it may identify an agency and request that the agency serve as the alternative agency in the event that the grant is terminated or refunding denied, or the grant is not renewed without competition.

(2) The tribe must identify the alternate agency to the responsible HHS official in writing.

(3) The responsible HHS official will notify the tribe, in writing, whether the alternative agency proposed by the tribe is found to be eligible for Head Start funding and capable of operating a Head Start program. If the alternative agency identified by the tribe is not an eligible agency capable of operating a Head Start program, the tribe will have 15 days from the date of the sending of the notification to that effect from the responsible HHS official to identify another agency and request that the agency be designated. The responsible HHS official will notify the tribe in writing whether the second proposed alternate agency is found to be an eligible agency capable of operating the Head Start program.

(4) If the tribe does not identify an eligible, suitable alternative agency, a grantee will be designated under these regulations.

(c) If the tribe appeals a termination of financial assistance or a denial of refunding, it will, consistent with the terms of § 1304.5, continue to be funded pending resolution of the appeal. However, the responsible HHS official and the grantee will proceed with the steps outlined in this regulation during the appeal process.

(d) If the tribe does not identify an agency and request that the agency be appointed as the alternative agency, the responsible HHS official will seek a permanent replacement grantee under these regulations.

#### § 1304.31 Requirements of alternative agency.

The agency identified by the Indian tribe must establish that it meets all requirements established by the Head Start Act and these requirements for designation as a Head Start grantee and that it is capable of conducting a Head Start program. The responsible

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HHS official, in deciding whether to designate the proposed agency, will analyze the capacity and experience of the agency according to the criteria found in section 641(d) of the Head Start Act and §1304.20.

### § 1304.32 Alternative agency—prohibition.

(a) No agency will be designated as the alternative agency pursuant to this subpart if the agency includes an employee who:

(1) Served on the administrative or program staff of the Indian tribal grantee described under section 646(e)(1)(A) of the Act; and

(2) Was responsible for a deficiency that:

(i) Relates to the performance standards or financial management standards described in section 641A(a)(1) of the Act; and,

(ii) Was the basis for the termination of assistance under section 646(e)(1)(A) of the Act or denial of refunding described in §1304.4.

(b) The responsible HHS official shall determine whether an employee was responsible for a deficiency within the meaning and context of this section.

## Subpart E—Head Start Fellows Program

### § 1304.40 Purpose.

As provided in section 648A(d) of the Act, the Head Start Fellows Program is designed to enhance the ability of Head Start Fellows to make significant contributions to Head Start and to other child development and family services programs.

### § 1304.41 Fellows Program.

(a) *Selection.* An applicant must be working on the date of application in a local Head Start program or otherwise working in the field of child development and family services. The qualifications of the applicants for Head Start Fellowship positions will be competitively reviewed.

(b) *Placement.* Head Start Fellows may be placed in the Head Start national and regional offices; local Head Start agencies and programs; institutions of higher education; public or private entities and organizations con-

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cerned with services to children and families; and other appropriate settings.

(c) *Restrictions.* A Head Start Fellow who is not an employee of a local Head Start agency or program may only be placed in the national or regional offices within the Department of Health and Human Services that administer Head Start or local Head Start agencies. Head Start Fellows shall not be placed in any agency whose primary purpose, or one of whose major purposes is to influence federal, state or local legislation.

(d) *Duration.* Head Start Fellowships will be for terms of one year, and may be renewed for a term of one additional year.

(e) *Status.* For the purposes of compensation for injuries under chapter 81 of title 5, United States Code, Head Start Fellows shall be considered to be employees, or otherwise in the service or employment, of the federal government. Head Start Fellows assigned to the national or regional offices within the Department of Health and Human Services shall be considered employees in the Executive Branch of the federal government for the purposes of chapter 11 of title 18, United States Code, and for the purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

## PART 1305—DEFINITIONS

Sec.

1305.1 Purpose.

1305.2 Terms.

AUTHORITY: 42 U.S.C. 9801 *et seq.*

SOURCE: 81 FR 61412, Sept. 6, 2016, unless otherwise noted.

### § 1305.1 Purpose.

The purpose of this part is to define terms for the purposes of this subchapter.

### § 1305.2 Terms.

For the purposes of this subchapter, the following definitions apply:

*ACF* means the Administration for Children and Families in the Department of Health and Human Services.