

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Jackson County, unincorporated areas	190879	Aug. 17, 1979, Emerg; May 1, 1990, Reg; June 16, 1995, Susp.do	Do.
Kansas: Pittsburg, city of, Crawford County ...	200072	Nov. 14, 1974, Emerg; May 1, 1979, Reg; June 16, 1995, Susp.do	Do.
Region X				
Washington: Thurston County, unincorporated areas.	530188	Sept. 13, 1974, Emerg; Dec. 1, 1982, Reg; June 16, 1995, Susp.do	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: May 24, 1995.

Frank H. Thomas,

Deputy Associate Director, Mitigation Directorate.

[FR Doc. 95-13519 Filed 6-1-95; 8:45 am]

BILLING CODE 6718-21-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1357

RIN AB44

Child Welfare Services Program

AGENCY: Administration on Children, Youth and Families; Administration for Children and Families, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is issuing this final rule to amend the regulations governing direct payments to Indian Tribal Organizations (ITOs) for child welfare services. It eliminates the requirement that to be eligible ITOs must provide services under contract (or grant) with the Secretary of the Interior under section 102 of the Indian Self-Determination Act, and adds a description of the formula used to calculate the amount of Federal funds available to eligible ITOs under title IV-B, Subpart 1 of the Social Security Act. We believe that complex and limiting eligibility requirements and low grant amounts have resulted in low ITO participation rates. The amendment will improve the quality of Indian child welfare services nationally by broadening eligibility and by allowing for an increase in grant amounts.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Olivia A. Golden, Administration on

Children, Youth and Families, P.O. Box 1182, Washington, DC 20013, (202) 205-8474.

SUPPLEMENTARY INFORMATION:

I. Program Description and Background

Title IV-B, Subpart 1, of the Social Security Act (the Act), the Child Welfare Services program, is a formula grant program. Each State receives a grant representing its share of the current authorized amount. The grants provide States with Federal support for a wide variety of State child welfare services including: preplacement preventive services to strengthen families and avoid placement of children; services to prevent abuse and neglect; services for the provision of foster care and adoption; and certain protections for children in foster care.

The grant funds can be used to provide services regardless of the income of the families and children who are in need of such services.

The Child Welfare Services program has been a part of the Social Security Act (the Act) since the Act's inception in 1935. In 1968, Congress transferred this program to title IV, Part B of the Act (sections 420-425 of the Act). Historically, title IV-B has provided Federal grants to States to establish, extend and strengthen child welfare services. Under this program, services are available to all children, including the homeless, neglected, dependent and those with disabilities.

The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272) was enacted on June 17, 1980. In addition to amending title IV-B, Public Law 96-272 established a new program, the title IV-E program, which replaced on October 1, 1982, the title IV-A foster care program in the States. The law created links between the two programs with numerous program and fiscal incentives. The impetus behind the passage of Public Law 96-272 was the belief of Congress and most State child welfare administrators, supported by

extensive research, that the public child welfare system responsible for serving dependent and neglected children, youth and families had become a receiving or holding system for children living away from their parents. Congress envisioned in the new legislation a system that would help families remain together by assisting parents in carrying out their roles and responsibilities and providing alternative permanent placement for those children who cannot return to their own homes.

Public Law 96-272 created section 428 of the Act which provides for direct payments to certain Indian Tribal Organizations, of funds authorized under title IV-B for child welfare services to certain ITOs. Effective June 22, 1983, regulations published at 45 CFR 1357.40 implemented section 428 of the Act, and specified which ITOs are eligible to receive funds directly and under what circumstances direct payments should be made available. In determining which ITOs would be eligible for direct funding, the Department decided to make the option of applying for direct funding available to those ITOs which had contracted with, or received a grant from, the Bureau of Indian Affairs under Public Law 93-638 (Indian Self-Determination Act) for child welfare services. This requirement was intended to limit direct funding to ITOs that had established the need for child welfare services and had taken advantage of the opportunity for direct management and operation of a tribal child welfare services program. Under this approach, direct grants would be added to existing ongoing Indian child welfare programs operated by the tribal organizations. The title IV-B funds were intended to be linked to the other major Federal Indian social services program to support Indian self-determination, and complement the provisions of the Indian Child Welfare Act of 1978 (Pub. L. 95-608). This was considered important by the Department because title IV-B funds alone are

insufficient for an ITO to establish and operate a basic child welfare services program.

We believe that the requirement that ITOs must contract, or receive a grant, for child welfare services under Public Law 93-638 in order to be eligible for direct funding under title IV-B is no longer necessary. In recent years, Federal social service funding under the Indian Child Welfare Act (ICWA) has increased significantly. In fiscal year 1994, 530 tribes are expected to receive \$22,905,000 under ICWA. We are aware that there are ITOs which do not receive Indian Self-Determination Act funding although they are operating child welfare services programs utilizing ICWA funding, and others which could choose to begin to provide child welfare services.

II. Discussion of the Comments and Final Rule

On October 20, 1994, the Department published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** [59 FR 52951] that proposed a revision of 45 CFR Part 1357, the regulation governing direct payments to Indian Tribal Organizations (ITOs). Interested persons were given 60 days in which to comment on the proposed rule. The following is a summary of the comments from the respondents and the Department's response.

The Department received comments from twenty-one respondents, including Tribal governments, Tribal human services agencies, national Indian organizations, a Federal agency, and a State agency. Nineteen comments supported changing the multiplication factor from 1.4 to 3.0. Eighteen responses supported elimination of the Indian Self-Determination Act eligibility requirement. One respondent opposed elimination of the Indian Self-Determination Act eligibility requirement. Two respondents recommended changes to the proposed rule.

Comment

One respondent opposed elimination of the Indian Self-Determination Act eligibility requirement, and requested that an impact study be conducted first to determine the effect of expanding the population of Indians served on the population of Indians currently served under title IV-B, Part 1. The respondent recommended that the results of the study be published in the **Federal Register** along with the proposed definition changes and proposed funding allocation, and that there be an opportunity for comments.

Response

This comment appears to reflect two concerns: that the change allows for native American consortiums to receive direct title IV-B funding, and that the resulting increase of population which could participate in title IV-B funding could adversely impact the program if not funded appropriately. In response, it should be noted that the current regulation allows Indian consortiums to receive title IV-B direct funding. The proposed rule did not change this. However, the proposed rule, by eliminating the Indian Self-Determination Act requirement would likely expand the population of Indian children and families served under title IV-B direct funding. If such a change in the population served did occur, the corresponding increase of funding to tribes would result in a corresponding equivalent decrease in funding available to the State title IV-B agencies. There would be no decrease in title IV-B funding available to those Indian Self-Determination Act tribes currently receiving direct title IV-B funding as a result of increasing the Indian population under this program. We do not believe that an impact study is therefore necessary or appropriate.

Comment

One respondent recommended delay of implementation of the multiplication factor change to FY 1996 and implementation in two stages: citing as examples, 2.25 in FY 1996, and 3.0 in FY 1997. The respondent expressed concern about the impact on a State Agency due to the significant percentage of the budget reduction anticipated and the lack of adequate advance time for a State Agency to plan for the change if implemented in FY 1995, as proposed.

Response

The Department agrees that a large increase in direct funding of Tribes, coming late in a State's budget cycle would impose serious problems. In order to allow those States that are likely to be significantly impacted by the final regulation to adequately plan for the change, the Department will delay the effective date of the final regulation to October 1, 1995. However, we do not agree with the proposal to raise the multiplication factor in stages because we do not believe that a lower multiplication factor than 3.0 would be sufficient to achieve the purpose of the policy, which is to substantially increase the participation of the tribes and raise the quality of Indian child welfare services. Although we understand the State's concern about

the need to maintain adequate State funding to continue to serve the Indian population of enrolled tribal members living off reservation, the title IV-B appropriations are not intended to adequately meet all of a State's child welfare services needs. It is expected that States will fund a significant portion of State child welfare services from other sources.

Comment

One respondent recommended replacing the proposed funding formula with a \$20,000 base level of funding per Tribe, plus a percentage for each child. This comment opposes the proposed formula because small Tribes cannot sustain a viable program if this proposed funding formula to tribes is approved and because small tribes have the same base cost of providing services.

Response

Although we understand the concern that the funding formula does not adequately meet the needs of the smaller tribes, the Department believes that title IV-B is not sufficient to sustain base level plus percentage funding for every Tribe and also fund those States with either a large number of Tribes and/or a large population of Tribal children. Title IV-B is intended to supplement other State and Tribal child welfare resources. Under the Department's plan for increasing the multiplication factor from 1.4 to 3.0, the Tribes will receive twice the dollars per child in comparison with the States. The base level plus percentage proposal would result in differentials far greater in certain States. The proposed change as stated in the NPRM maintains more of a balance between the Department's decision to more adequately fund tribes, and the Federal responsibility to the States to assist them to meet the needs of the children served in their child welfare systems.

The Final Rule

This final rule revises paragraph (a) to eliminate the Indian Self-Determination Act eligibility requirement. Paragraph (a), as revised, states that "any ITO that meets the definitions in section 428(c) of the Act, or any consortium or other group of eligible tribal organizations authorized by the membership of the tribes to act for them is eligible to apply for direct funding if the Indian tribe, consortium or group has a plan for child welfare services provided by the ITO that is jointly developed by the ITO and the Department".

In determining the amount of direct funding available to an ITO eligible under the existing regulation, the

Secretary currently applies a formula similar to the one used to calculate the title IV-B allotments of the territories. This formula takes into consideration the Indian tribe's resident population under 21 and its per capita income.

The current formula for calculating an ITO's allotment results in an amount which bears the same ratio to the total State's title IV-B allotment as the product of 1.4 times the proportion of the Indian tribe's resident population under age 21 to the State's total population under age 21. The 1.4 multiplication factor has not resulted in grant amounts large enough to make it worthwhile for many tribes to apply for title IV-B. By June 1993, only 24 tribes were receiving direct title IV-B grants totaling \$549,340. The average grant available to specified ITOs was \$22,889, and grants ranged from a high of \$166,468 to a low of \$648.

The Department plans to change the multiplication factor to 3.0 for fiscal year 1996 in order to improve the quality of Indian child welfare nationally. For comparison purposes, using the fiscal year 1993 figures given above, this would have raised the average amount available to the specified ITO's to \$45,778, and grants would have ranged from a high of \$332,936 to a low of \$1,296.

Paragraph (g)(6) contains the Department's formula for the calculation of ITO allotments. The multiplication factor will be adjusted in future years based on the Department's experience, if necessary, in order to achieve the purposes of the Act. Any decision to change the multiplication factor will be promulgated through the issuance of an Information Memorandum under the ACYF policy issuance system.

Except for delaying the effective date to October 1, 1995, we have made no changes in the final rule as proposed in the Notice.

III. Impact Analysis

Executive Order 12866

Executive Order 12866 requires that regulations be written to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that the regulations are consistent with these priorities and principles. This final rule will not result in more costs because the increased funding to Indian tribes and ITOs will come from the change in the allotment formula.

Regulatory Flexibility Act of 1980

Consistent with the Regulatory Flexibility Act of 1980 (5 U.S.C. Ch. 5), the Department tries to anticipate and

reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis is prepared describing the rule's impact on small entities. Small entities are defined in the Act to include small businesses and small non-profit organizations. This regulation would affect States and Indian tribes, which are not "small entities" within the meaning of the Act. For these reasons, the Secretary certifies that this rule will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Public Law 96-511, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements in a proposed or final rule. This final rule contains no reporting or recordkeeping requirements. Therefore no submission to OMB is required.

List of Subjects in 45 CFR Part 1357

Adoption and foster care, Child welfare, Child welfare services, State plan, Indians, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Number 93.645, Child Welfare Services—State Grants)

Dated: May 12, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

For the reasons set forth in the preamble, 45 CFR 1357.40 is amended as follows:

PART 1357—REQUIREMENTS APPLICABLE TO TITLE IV-B

1. The authority statement for Part 1357 continues to read as follows:

Authority: 42 U.S.C. 620; 42 U.S.C. 670 et seq.; 42 U.S.C. 1302.

2. Section 1357.40 is amended by revising the heading and paragraph (a) and by adding paragraph (g)(6) to read as follows:

§ 1357.40 Direct payments to Indian Tribal Organizations (title IV-B, subpart 1, child welfare services).

(a) *Who may apply for direct funding?* Any Indian Tribal Organization (ITO) that meets the definitions in section 428(c) of the Act, or any consortium or other group of eligible tribal organizations authorized by the membership of the tribes to act for them, is eligible to apply for direct funding if the ITO, consortium or group has a plan

for child welfare services that is jointly developed by the ITO and the Department.

* * * * *

(g) *Grants: General.*

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(6) In order to determine the amount of Federal funds available for a direct grant to an eligible ITO, the Department shall first divide the State's title IV-B allotment by the number of children in the State, then multiply the resulting amount by a multiplication factor determined by the Secretary, and then multiply that amount by the number of Indian children in the ITO population. The multiplication factor will be set at a level designed to achieve the purposes of the Act and revised as appropriate.

[FR Doc. 95-13507 Filed 6-1-95; 8:45 am]

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DEPARTMENT OF ENERGY

48 CFR Parts 933 and 970

RIN 1991-AB20

Acquisition Regulation; Department of Energy Management and Operating Contracts

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today amends the Department of Energy Acquisition Regulation (DEAR) to modify certain requirements for management and operating contractor purchasing systems. These requirements are revised to identify certain purchasing system objectives and standards; eliminate the application of the "Federal norm"; and place greater reliance on commercial practices.

EFFECTIVE DATE: June 2, 1995.

FOR FURTHER INFORMATION CONTACT: James J. Cavanagh, Office of Contractor Management and Administration (HR-55), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585; telephone 202-586-8257.

SUPPLEMENTARY INFORMATION:

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