Estimated Total Annual Burden Hours: 52,500.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of Information between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Lori Scheck.

Dated: March 23, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Clarification of Program Announcement No. OCS–99–04]

Assets for Independence Demonstration Program

AGENCY: Office of Community Services (OCS), ACF, DHHS.

ACTION: Notice of clarification of program announcement No. OCS–99–04 Assets for Independence Demonstration Program, published in the **Federal Register** of January 27, 1999; and additional guidance for program applicants.

SUMMARY: The Office of Community Services continues to consult and deliberate in an inclusive manner in planning for the new Assets for Independence Demonstration Program. This process has involved discussions with offices within and outside the Department of Health and Human Services, the Treasury Department, Congress, and State offices and practitioners in the field. To the extent possible we have taken these views and deliberations into account in the fashioning of the Assets for Independence Demonstration Program Announcement. In addition, since its publication we have received questions about the Program Announcement itself, which appeared in the **Federal Register** of January 27, 1999, Part VII, 64 FR 4257.

In the following clarifications and guidance we have sought to respond to the issues raised by all of the interested parties. The Clarifications in Part I, below clarify the following issues of interest to applicants for the Assets for Independence Demonstration Program:

A. Custodial Accounts. Applicants are advised that grantees will have the option of establishing Individual Development Accounts (IDA's) either as Trusts or as Custodial Accounts.

B. ''Non-Federal Share Agreements'' must include a schedule of deposits that will assure that there will be at all times in a Demonstration Project's Reserve Fund sufficient non-Federal matching contribution funds to equal the maximum amount pledged as matching contributions under the ''Savings Plan Agreements'' for all IDA's then open (which may be less than the $2000 for each account stated in the published Program Announcement).

C. The ''Savings Plan Agreement'', required under PART II Section G(3)(n) of the Program Announcement as part of the instrument creating the IDA, should, under item #2, set the matching contribution rate for the account up to a total of not more than $2000 in Federal grant funds, during the project period, rather than a total of all match funds as stated in the published Program Announcement. It should also include a new item #9 providing for withdrawal of savings if participant leaves the program.

D. Project and Budget Periods. Applicants are advised that they may submit applications for project and budget periods of up to five years, but of at least three years' duration.

E. Additional matching contributions. Applicants are advised that once the statutory requirement of equal matching contributions to IDA's from non-Federal sources and Federal grant funds is satisfied, additional matching contributions may be made from non-Federal sources or even from Federal sources such as TANF where the legislation or policies governing such programs so permit. In the case of TANF funds, such contributions would be limited to IDA's of TANF recipients.

F. Income eligibility. The actual income limits from IRS tables for the Section 32 Earned Income Tax Credit are set forth.

G. Earned Income. The pertinent language from Section 911(d)(2) of the Internal Revenue Code, defining ''earned income'', is set forth.

Part I. Clarification of Assets for Independence (IDA) Program Announcement Published in the Federal Register of 1/27/1999

A. Part II G. of the Program Announcement: (3) Establishment of Individual Development Accounts, and (4) Custodial Accounts

The Program Announcement as published treats ''Custodial Accounts'' in the traditional sense of accounts established on behalf of minors or persons with disabilities, who do not have the capacity to manage an account on their own behalf. The Announcement therefore included as paragraph (4) of PART II Section G a discussion of how such ''custodial accounts'' might be established; and in the preceding paragraph (3) it required that all other Individual Development Accounts (IDA's) be established as trusts pursuant to Section 404(5)(A) of the Assets for Independence Act (AFIA).

In continuing discussions by the IDA working group in OCS it has been suggested that the intent of subparagraphs (A) and (B) of section 404(5) of the AFIA, when taken together, was not to limit ''Custodial Accounts'' to accounts for minors or persons with disabilities, but to offer alternative methods for the establishment of all IDA's, either as trusts under subparagraph (A) or as ''Custodial Accounts'' under subparagraph (B). This position has been put forward by those who have pointed out that ''trusts'' and ''trust instruments'' have very special meaning under banking laws, requiring adherence to special regulations and reporting requirements which might result in banks being less willing to participate in the IDA program. This same concern has been expressed in communications from banks.

Consequently, we have reached the conclusion that the intent of Section 404(5)(B) of the AFIA is, indeed, to offer an alternative method for establishing IDA's, rather than simply to provide accounts for minors and disabled persons, while requiring that all other IDA's be trusts under subparagraph (A). It should be noted that under subparagraph (B) of the AFIA that a ''Custodial Account'' there described is subject to all of the requirements described in subparagraph (A) with the exceptions (1) that it is not called a trust; (2) that the assets of the account may be held by a ''person'' or institution other than a ''Qualified Financial Institution'' satisfactory to the Secretary; and (3) consequently that the custodian acting as trustee can be the Qualified Entity, or Grantee. Note that the

Secretary has nonetheless determined that the assets of the Individual Development Account must be held in an insured financial institution.

As a result of this interpretation, the following clarifications are made to the Program Announcement published on January 27, 1999:

(1) PART I. D. Definition of Terms should read:

* * * * *

(5) Individual Development Account means a trust or a custodial account created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, or enabling the eligible individual to make an emergency withdrawal, but only if the written governing instrument creating the trust or custodial account meets the requirements of the AFI Act and of the Project Eligibility and Requirements set forth in this Announcement. [See PART II, Section G(3) and (4).

(2) PART II Section G Paragraph (3) should read as follows:

(3) Establishment of Individual Development Accounts. Grantees must create, through written governing instruments, either (a) Trusts under this paragraph, or (b) Custodial Accounts described in Paragraph (4) below, which will be Individual Development Accounts on behalf of Project Participants. Trustees of Trusts must be Qualified Financial Institutions. Custodians of Custodial Accounts may be Qualified Financial Institutions, other insured financial institutions satisfactory to the Secretary, or Demonstration Project Grantees. In every case the participating insured financial institution and the Demonstration Project Grantee shall be parties to the written governing instruments creating the Trust or Custodial Account, which must contain the following provisions:

* * * * *

(3) PART II G. Paragraph (4) of the Assets for Independence Act (IDA) Program Announcement, ''Custodial Accounts'', should read as follows:

''(4) Custodial Accounts. Notwithstanding the provisions of Paragraph (3), above, Grantees may, in the alternative, create, through written governing instruments, Custodial Accounts which shall be Individual Development Accounts on behalf of Project Participants, except that they will not be trusts. As in the case of trusts established under paragraph (3), the written governing instruments of the accounts must contain the requirements outlined in subparagraphs (a) through (h) of that paragraph, with the following exceptions. Whereas trustees of the trusts created under Paragraph (3) must be Qualified Financial Institutions, the assets of the custodial account may be held by a bank or another ''person'' (or institution) who demonstrates to the satisfaction of the Secretary that the manner in which the account will be administered will be consistent with the provisions of the AFIA, and that the IDA's will be created and maintained as described in paragraph (3) and section 404(5)(A) of the AFIA. In addition, in the case of a custodial account treated as a trust by reason of this paragraph, the custodian of such account may be the Project Grantee, provided that it can assure compliance with the requirements of Paragraph (3) above, and Section 404(5)(A) of the AFIA. These arrangements would place the ''custodial'' responsibilities with the grantee, and relieve financial institutions of trustee obligations. The Secretary has determined that the assets of any such accounts must be held in an insured financial institution and be subject to the provisions of Paragraph M, below, pertaining to agreements with applicants/grantees.

(4) PART II Section M of the Program Announcement should read as follows:

M. Agreements with Partnering Financial Institutions. All applicants under Priority Area 1.0 must enter into agreements with one or more insured Financial Institutions, in collaboration with which Reserve Funds and Individual Development Accounts will be established and maintained. To be considered for funding, an Application under Priority Area 1.0 must include a copy of an Agreement or Agreements with one or more partnering Qualified Financial Institutions (or in the case of Individual Development Accounts established as Custodial Accounts, an insured financial institution satisfactory to the Secretary), which state(s) that the accounting procedures to be followed in account management will conform to Guidelines established by the Secretary (which will be issued prior to grant awards and made available to grantees at time of award), and under which the partnering Financial Institution agrees to provide data and reports as requested by the applicant. In the case of IDA's established as Trusts under Section G(3), above, the partnering financial institution must be a Qualified Financial Institution as defined in PART I Section D(12). In the case of IDA's established as Custodial Accounts, the partnering financial institution must be insured and must meet the requirements of Section G(4), above, to the satisfaction of the Secretary. The Agreement may also include other services to be provided by the partnering Financial Institution that could strengthen the program, such as Financial Education Seminars, favorable pricing or matching contributions provided by the Financial Institution, and assistance in recruitment of Project Participants.

B. PART II I. of the Program Announcement: Non-Federal Matching Funds Requirements and PART IV D.(5) Pertaining to ''Non-Federal Share Agreements''

In these sections of the Announcement, Applicants are told that applications must include ''non-Federal Share Agreement(s)'' with provider(s) of the required 100% non-Federal matching contribution(s) which must include ''* * * (2) a schedule of deposits to the project's Reserve Fund of at least ten percent of the total committed for the entire project at the start of each of the five Project Years, plus any additional amounts needed to assure that there is at least $2000 of non-Federal matching contribution funds in the Reserve Fund for each Individual Development Account that has been opened; * * *''.

Comments received from the field have pointed out that the effect of the quoted passage is to limit the number of Individual Development Accounts that could be opened by a grantee to the amount of their non-Federal matching contributions (which is equal to the amount of their grant) divided by 2000, even if the grantee contemplated a maximum non-Federal contribution to any one Individual Development Account of only $1000, thus limiting the grantee to opening but half of the number of accounts planned to be opened in the project. In other words, a grantee receiving Federal funds that would make $100,000 available for matching contributions—and hence an equal amount in non-Federal matching contributions—under the terms of the Announcement would be limited to 50 deposits of $2000 each, and hence could open no more than 50 accounts, even if the maximum matching contribution per account proposed by the grantee were $1000, with the expectation of opening 100 accounts.

The intent of the quoted passage in the Announcement was not to limit the number of accounts proposed to be opened by an applicant, but rather to assure that the Reserve Fund would have in it at all times the amounts necessary to meet the promised matching contributions to all Individual Development Accounts then open and maintained by the grantee.

In order to achieve this assurance and at the same time permit flexibility among applicants to design programs that best meet the needs of their communities, PART II I. and PART IV D (5) with reference to the ''Non-Federal Share Agreement(s)'' item (2) in each section, beginning ''(2) a schedule of deposits * * *'' should read as follows:

''* * * (2) a schedule of deposits to the projects's Reserve Fund of at least ten percent of the total committed for the entire project at the start of each of the five Project years, plus any additional amounts needed to assure that there are at all times in the Reserve Fund non-Federal matching contribution funds equal to the total amounts pledged as maximum matching contributions under the ''Savings Plan Agreements'' for all Individual Development Accounts then open and being maintained by the grantee as part of the demonstration project.''

C. PART II Section G(3)(h) of the Program Announcement, Pertaining to ''Savings Plan Agreement''

In this section of the Announcement, item (2) to be included in such Agreements is: ''the rate at which participant savings will be matched (from one dollar to eight dollars for each dollar in savings deposited by Participant, up to a total of $2000 during the five-year project period)'' (emphasis supplied). This limitation is inaccurate. The $2000 only applies to federal match, so the phrase should read: ''up to a total of not more than $2000 in Federal grant funds matched by an equal amount in non-Federal contributions during the project period''.

A prospective applicant has also asked whether and how a Project Participant can withdraw their personal savings from an IDA if they decide to leave the program, since withdrawals are only possible with the approval of the grantee. Clearly, a Participant may choose to leave the program, forfeiting any accrued matching contributions and income earned thereby; and the project grantee should in such a case approve the withdrawal by the Participant of his or her savings plus income.

Consequently, a new item #9 should be included in the description of the ''Savings Plan Agreement'' under PART II G (3)(h), as follows: ''(9) a provision that should the Project Participant decide to leave the program, the grantee agrees that it will co-sign a withdrawal of the Participant's savings plus any income accrued thereon, with the understanding that the Participant thereby loses any right to receive matching contributions.''

D. PART II Section C. Project and Budget Periods Under Priority Area 1.0

Several potential applicants have asked if grant applications can be for less than five year budget and project periods. In other words, does the Program Announcement intend to call for applications of up to five years. OCS has determined that applications may be for less than five years, provided they are for at least three years' duration. In other words, applications may be for project and budget periods of three to five years' duration.

As a result of this interpretation, the following clarifications are made to the Program Announcement published on January 27, 1999:

(1) PART II Section C should read as follows:

C. Project and Budget Periods under Priority Area 1.0. This announcement is inviting applications under Priority Area 1.0 for project and budget periods of up to five (5) years (but at least three (3) years). Grant actions, on a competitive basis, will award funds for the full project and budget periods of three to five years' duration. As noted below in Section E., subject to the availability of funds, grantees may be offered the opportunity to compete for supplementary funding in later years during the project.

Note: Applicants should be aware that OCS funds awarded pursuant to this Announcement will be from fiscal year (FY) 1999 funds and may not be expended after the end of a five year Project/Budget Period to support administration of the project or matching contributions to Individual Development Accounts which may be open at that time.

(2) PART II Section E should read as follows:

E. Funds Availability and Grant Amounts under Priority Area 1.0. In Fiscal Year 1999 approximately $7.44 million is available under Priority Area 1.0 for funding commitments to approximately 30 projects, not to exceed $500,000 and averaging a total of approximately $250,000 for the three- to five-year project. Applicants are reminded that grant awards are limited to the amount of committed non-Federal cash matching contributions, and are urged to make realistic projections of project needs over the duration of the project and propose project budgets accordingly. Draw-down of grant funds over the three- to five-year budget period will be permitted in amounts that will match non-Federal deposits into the Project Reserve Fund. (See PART II Section I.) As noted above, subject to availability of funds and the progress of individual demonstration projects, grantees may be offered the opportunity to compete for supplementary funding in later years during the project, if there were a determination that this would be in the best interest of the government.

E. Part II Section G(1)(b). Use of Amounts in the Reserve Fund; and Section G(5) Deposits in Individual Development Accounts. (a) Matching Contributions

Many persons now operating IDA programs and other potential applicants have asked whether programs could make greater non-Federal matching contributions to Individual Development Accounts (IDA's) than the amount of the match from Federal grant funds. A careful review of the AFI Act has led OCS to conclude that the intent of section 410(a) of the Act is to assure that for every dollar of Federal grant funds under the AFI Act deposited into or to the credit of an IDA there is similarly deposited a dollar from the non-Federal contributions described in sections 405(c)(4) and 406(b)(1) (the required 100% non-Federal share); and that once that matching contribution of equal amounts of non-Federal contributions and Federal grant funds is achieved, there is no reason why grantees cannot make additional contributions to the IDA accounts, from other non-Federal sources, or even from Federal sources such as TANF funds, where the legislation or policies governing such programs so permit.

As a result of this interpretation, the following clarifications are made to the Program Announcement published on January 27, 1999:

(1) Paragraph (A) of PART II Section G(1)(b), Use of Amounts in the Reserve Fund, should read as follows:

(A) at least 90.5% of the Federal grant funds in the Reserve Fund shall be used as matching contributions to Individual Development Accounts for Project Participants, matched by non-Federal contributions in accordance with Paragraph (5), below.

(2) Paragraph (5)(a) of PART II Section G(5), Deposits in Individual Development Accounts, should read as follows:

(a) Matching Contributions. Not less than once every three months during the demonstration project grantees will make deposits into Individual Development Accounts, or into a parallel account maintained by the grantee, as matching contributions to deposits from earned income made by Project Participants during the period since the previous deposit.

Note: Deposits made by Project Participants shall be deemed to have been

made from earned income so long as the Participant's earned income (as defined in Section 911(d)(2) of the Internal Revenue Code of 1986) during the period since the Participant's previous deposit in the account is greater than the amount of the current deposit. Matching contributions must be made to IDA's in equal amounts from Federal grant funds and the non-Federal public and private funds committed to the project as matching contributions, as described in Sections 405(c)(4) and 406(b)(1) of the AFI Act. Such matching contribution deposits by grantees may be from $0.50 to $4 in non-Federal funds and an equal amount in Federal grant funds, for each dollar of earned income deposited in the account by the Project Participant in whose name the account is established. Once such matching contribution deposits are made, grantees may make additional matching contributions to IDA's from other non-Federal sources, or other Federal sources such as TANF, where the legislation or policies governing such programs so permit. At the time matching contribution deposits are made, the grantee will also deposit into the Individual Development Account (or the parallel account) any interest or income that has accrued since the previous deposit on amounts previously deposited in or credited to that account.

F. PART II Section G(2)(a) of the Program Announcement: Participant Eligibility

This section describes income eligibility as not exceeding the earned income amount described in Section 32 of the Internal Revenue Code of 1986 which deals with the Earned Income Tax Credit. Because applicants/grantees may have difficulty in ascertaining this information, we are here providing the income limits of Section 32 as provided by the Internal Revenue Service:

The most recent EITC Earned Income Guidelines which set the limits on annual income for eligibility in the IDA Program are as follows:

—For a household without a child: $10,030.
—For a household with one child: $26,473.
—For a household with more than one child: $30,095.

Applicants are reminded that there is also an assets test for eligibility in the program.

G. PART II Section G(5) of the Program Announcement: Deposits in Individual Development Accounts; (a) Matching Contributions

This section of the Announcement requires, pursuant to the AFIA, that Participant deposits in IDA's be made from earned income (as defined in Section 911(d)(2) of the Internal Revenue Code of 1986). Because of the difficulty that some applicants might face in obtaining copies of this section of the code, OCS provides in this clarification the pertinent language of Section 911(d)(2), which provides, in relevant part ''the term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered''.

PART II. Additional Guidance for Applicants Under the Assets for Independence (IDA) Demonstration Program Announcement Published in the Federal Register of January 27, 1999

In response to queries and comments from interested parties about the Assets For Independence Act and the Assets for Independence (IDA) Demonstration Program Announcement published in the **Federal Register** on January 27, 1999, OCS is pleased to provide the following additional guidance for the benefit of Applicants for the program. The Guidance material is presented in a question and answer format grouped according to Program Announcement sections and particular areas of interest.

In considering this new program and preparing applications for submission to OCS, applicants should bear in mind, first, that this is a demonstration program, which is seeking through evaluation to learn more about what works and what doesn't, and about the value of asset accumulation as a tool in assisting lower income individuals and families to achieve self-sufficiency; and second, that the Individual Development Account (IDA) is a tool, which when used in conjunction with other tools such as education, training, mentoring, family development, and other interventions found in successful income and capacity building programs, can lead to upward mobility and lasting economic independence for individuals and families.

A. Partnerships and Matching Funds

(1) Which Federal funds may be used as matching and which ones may not be used?

The Assets for Independence Act (AFIA) limits grant amounts to not more than ''the aggregate of funds committed as matching contributions from non-Federal public or private sources''. Under Appropriations Law, Federal funds can only be considered ''non-Federal'' for purposes of meeting a ''non-Federal share requirement'' if the authorizing legislation for such funds contains specific language to that effect. To the best of our knowledge the Community Development Block Grant (CDBG) funds are the only Federal funds that meet this requirement for the purposes of the AFIA. The CDBG statute specifically states that once those funds are received by the State they are to be considered State funds for matching purposes.

(2) Is it the intent of AFIA that the State agency(ies) have already established partnerships with specific not-for-profits prior to application, or is a plan for such considered acceptable?

Under Priority Area 1.0, and under Section 404(7) of the AFIA, a ''Qualified Entity'' is defined as ''(I) one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or (ii) a State or local agency, or a tribal government submitting an application under section 405 jointly with an organization described in clause (I)''.

Whenever more than one entity submit applications jointly, one entity must be the lead applicant which signs the SF424 and is legally and fiscally responsible to OCS for implementation of the project. We expect that in most cases involving joint applications by not-for-profits and a State or local agency or Tribal government, one of the not-for-profit organization will be the lead applicant signing the SF424 Application for Federal Assistance, and which will establish a Reserve Fund. However, should the joint applicants agree, the State or local agency or Tribal government may be the lead applicant signing the SF424. In either case, a ''plan'' for partnership between a State agency and not-for-profit organizations would not be sufficient. (See Question 3, below)

(3) If a not-for-profit 501(c)(3) organization applies jointly with a State or local government agency does that organization need to establish a Reserve Fund with that agency as a partner?

If the not-for-profit agency is the lead applicant, it would establish a Reserve Fund; and if the State or local agency is providing non-Federal matching contributions, it would enter into a ''Non Federal Share Agreement'' with the not-for-profit entity. (See Question 2, above).

(4) If a State provides funding for IDA programs up to $1 million, after the enactment of the AFIA legislation, is it possible for that State, along with the non-profit entities, to apply for a waiver on program requirements from sections 407 through 411?

No. The Act ''grandfathered'' only State programs in effect as of October 27, 1998 and only those States may take advantage of Section 405(g) which permits States to avoid application of Sections 407 through 411 to the extent they are inconsistent with existing State statutory requirements.

(5) If an applicant obtains non-Federal funding that is restricted to only one or two of the ''Qualified Expenditures'' under the AFIA (e.g. home purchase or business capitalization), can it restrict all IDA's in its program if such restricted funds are the only non-Federal matching funds available to the program?

Applicants can design their programs as they wish, as long as they meet the AFIA/Announcement requirements. In other words, a given project does not have to offer IDA's for all of the qualified expenses.

(6) Will applications submitted individually by individual organizations within a State be subject to the same criteria as they would if they applied jointly submitting a statewide application?

Review criteria will be the same for either situation, unless the statewide application is one which falls under Priority Area 2.0, which requires that the State program have been in existence and funded at a level of at least $1 million as of October 27, 1998.

(7) How will applications from an individual organization weigh against an application from a State?

A State agency can only apply jointly with a 501(c)(3) organization. Otherwise, note the differences in the Grant Announcement between Priority Area 1.0 and Priority Area 2.0.

(8) Can the non-Federal matching requirement include prospective funding sources?

No. As stated in Part II (I) of the grant announcement, a non-Federal share agreement must include a commitment to provide funds contingent only on award of grant funds. The grantee must document the commitment of required match in order to receive Federal funds. Under section 406(b)(1) of the Assets for Independence Act Federal grants are limited in amount to no more than ''the aggregate amount of funds committed as matching contributions from non-Federal public or private sector sources''.

(9) What are the possible ways that a financial institution could participate with the nonprofit in assisting IDA holders?

Financial institutions may play an important role in collaborating with qualified entities to further the IDA program objectives. Some of the possible ways that financial institutions might assist include: Reducing fees, matching deposits, supporting the qualified entity's operating systems, helping with financial education, or engaging schools, churches, or other nonprofits for marketing and outreach. Some financial institutions are providing modest financial assistance to the nonprofit IDA sponsor for matching contributions.

(10) Will banks get Community Reinvestment Act credit for participating in IDA projects?

We expect that the Federal Financial Institutions Examination Council will soon provide guidance for financial institutions concerning whether individual development accounts may qualify for favorable consideration under the Community Reinvestment Act.

(11) Does the Reserve fund have to be established only in a Bank? Can we use a credit union or a money market fund?

A Qualified Financial Institution is one that is federally insured, or, if no federally insured institution is available, State insured. Credit unions would therefore be eligible while money market funds would not be. Note that if the grantee chooses to establish IDA's as ''Custodial Accounts'' rather than as Trusts, funds could be deposited in other financial institutions so long as they are insured. In any case the Financial Institution must also agree to provide the required evaluation data as provided in PART II Section M of the Program Announcement.

B. Federal Project Funds

(12) When does HHS expect to fund projects?

Funding decisions will be made no later than July 27, 1999. Grants should be awarded within 30 days thereafter, and in no case after September 30, 1999.

(13) Can one of the participants of a joint project mutually agree with its joint participants to receive more than its proportional share for program administration? (i.e., May a State or local government partner provide program administration at no cost to the project?)

No. Section 407(c)(3) of the AFIA states that if two or more qualified entities are jointly administering a project, no qualified entity shall use more than its proportional share.

(14) How will grantees draw down their federal funds?

Project grantees are permitted to draw down grant funds over the five-year budget period in amounts that will match non-Federal deposits into the Reserve Fund (which must be in amounts of not less than 10% per project year of the total committed). The process for draw down of grant funds is accomplished through an account set up with the Payment Management System of the Department of Health and Human Services for which the grantee will receive instructions along with their notice of award.

(15) Are there limits on the investments a grantee can make?

The AFIA requires that the Secretary of Health and Human Services establish guidelines for investing amounts in the Reserve Fund in a manner that provides an appropriate balance between return, liquidity, and risk. Such guidelines will be made available at the time of the grant award.

(16) If grant money is left over in the Reserve fund at the end of the fifth project year, can the grantee consider those funds ''expended'' for those project participants who have been enrolled in an IDA but who have not completed their savings cycle or commitment?

No. Not if the funds have not been committed as matching contributions to specific Individual Development Accounts. Under section 407(d) of the AFIA such grant funds must be returned to the Secretary (see below). Those funds which have been committed as matching contributions to IDA's and deposited in or allocated to a parallel account, will be considered to have been ''expended'' or ''obligated'' by the grantee, and would consequently not be returned to the Secretary.

Section 407(d) of the Act requires that at the termination of the demonstration project (end of the five-year project period) the grantee shall return to the Secretary the amounts in the Reserve Fund attributable to the OCS grant. This will be an amount which would be the same percentage of the funds remaining in the Reserve Fund as the percentage of all funds deposited into the Reserve Fund represented by the OCS grant amount. As provided in the statute, the amount of remaining funds to be returned to the Secretary is arrived at by dividing the total of all funds deposited into the Reserve Fund during the course of the project, including both Federal and non-Federal funds, into the amount of the OCS grant, and multiplying that percentage by the amount in the Reserve Fund at the time of termination or the end of the project period.

(17) Will it be possible to apply for supplemental funds to pay for administrative services?

No. There are no supplemental funds to support administrative services. This is why applicants are encouraged to bring ''additional resources'' to the project, which may be cash or in-kind, Federal or non-Federal, so long as the uses to which Federal funds are put are permissible under the terms of the grant or contract that awarded those funds.

(18) Can a project use more than 7.5% of the Federal grant funds drawn down in one year of the project for support and administrative costs as long as they

do not use more than 7.5% of the Federal funds by the end of the project and budget period?

Yes.

(19) Can Federal IDA funds be used retroactively to fund accounts opened prior to receiving the grant?

Federal AFIA grant funds may not be used retroactively. In accordance with 45 CFR 74.28, a recipient may charge to the grant award only allowable costs resulting from obligations incurred during the approved funding period. The grantee may not use Federal grant funds to match any IDA deposits made prior to the grant award.

(20) Do childcare and transportation count as administrative expenses?

No. But we encourage applicants to find other resources to cover such expenses.

C. Project Qualifications

(21) Is an applicant with a 501(c)(3) application pending with the IRS eligible for this program?

No. The applicant must be an approved 501(c)(3) organization at the time the application is submitted.

(22) Will a grantee that is funded in year one have to recompete in year two to receive the same amount it received in year one? Or will it just have to compete for funds in addition to that base amount?

FY 1999 grantees will receive one grant of not more than $500,000 for a five-year demonstration project. OCS expects grants to average approximately $250,000. As noted in the Announcement, OCS, in later years, may invite requests for supplemental funding subject to a showing of need, availability of funds, and a determination that it is in the best interests of the government.

(23) Does the project summary count as part of the thirty pages?

No.

(24) If an applicant receives only 8 of the possible 15 points in Element IV for documenting the 100% non-federal match, and 2 additional points for meeting the Preferences required in the legislation, what happens to the other 5 possible points?

Under Element IV of the Review Criteria 8 points will be given to an application which mobilizes no more than the required 100% cash non-Federal match and meets the statutory preference. Award of the other 7 points will be based on judgment in the review process on the adequacy of additional resources, in cash and in-kind, to support the activities and interventions identified in sub-Element II (b) as part of the effort to achieve participant self-sufficiency. Under the statutory preference, an applicant that does not mobilize a proportionately greater amount of the required 100% cash match from the private sector as opposed to public sources will have its review score reduced by 2 points.

(25) Will application reviewers handicap scoring for rural areas without strong resource bases?

Rural areas will not be handicapped for evaluation purposes. However, rural applicants may want to contact their State Rural Development Council for assistance or the National Rural Development Partnership at (202) 690–4746 (http://www.rurdev.usda.gov/nrdp).

(26) Will a designated proportion of grantees be rural?

No, but geographic distribution is a consideration in funding decisions by OCS. Note that OCS is interested in funding a variety of projects that will reflect a diverse range of demographics, thus enriching the overall program evaluation.

(27) Is a credit union that is currently operating an IDA program eligible to apply for an IDA grant from HHS?

Credit unions, on their own, are not considered eligible applicants because they are not 501(c)(3) organizations. However, a credit union may collaborate with a qualified 501(c)(3) applicant as Qualified Financial Institution.

(28) Are Qualified Entities in the Trust Territories eligible to participate in this program?

Yes.

D. Participant Eligibility

(29) What are the Section 32 limits on income?

The most recent EITC Earned Income Guidelines that set the limits on annual income for eligibility in the IDA Program are as follows:

—For a household without a child: $10,030.
—For a household with one child: $26,473.
—For a household with more than one child: $30,095.

Applicants are reminded that there is also an assets test for eligibility in the program.

(30) If someone is eligible at the time of the initial entrance into the program, what happens if his or her situation changes before the program ends?

Grantees could choose to check an individual's financial eligibility yearly, but they are only obligated to do so once at the beginning of program administration.

(31) Do recent college graduates who are temporarily poor qualify?

See section 408 of the legislation. Any individual who is a member of a household that is eligible for assistance under TANF, or meets the Income and Net Worth Test shall be eligible to participate in a demonstration project under this title.

(32) Are there any restrictions for participants based on immigrant status?

If the entity that determines eligibility of program Participants is a nonprofit charitable organization, that entity is not required to verify the citizenship or immigration status of the participants, and thus individuals who otherwise meet program eligibility standards will be eligible to participate regardless of citizenship or immigration status. If, on the other hand, a state or local governmental entity determines eligibility of participants, verification procedures must be used to ensure that only citizens or qualified aliens receive services under the demonstration.

(33) Relocation: Would it be possible to enable participants who move out of an IDA project area to be able to continue to contribute to their accounts as long as these accounts are maintained in a participating financial institution?

AFIA does not allow individual participants to keep their accounts active once they move out of an IDA project area.

(34) How might young people and persons with disabilities participate in an IDA program?

Young persons and persons with disabilities can participate like any other eligible person so long as they have earned income from which to make deposits in an IDA. In addition, under section 404(8)(D) of the AFIA and PART II Section G (6)(d) of the Program Announcement, at the request of the Project Participant and with the written approval of a responsible official of the Grantee, amounts may be paid directly from an IDA into another IDA established for the benefit of the Participant's spouse or a dependent of the Participant.

(35) Do disability payments or small gifts from a participant's family count as ''earned income''?

No. The AFIA refers to deposits by Project Participants from earned income ''as defined in section 911(d)(2) of the Internal Revenue Code of 1986''. The pertinent language of that section provides 'the term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered * * *'' These items do not meet that definition.

E. Account Structure

(36) What are the possible ways that a ''custodial account'' could be set up to satisfy the requirements of the statute?

See Section I. A. of this Notice. The Act does not restrict the IDA to one particular structure, but requires that the IDA be established as a trust or a custodial account. In either case, the same requirements set out in PART II Sections G and H would apply, except as noted here. For example, whether established as a trust or a custodial account, the provisions of PART II Section G (3) would apply, except that if established as a custodial account, the requirement under Paragraph (3) that the trustee must be a Qualified Financial Institution would not apply. If a custodial account, the custodian could be the Qualified Entity, or Grantee, and the assets of the account could be held by another person or institution who demonstrates to the satisfaction of the Secretary that the manner in which the account would be administered would be consistent with the provisions of the AFIA and the account would constitute an Individual Development Account as defined in the statute and the Program Announcement, except for the fact that it is not a trust. In the case of a Custodial Account the assets would still have to be held in an insured financial institution. In short, but for the name, the repository of account assets, and the ''person'' or institution who may be the custodian acting as a trustee, a Custodial Account must meet all of the requirements which must be met by an IDA established as a trust.

(37) What happens to an individual's account in the event of death?

Under Section 404(5)(A)(vi) of the AFIA and PART II Section G (3)(g) of the Program Announcement, the instrument establishing the IDA must include a provision in accordance with the direction of the Project Participant, that in the event of death, the assets of the account shall be transferred to another IDA established for an eligible individual. However, since the personal savings in the account and any income earned thereon belong to the Participant, he or she is free to choose to dispose of such savings as they may wish. If the Participant fails to designate another IDA or eligible individual, or chooses not to have the account transferred to another IDA but chooses to dispose of his or her own savings in some other way, then the accumulated matching contributions allocated to the account and any income earned on these contributions shall be returned to the Reserve Fund of the project.

(38) Are monthly deposits required?

No. Minimum and maximum monthly deposits by individual participants will be left to the discretion of the grantee and should be part of the Savings Plan Agreement. Section 410(a) of the AFIA states that not less than once every three months during each project year, each qualified entity shall make deposits into the IDA. Setting savings goals, including amount and frequency of deposits, is an important part of the program.

(39) Is an IDA attachable in a legal judgment?

The Assets for Independence Act does not address the issue of whether IDA's may be attached by creditors. Generally, accounts at financial institutions may be attached by judgment creditors unless there is a Federal or State statutory provision that protects the relevant payment or account from attachment. For example, Social Security benefits, Supplemental Security Income benefits, Veteran's benefits, and Federal Railroad Retirement Act of 1974 benefits are protected from attachment and the claims of judgment creditors by Federal law. See 42 U.S.C. 407(a); 42 U.S.C. 1383; 38 U.S.C. 530; and 45 U.S.C. 231m(a). The ownership of the IDA account may also impact the attachment question. In general, subject to the applicable State law, a judgment creditor could attach the individual's contribution account, but would not be permitted to attach the matching contributions in a parallel account, because such a parallel account is not owned by, or in the name of, the individual Project Participant. For this reason alone it is important that matching contributions be deposited in a parallel account rather than the IDA itself.

(40) What is the minimum/maximum length of time for an IDA?

There is no statutory minimum or maximum length of time for an IDA, other than duration of the demonstration project, which is five years. After that time, no Federal funds could be used to support an account. The length of time for each IDA shall be determined by the Program Participant and the grantee. We expect that most IDA's will last an average of one to three years.

(41) Deposits to IDA accounts are required to be by cash or checks. Are money orders or transfers from other bank accounts allowed?

Yes. The AFIA requires deposits to IDA's to be by cash or check. Money Orders are considered to be checks and are therefore acceptable. Electronic funds transfers are specifically identified in the Program Announcement as acceptable. Presumably transfers from other bank accounts would be electronic transfers.

(42) Is there a maximum amount that can be deposited each month or year?

No. Maximum monthly and yearly deposits by individual participants will be set out in the Savings Plan Agreement between the Participant and the Grantee. Note, however, that not more than $2000 of Federal funds for an individual or $4000 of Federal funds per household may be deposited into IDA's over the course of the project.

(43) When an IDA project ends, what entity will continue to exercise oversight over the savings accounts that have not yet been closed—both individual savings and those accounts that hold matching funds? What happens to an individual's account after the end of the project period if they are not yet ready to use the saved funds?

As noted below, grantees are admonished to schedule their account activities so that all IDA accounts will reach their maximum savings goal by the end of the five-year demonstration project. However, where this is not possible, or where circumstances prevent achieving that goal, grantees will be free to continue oversight of such accounts, but without the use or availability of Federal grant funds. Moreover, it could well be that at the end of the five-year project period, for one reason or another not all IDA accounts would have been paid out for Qualified Expenses even if the planned savings goals have been achieved.

In either of these cases, grantees must create escrow accounts for the funds, both savings and matching, in each IDA remaining at the close of the five-year project. Such escrow accounts shall be held by the partnering financial institution for the benefit of the named Project Participant, to be used only for a qualified expense as defined in the Assets for Independence Act and under the terms of the Savings Plan Agreement for that account.

Section 407(d) of the Assets For Independence Act (AFIA) states that any ''unused'' Federal grant funds remaining in the Reserve Fund shall be returned to the Secretary when the project terminates. However, grant funds committed to an IDA as match to participant savings would not be subject to being returned even though in a ''virtual'' parallel account.

(44) How does a project start 3–5 year IDA accounts in the last 2 years of a five-year project?

In accordance with appropriations law, Federal grant funds are no longer available after a five-year project period; therefore there can be no extension of these grants. It is anticipated that most IDA accounts will be scheduled to achieve their maximum matched savings within one to three years; and grantees should plan to schedule account activities so that all IDA accounts will reach their maximum

savings goal by the end of the demonstration project.

F. Participants' Use of IDA's

(45) Can qualified business capitalization expenses include an existing business or a business in which the IDA holder is a part-owner or partner?

Yes, qualified business capitalization expenses may include capitalization of an existing business and they may include capitalization of a business in which the IDA holder is a part-owner or partner. Applicants are reminded that they must have a business plan that meets the requirements of section 404(8)(C)(iv) of the AFIA and Part I, Section D (11)(C)(iv) of the Program Announcement.

(46) Do vocational expenses, GED fees and general professional licenses count as post-secondary expenses? What about computers for people who need them to attend college?

See the definitions in section 404 of the legislation, which are repeated in PART I, Section D (11) of the Program Announcement. General professional licenses and GED fees would not be considered post-secondary expenses (GED is for high school equivalency, which is secondary, not post-secondary). Under the terms of the AFIA, post-secondary educational expenses include (1) tuition and fees for enrollment or attendance of a student at an eligible educational institution (including post-secondary vocational education schools as defined in the Carl D. Perkins Vocational and Applied Technology Education Act); and (2) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution. Computers, including software would be considered qualified expenses as equipment.

(47) Does a ''qualified first time homebuyer'' include a person with a lease-to-own provision in their lease?

A ''lease-to-own'' provision is not an ownership interest. However, each lease should be carefully examined on a case-by-case basis to determine eligibility as a first-time homebuyer.

(48) Describe the mechanics of withdrawal.

Withdrawals from IDA's, which are limited to those for one or more Qualified Expenses or for an Emergency Withdrawal, require written approval of both the Project Participant and a Responsible Official of the project grantee. PART II Section G (3)(f) of the Program Announcement requires that the instrument establishing the Individual Development Account include a description of procedures governing the withdrawal of funds from the account. These procedures should identify the responsible official(s) of the grantee whose written approval will be required.

(49) If a Project Participant withdraws all of his or her funds does the Participant have to close the account?

If the Project Participant makes a withdrawal for one of the designated purposes, and sufficient time remains in the project, the participant may continue saving, subject to the overall matching restrictions, which limit total Federal grant fund contributions to $2000 per individual account over the course of the demonstration project. If the participant makes an emergency withdrawal they have up to 12 months to reimburse the account. Failing reimbursement, the grantee must close the account and return matching contributions and any accrued income to the Reserve Fund.

(50) What if there is a qualified emergency before the six-month restriction; can the participant make such a withdrawal?

No. Section 410(3)(d) of the AFIA states that no individual may withdraw funds from an IDA earlier than six months after the date on which the individual first deposits funds into the account. Under Sub-Element II (b) of the Program Elements and Review Criteria in PART III of the Program Announcement applicants are encouraged, under ''aspect'' (7) of the project narrative, to include plans for crisis intervention activities that can avoid emergency withdrawals which might jeopardize continued participation in the project. If a participant nonetheless needs to make such a withdrawal for emergency purposes during the first six months of their account, they would have to withdraw from the program. Re-entry into the program would be at the discretion of the grantee.

(51) Regarding emergency withdrawals, does ''withdrawal of only those funds deposited by participants'' include income generated by such deposits also?

Yes.

G. TANF and IDA Projects

(52) Can a TANF recipient use his or her benefit to contribute to an IDA?

Only earned income can be used to contribute to an IDA, and therefore, only individuals with earnings can participate in an IDA program. As stated in the Program Announcement, as long as a participant's earned income for the period in which a deposit is made is greater than the deposit amount, the deposit will be considered to be made out of earned income.

(53) Under AFIA, an individual's deposits, including any interest thereon, may be counted for the purpose of determining eligibility for any Federal or federally assisted program based on need, while TANF requires all funds (match, deposits and income) to be disregarded for determining eligibility for other means-tested programs. If an individual applies for a Federal means tested program and has an IDA account under TANF or AFIA, would those funds be taken into account in determining eligibility for the program?

The total TANF IDA and the matching funds in the AFIA IDA would be disregarded; the State may if it chooses disregard the Project Participant's savings in the AFIA IDA.

(54) Can Federal TANF and State MOE funds be used as the non-Federal share or match for IDA's established under the Assets for Independence Act?

No. A general principle of appropriations law holds that funds from one Federal program cannot be used as a non-Federal share or match for another Federal program unless authorized by statute. In the administration of TANF, Federal TANF funds can only be used as the non-Federal share or match for the Department of Transportation's Access to Jobs program. This exception to the principle may be found at section 3037(h)(2)(A)(ii) of the Transportation Equity Act for the 21st Century.

State funds used as the non-Federal share or match under the Assets for Independence Act cannot be credited as MOE expenditures. This is because of the statutory provision at section 409(a)(7)(iv)(IV) of the Social Security Act, which excludes expenditures from MOE of any State funds ''expended as a condition of receiving Federal funds.'' Accordingly, State funds expended as the non-Federal share or match under the Assets for Independence Act cannot be counted as MOE under the TANF program.

However, as noted above under Part I E of this Notice, where a State TANF program includes IDA's as an allowable activity where TANF funds can be used to match savings of TANF recipients in an IDA, TANF funds may be deposited as an additional matching contribution to savings in an AFI Act IDA held by a TANF recipient, once the AFI Act matching requirements for equal contributions of non-Federal and Federal grant funds have been satisfied.

Dated: March 23, 1999.

Donald Sykes,

Director, Office of Community Services

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–2032–N]

RIN 0938–AJ28

Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 1999

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: The Social Security Act provides for the Medicaid program to pay all or part of the Medicare Part B premiums for beneficiaries belonging to two specific eligibility groups of low-income Medicare beneficiaries, referred to as Qualifying Individuals (QIs). This notice announces the Federal fiscal year 1999 allotments that are available for State agencies to pay Medicare Part B premiums for these two eligibility groups.

EFFECTIVE DATE: This document is defined as a major rule under the congressional review provisions of 5 U.S.C. section 804(2). As indicated in the preamble of this notice, pursuant to section 5 U.S.C. section 808(2), for good cause we find that prior notice and comment procedures are unnecessary and impracticable. Pursuant to 5 U.S.C. section 808(2), this notice is effective October 1, 1998, for allotments for payment of Medicare Part B premiums for individuals in calendar year 1999 from the allocation for fiscal year 1999.

FOR FURTHER INFORMATION CONTACT: Miles McDermott, (410) 786–3722.

SUPPLEMENTARY INFORMATION:

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I. Background

Section 1902 of the Social Security Act (the Act) sets forth the requirements for State plans to provide medical assistance. Prior to August 5, 1997, section 1902(a)(10)(E) of the Act specified that the State Medicaid plan must provide for Medicare cost-sharing for three eligibility groups of low-income Medicare beneficiaries. These three groups included qualified Medicare beneficiaries (QMBs), specified low-income Medicare beneficiaries (SLMBs), and qualified disabled and working individuals (QDWIs).

A QMB is an individual entitled to Medicare Part A with income at or below the Federal poverty level and resources below $4,000 for an individual and $6,000 for a couple. A SLMB is an individual who meets the QMB criteria, except that his or her income is between a State established level (at or below the Federal poverty level) and 120 percent of the Federal poverty level. A QDWI is an individual who is entitled to enroll in Medicare Part A, whose income does not exceed 200 percent of the Federal poverty level for a family of the size involved, whose resources do not exceed twice the amount allowed under the Supplementary Security Income (SSI) program, and who is not otherwise eligible for Medicaid. The definition of Medicare cost-sharing at section 1905(p)(3) of the Act includes payment for premiums for Medicare Part B.

Section 1902(a)(10)(E) of the Act requires States to provide for Medicaid payment of the Medicare Part B premiums for two additional eligibility groups of low-income Medicare beneficiaries, referred to as qualifying individuals (QIs).

Under section 1902(a)(10)(E)(iv)(I) of the Act, State agencies are required to pay the full amount of the Medicare Part B premium for selected QIs who would be QMBs except that their income level is at least 120 percent but less than 135 percent of the Federal poverty level for a family of the size involved. These individuals cannot otherwise be eligible for medical assistance under the approved State Medicaid plan.

The second group of QIs, under section 1902(a)(10)(E)(iv)(II) of the Act, includes Medicare beneficiaries who would be QMBs except that their income is between 135 percent and 175 percent of the Federal poverty level for a family of the size involved. These QIs may not be otherwise eligible for Medicaid under the approved State plan, but are eligible for a portion of Medicare cost-sharing consisting only of a percentage of the increase in the Medicare Part B premium attributable to the shift of Medicare home health coverage from Part A to Part B (as provided in section 4611 of the Balanced Budget Act of 1997 (BBA).

Section 1933(a) specifies that a State agency must provide, through a State plan amendment, for medical assistance to pay for the cost of Medicare cost-sharing on behalf of QIs who are selected to receive assistance.

Section 1933(b) of the Act sets forth the rules that State agencies must follow in selecting QIs and providing payment for Medicare Part B premiums. Specifically, the State agency must permit all QIs to apply for assistance and must select individuals on a first-come, first-served basis selecting QIs in the order in which they apply. Under section 1933(b)(2)(B) of the Act, when selecting persons who will receive assistance in the years after 1998, State agencies must give preference to those individuals who received assistance as QIs, QMBs, SLMBs, or QDWIs in the last month of the previous year and who continue to be (or become) QIs. Under section 1933(b)(4), persons selected to receive assistance in a calendar year are entitled to receive assistance for the remainder of the year, but not beyond, as long as they continue to qualify. The fact that an individual is selected to receive assistance at any time during the year does not entitle the individual to continued assistance for any succeeding year. Because the State's allotment is limited by law, section 1933(b)(3) of the Act provides that the State agency must limit the number of QIs so that the amount of assistance provided during