DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.224 CONSOLIDATED HEALTH CENTERS (COMMUNITY HEALTH CENTERS, MIGRANT HEALTH CENTERS, HEALTH CARE FOR THE HOMELESS, PUBLIC HOUSING PRIMARY CARE, AND SCHOOL BASED HEALTH CENTERS)

I. PROGRAM OBJECTIVES

In general, the objective of the Consolidated Health Centers program (CHCP) is to provide to populations that would ordinarily not have access to health care (1) primary and preventive health services, (2) referrals to other services, such as hospital and substance abuse services, and (3) case management and other services designed to assist health center patients in establishing eligibility and gaining access to Federal, State, and local programs that provide additional medical, social, or educational support or enabling services, such as transportation, translation and outreach services, and patient education services.

The CHCP typically provides family-oriented primary and preventive health care services for people living in rural and urban medically underserved communities, e.g., those where economic, geographic or cultural barriers limit access to such services for a substantial portion of the population. Some health center delivery sites serve vulnerable populations, including homeless individuals, migrant farm workers, residents of public housing, and school children at risk of poor health outcomes.

Required health services for health centers include services related to family medicine, internal medicine, pediatrics, ob/gyn, lab and radiology services, and prenatal and perinatal services; cancer screening; well-child services; immunizations; screenings for elevated blood lead, communicable diseases, and cholesterol; pediatric eye, ear, and dental screenings; voluntary family planning services; preventive dental services; emergency medical services; referrals to providers of medical services; and, as appropriate, pharmaceutical services.

Some exceptions and special provisions for certain components of the CHCP are:

Health Care for the Homeless (HCH) - In addition to services required of all consolidated health centers, recipients of HCH funding must provide substance abuse services, including detoxification, risk reduction, outpatient treatment, residential treatment, and rehabilitation for substance abuse provided in settings other than hospitals.

Governance requirements for HCH funding can be waived by the Health Resources and Services Administration (HRSA) under a delegation from the Secretary, Department of Health and Human Services (HHS) (see II, "Program Procedures - Administration and Services"). These requirements also may be waived under Public Housing Primary Care (PHPC) and Migrant Health Centers (MHC) components (42 USC 254b(k)(3)(H)(iii)).

Migrant Health Centers - The requirement for an MHC to provide all the primary care services can be waived, and an MHC also may receive approval to provide certain required primary health care services during certain periods of the year only. An MHC

may provide health services other than primary care services due to the health needs of the population it serves. These services may include environmental health services, screening for and control of infectious diseases, and injury prevention programs.

II. PROGRAM PROCEDURES

Planning Grants

The purpose of these grants is to assess the health care needs of the population to be served and to plan and develop a health center program that will serve medically underserved populations. This includes efforts to obtain financial and professional support, develop linkages with other health-care providers, and involve the community. Planning grants also may be awarded to health centers to plan or develop a managed care network.

Operational Grants

The purpose of these grants is to support the costs of operating health centers that serve medically underserved populations. Operational grants also may include the operation of managed care and practice management networks and plans.

Administration and Services

CHCP 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. Factors considered include the population to be served and the current availability of services in the geographical area to be served.

Unless the requirement is waived, grantees are required to have a governing board that is composed of individuals, a majority of whom are being served by the center, and, who, as a group, represent the individuals being served by the center. The responsibilities of the governing board include, among other things, selecting the services to be provided, determining the center's hours of operation, and approving the selection of the center director. Grantees may enter into service and care arrangements with vendors to expand their service networks.

The annual level of HRSA funding for the operation of a health center is determined on the basis of the center's approved scope of services, projected total costs of operation, and expected revenues from program income and funding from non-Federal sources. This includes all State, local, and other operational funding received by or allocated to the approved project, and all premiums, fees, and third-party reimbursements received (adjusted for uncollectible amounts). The Federal dollars awarded are intended to make up the expected difference between the projected costs and revenues.

Source of Governing Requirements

The CHCP is authorized under Section 330 of the Public Health Service Act, as amended. The statutory provisions are codified at 42 USC 254b. The implementing program regulations for

Community Health centers (CHC) and MHCs are 42 CFR parts 51c and 56, respectively. The HCH and PHPC components do not have program-specific regulations.

Availability of Other Program Information

Additional program information is available from the BPHC web site at http://www.bphc.hrsa.gov/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Operational Grants for Other than Managed Care and Practice Management Networks and Plans*

   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 radiologic 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)).

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); however, substance abuse services are required under HCH grants (42 USC 254b(h)(2)).

(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. *Planning Grants for Health Centers*

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) (42 USC 254b(c)(1)(A)).

3. *Planning Grants for Managed Care or Practice Management Networks or Plans*

a. Funds may be used for the acquisition and lease of buildings and equipment, which may include data and information systems (including the costs of amortizing the principal of, and paying the interest on, loans for equipment) (42 USC 254b(c)(1)(D)).

b. Funds may be used to provide training and technical assistance related to the provision of health services on a prepaid basis or other managed care arrangement, and for other purposes that promote the development of managed care networks and plans (42 USC 254b(c)(1)(D)).

B. Allowable Costs/Cost Principles

Program income, including, but not limited to, fees, premiums and third-party reimbursements may be used for allowable activities (see III.A.1, "Activities Allowed or Unallowed - Operational Grants for Other Than Managed Care and Practice Management Networks and Plans") and for such other purposes as are not specifically prohibited if such use furthers the objectives of the project. As such, program income is subject to the unallowable cost provisions of the program rather than the OMB cost principles circulars (42 USC 254b(e)(5)(D)).

E. Eligibility

1. Eligibility for Individuals

Under HCH funding, if a grantee has provided services to a previously homeless individual and the individual is no longer homeless as a result of becoming a resident in permanent housing, the grantee may continue to provide services for not more than 12 months (42 USC 254b(h)(4)).

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

3. Eligibility for Subrecipients - Not Applicable

J. Program Income

1. Health centers must have a schedule of fees or payments for the provision of their health services consistent with locally prevailing rates or charges and designed to cover their reasonable costs of operation. They are also required to have a corresponding schedule of discounts applied and adjusted on the basis of the patient's ability to pay (42 USC 254b(k)(3)(G)(i)). The patient's ability to pay is determined on the basis of the official poverty guideline, as revised annually by HHS (42 CFR sections 51c.107(b)(5), 56.108(b)(5), and 56.303(f)). The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a page on the Internet that provides the poverty guidelines (http://aspe.hhs.gov/poverty/).

2. Health centers are required to collect (or make every reasonable effort to collect) appropriate reimbursement for their costs in providing health services to persons eligible for medical assistance under Title XIX of the Social Security Act (Medicaid), entitled to insurance benefits under Title XVIII of the Social Security Act (Medicare) or entitled to assistance for medical expenses under any other public assistance program or private health insurance program. Reimbursement for health services to such persons should be collected on the basis of the full amount of fees and payments for those services without application of any discount (42 USC 254b(k)(3)(F) and (G)(ii)(II)).

3. Program income, including, but not limited to, fees, premiums and third-party reimbursements may be used for allowable activities (see III.A.1. above) and for such other purposes as are not specifically prohibited if such use furthers the objectives of the project (42 USC 254b(e)(5)(D)).

L. Reporting

1. Financial Reporting

a. SF-269, *Financial Status Report* - Applicable

b. SF-270, *Request for Advance or Reimbursement* - Applicable, if specified in the terms and conditions of award.

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

d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS Payment Management System (PMS). Reporting

equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PSC-272 series of reports.

2. Performance Reporting - Not Applicable

3. Special Reporting - *Uniform Data System (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:

- Grantees that receive a single grant under the consolidated health centers program or that receive CHC and/or MHCfunding only are required to complete the *Universal Report* only.

- Grantees that receive multiple awards (in addition to or other than CHC and MHC funding) must complete a *Universal Report* for the combined grants and individual *Grant Reports* for their HCH and PHCPfunding, if applicable.

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

a. Table 5 - Staffing and Utilization

(1) Line 8 - *Total Physicians*

(2) Line 15 - *Total Medical Care Services*

(3) Line 19 - *Total Dental Services*

(4) Line 29 - *Total Enabling Services*

(5) Line 33 - *Total Administration and Facility*

b. Table 8 Part A - Financial Costs

(1) Line 4(c) - *Total Medical Care Services*

(2) Line 10(c) - *Total Other Professional Services*

(3) Line 13(c) - *Total Enabling and Non-Medicare Services*

(4) Line 16 - *Total Overhead*

(5) Line 18 - *Value of Donated Supplies and Services*

c. Table 9 Part D - Patient Related Revenue

(1) Line 1 - *Medicaid Non-managed Care*

(2) Line 2a - *Medicaid Managed Care (capitated)*

(3) Line 2b - *Medicaid Managed Care (fee-for-service)*

(4) Line 7 - *Other Public including Non-Medicaid CHIP (non-managed care)*

(5) Line 10 - *Private Non-Managed Care*

(6) Line 11a - *Private Managed Care (capitated)*

(7) Line 11b - *Private Managed Care (fee-for-service)*

(8) Line 13 - *Self Pay*

N. Special Tests and Provisions

1. Governing Board

Compliance Requirement - Unless the requirement for a governing board is waived by HRSA or the center is operated by an Indian tribe or tribal or Indian organization under the Indian Self-Determination Act or an urban Indian organization under the Indian Health Care Improvement Act, the health center must have a governing board that (1) is composed of individuals, a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center; (2) meets at least once a month; (3) selects the services to be provided by the center; (4) schedules the hours during which services will be provided by the center; (5) approves the center's annual budget; (6) approves the selection of a director for the center; and (7) except in the case of a public center, establishes general policies for the center (42 USC 254b(k)(3)(H)).

Audit Objectives - Determine whether (1) the center has adopted and periodically reviews and updates, as necessary, by-laws or other internal policies for governing board selection and operation; (2) the board meets at least monthly and approves the annual budget; and (3) for actions occurring during the audit period that, by statute, require governing board decision or approval, the center complied with the statute and its by-laws/internal operating procedures.

Suggested Audit Procedures

1. Ascertain if the center has by-laws or other internal policies addressing the required elements of the board and its operation.

2. Review meeting minutes to ascertain if the board approved the annual budget.

3. As of the end of the year preceding the audit, determine the board membership, services provided, operating hours, and center director. Ascertain if changes occurred in any of these areas during the audit period and, if so, whether the governing board had the type of involvement required by the statute and acted in compliance with the center's by-laws/internal operating procedures.

IV. OTHER INFORMATION

Subsequent to enactment of the Health Centers Consolidation Act of 1996 (Pub. L. 104-299) and related technical amendments, including the Health Care Safety Net Amendments (Pub. L. 107-251), the programs in the Consolidated Health Care Cluster, i.e., HCH, CHC, MHC, PHPC, were consolidated under CFDA 93.224. Grantees were notified of the consolidation through the Program Assistance Letter 2001-22 - Web-enabled Single Grant Application for Continuation Funding under the Health Center Cluster Programs. Program consolidation was completed in fiscal year 2002. Since that time awards have cited only CFDA 93.224. Grantees should be reporting their expenditures on the Schedule of Expenditures of Federal Awards using CFDA 93.224.

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 Indian tribes (tribes) 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 five-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: child welfare services under Title IV-B, Subpart 1; a child welfare staff development and training plan; 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 child abuse and neglect prevention, foster care, adoption, and foster care independence services.

The ACF Regional Offices have approval authority for the plans. Following ACF approval, allotments are based on the number of children in the States who received food stamps in the previous three years. Grants may also be made to tribes that qualify 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 they should 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 629e. 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 a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

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. Preplacement 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; and

    f. 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), to increase parents' confidence and competence in their parenting abilities, to afford children a stable and supportive family environment, to strengthen parental relationships and promote healthy marriages, and otherwise to enhance child development. 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; and

f. 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-adoptive services and activities designed to expedite the adoption process and support adoptive families (42 USC 629a(a)(8)).

6. A*dministrative 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 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 State's contribution may be in cash, donated funds, and non-public third party in-kind contributions (45 CFR section 1357.32(d)).

2. Level of Effort – Not Applicable

3. Earmarking

a. 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.

b. Of the remaining Federal funds, unless waived by ACF, States must expend a significant portion, defined as 20 percent, on each of the following: programs of family preservation services, community-based family support services, time-limited family reunification services, and adoption promotion and support services (42 USC 629b(a)(4); 45 CFR section 1357.15(s); ACYF-CB-PI-98-03 and ACYF-CB-PI-03-05, section A.1.f (found at http://www.acf.hhs.gov/programs/cb/laws/pi/pi9803.htm and http://www.acf.hhs.gov/programs/cb/laws/pi/pi0305.htm), respectively.

H. Period of Availability of Federal Funds

Funds must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded (45 CFR section 1357.32(g)).

L. Reporting

1. Financial Reporting

a. SF-269, *Financial Status Report* - Applicable

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

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

d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PSC-272 series of reports.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.558 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

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 Virgin Islands, Guam, and American Samoa) must submit a State plan containing specified information and assurances within the 27-month period prior to the Federal fiscal year in which the funds are to be provided.

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. States meeting the qualifying criteria may also receive supplemental grants, bonuses, loans, and payments from a contingency fund. As long as the minimum requirements are met, States 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. Along with the discretion provided to the States, there are also a number of provisions to ensure accountability for results, in the form of monetary penalties, and requirements to provide a variety of data to ACF about expenditures and individuals receiving benefits under the program. In addition to the penalties for failure to meet programmatic or administrative requirements, a State may be rewarded for its performance in program-related areas, such as reducing out-of-wedlock births.

Tribes

Tribal Family Assistance Plans (TFAP) are developed for a three-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 fiscal year 1994 for all American Indian families residing in the service area identified in the Tribal TANF plan. 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.

Tribal TANF grantees may operate the program under a consolidated Pub. L. 102-477 program. Pub. L. 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. For Tribal TANF, tribes operating a consolidated Pub. L. 102-477 program 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. 102-477 plan. Tribal TANF data collection and reporting requirements identified and referenced elsewhere in this document still apply. All statutory and regulatory requirements remain in effect for the duration of the grant.

Other Considerations

Funding Methods - States

States have different funding options under which to expend Federal grant funds and State maintenance-of-effort (MOE) funds as follows.

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, section 260.33 explains the circumstances under which certain State tax relief provisions would count as expenditures.

Waivers - States

Waivers granted under the authority of Section 1115 of the Social Security Act that allowed a State to operate a program that did not comply with specific statutory requirements of TANF's predecessor programs remain in effect in some States. In some cases, these waivers are inconsistent with the statutory requirements of the TANF program, but are being allowed under 42 USC 615 to continue until their expiration, despite the inconsistency.

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.

Source of Governing Requirements

This program is 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. 104-193), and subsequent amendments thereto, and 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.

On April 12, 1999, ACF published final regulations for the TANF program. These final rules took effect October 1, 1999 (April 12, 1999, *Federal Register* (64 FR 17720 *et seq*.)). ACF also published technical and correcting amendments to the final rule on July 26, 1999, which were also effective on October 1, 1999 (July 26, 1999, *Federal Register* (64 FR 40290 *et seq*.)). Thus, the obligations and expenditures of Federal TANF funds on or after October 1, 1999, and any State actions occurring on or after October 1, 1999, are subject to the provisions in the final rules, as amended. See 45 CFR Parts 260 – 265 for the TANF regulations applicable to States.

PRWORA also authorized any federally recognized tribe in the lower 48 states, 13 specified Alaskan Native entities, and consortia of eligible tribes to apply for funding under section 412 of the Act to administer a Tribal TANF program beginning July 1, 1997. The Foster Care Independence Act of 1999 (Pub. L. 106-169, December 14, 1999) also included technical amendments to the Act, which affected program regulations. Implementing regulations for Tribal TANF are in 45 CFR Part 286 and were published in the *Federal Register* on February 18, 2000 (65 FR 8477 *et seq.*).

TANF is subject to the HHS implementation of the A-102 Common Rule and to OMB Circular A-87. This is in contrast to AFDC, which was excluded from the A-102 Common Rule.

Availability of Other Program Information

Other general program information is available from the Office of Family Assistance (OFA) web site at http://www.acf.dhhs.gov/programs/ofa and the Division of Tribal Services web site at http://www.acf.dhhs.gov/programs/dts. Questions related to the TANF program may be directed to Oscar Tanner at 202-401-5704 (direct) and 202-401-9236 (main) or by e-mail at otanner@acf.dhhs.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

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 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 funds received under the State family assistance grant, supplemental grant for population increases, and bonus funds for high performance and illegitimacy reduction, if any, 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. Contingency funds under 42 USC 603(b) cannot be transferred under this authority (Pub. L 108-7, Division G, Title II, Social Services Block Grant); 42 USC 604(d); 45 CFR section 264.72(e)). The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a web site that provides the poverty guidelines (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 achieve 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:

      (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 which are redeemable with such organization (42 USC 604a(b),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*

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 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.

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:

(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)).

E. Eligibility

1. Eligibility for Individuals

The State or Tribal Plan provides the specifics on how eligibility is determined in each State or tribal service area. Plan and eligibility requirements must comply with the following Federal requirements:

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

To be eligible for TANF "assistance" as defined in 45 CFR section 260.31 or any MOE-funded benefits, services, or "assistance," a family must include a minor child who lives with a parent or other adult caretaker relative. 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 rationale basis for the age they choose.) A family must also be "needy," i.e., financially eligible according to the State's applicable income and resource criteria (42 USC 602, 602(a)(1)(B)(iii), 42 USC 609(a)(7)(B)(IV), 608(a)(1), 619(2) and 45 CFR section 263.2(b)(2)).

Note: A State may continue to provide federally funded (*Federal Only*) TANF "assistance" pursuant to 42 USC 604(a)(2) using the financial eligibility criteria contained in the State's approved AFDC, EA, JOBS, or Supportive Services plan as of September 30, 1995 (or at State option, as of August 21, 1996). A State may also continue this assistance notwithstanding the family composition requirement described above. (See III A.1.a, "Activities Allowed or Unallowed.")

Only the "needy" are eligible for services, benefits, or "assistance" pursuant to TANF purpose 1 or 2 (42 USC 601(a)(1) and (2); 45 CFR sections 260.20(a) and (b)). "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 financial eligibility criteria (income and resource (if applicable) standards (April 12, 1999, *Federal Register* (64 FR 17825)).

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, Earmarking, Level of Effort - 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, as in paragraph e. immediately above, within five 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)).

(8) Qualified aliens, as defined at 8 USC 1641b, entering the United States on or after August 22, 1996, are not eligible for Federal public benefits, as defined in 8 USC 1611(c), for a period of five years beginning on the date of the alien's entry into the United States, unless they meet an exception at 8 USC 1612(b)(2) or 1613. (If the Federal public benefit meets the specifications in the Attorney General's Order (Order No. 2049-96 published August 30, 1996 at 61 FR 45985; 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)). A State may, at its option, provide Federal public benefits to qualified aliens who entered the United States before August 22, 1996, and, for aliens entering the United States on or after August 22, 1996, after the expiration of the five-year time bar. Non-qualified aliens may not receive Federal public benefits unless one of the exceptions at 8 USC 1612(b)(2) applies (8 USC 1612 and 1613).

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 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 assistance under TANF 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 exempt individuals or limit the time period of this prohibition (21 USC 862a).

(3) If an individual 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).

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 Basic 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). 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 (*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 fiscal year (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. .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 (42 USC 609(a)(7)(A) and 609(a)(7)(B)(i)(I); 45 CFR section 263.1).

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. In addition, a State that receives a Welfare-to-Work (WtW) formula grant pursuant to 42 USC 603(a)(5)(A) will receive a reduction in the amount of its Federal TANF grant for the following fiscal year in the amount of the WtW formula grant paid to the State (42 USC 609(a)(7)(A) and 609(a)(13); 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 funded under Title IV-A existing prior to PRWORA/TANF, may not count toward the 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. 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).

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).

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 qualify for contingency funds (42 USC 603(b) and 45 CFR sections 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 with respect to eligible families. Qualified expenditures consist of those defined under 42 USC 609(a)(7)(B)(i)(I), but excludes those expenditures described in subclause (I)(bb) (42 USC 603(b)(6)(B)(ii) 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)).

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, bonus funds for high performance and illegitimacy reduction, and contingency 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 its TFAG 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. 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).

H. Period of Availability of Federal Funds

1. States

Funds, other than contingency funds, are available to the State until expended for the purpose of providing assistance under the TANF Program; contingency funds may be used for qualified expenditures only in the fiscal year for which the funding is provided (42 USC 603(b) and 604(e); 45 CFR sections 263.11 and 265.3(c)). Current year TANF funds may be expended on assistance or non-assistance activities during the current fiscal year. However, the following restrictions to unobligated balances and current year obligations on non-assistance apply to the TANF program.

a. *Unobligated Balances Reported on a State Fourth Quarter Financial Report For the Immediately Preceding Fiscal Year* - Pursuant to section 404(e) of PRWORA of 1996, a State may reserve amounts awarded to the State under section 403 (excluding Contingency Funds), without fiscal year limitation, to provide assistance under the State TANF program. Any Federal unobligated balances carried forward into a fiscal year from a prior fiscal year may only be expended on benefits that meet the definition of assistance at 45 CFR section 260.31 and related administrative costs associated with providing such assistance. 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 TANF 15 percent administrative cost cap is based on the Adjusted SFAG (reported on Line 4(A) of the ACF-196, *TANF Financial Report*) divided by the amount the State expends on administration. 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. States may only charge administrative costs to a prior year grant when it is administering assistance with a prior year unobligated balance.

b. *Current Fiscal Year Federal Expenditures on Non-Assistance* - 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 of the *ACF-196 TANF 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 and related administrative costs associated with providing such assistance.

2. Tribes

A tribe may reserve amounts awarded to it, without fiscal year limitation, to provide assistance under the Tribal TANF program. However, a tribe may only expend funds beyond the fiscal year in which awarded on benefits that meet 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).

a. *Unobligated Balances Reported on a Tribal Annual SF-269 Financial Report For the Immediately Preceding Fiscal Year* - Pursuant to section 404(e) of the Act (as amended by Pub. L. 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* - The 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.

L. Reporting

1. Financial Reporting

a. SF-269, *Financial Status Report* - Applicable for tribes. Not Applicable for States (see L.1.e) or territories (see L.1.f)

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

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

d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PSC-272 series of reports.

e. ACF-196, *TANF Financial Report (OMB Control No. 0970-0247)* - States are required to submit this report quarterly in lieu of the SF-269, Financial Status Report. Each State files quarterly expenditure data on the State's use of Federal TANF funds, State TANF MOE expenditures, and State expenditures of MOE funds in separate State programs. If a State is expending Federal TANF funds received in prior fiscal years, it must file a separate quarterly TANF Financial Report for each fiscal year that provides information on the expenditures of that year's TANF funds.

f. 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 Socal Security Act) (42 USC subchapters I, X, XIV, and XVI and 42 USC 1308(a))

See III.G.2.1, "Matching, Level of Effort, Earmarking - Level of Effort - Maintenance of Effort," and IV, "Other Information," for additional guidance on territories' spending levels.

2. Performance Reporting

a. ACF-199, *TANF Data Report* (*OMB Control No. 0970-0199*) and ACF-343, *Tribal TANF Data Report* (*OMB No. 0970-0215*).

One of the critical areas of this reporting is the work participation data, which serves as the basis for ACF to determine whether States and Tribes have met the required work participation rate(s). A penalty may apply for failure to meet the required rate(s).

States Work Participation Rates

State agencies must meet or exceed their minimum annual work participation rate standards. The minimum work participation rate standards are 50 percent for the all-families rate and 90 percent for the two-parent families rate. A State's minimum work participation rate standard 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)).

Tribal Work Participation Rates

Tribal TANF agencies must meet or exceed their minimum annual work participation rate standards. The minimum work participation rate

standards 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 section 286.195(a)(3); and 45 CFR section 286.205).

Key Line Items - The following line items contain critical information for making the preceding determinations and for other program purposes:

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 Participation Status*

Section One - Adult Work Participation Activities
Items 49 - 61 *Work Participation Activities*

Section Three - Active Cases
Item 8 *Total Number of Families*

b. ACF 209, *SSP-MOE Data Report (OMB Control No. 0970-0199)* - This report is submitted quarterly beginning with the first quarter of FY 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 Participation Status*

Section One - Adult Work Participation Activities
Items 42 - 54 *Work Participation Activities*

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*

N. Special Tests and Provisions

All of the following Special Tests and Provisions 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 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 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 three months in which the individual is receiving aid. This information should also be obtained in each of the first three 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 for all applicants at the first opportunity (See *Federal Tax Return Information* below).

d. Information from the Immigration and Naturalization Service 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 the Social Security Administration (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, the Social Security Administration (excluding Federal tax return information as discussed in the compliance requirements), the Immigration and Naturalization Service, 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 for refusal 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 an adult single custodial parent caring for a child under the age of six, 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 based upon 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; and (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 adult single custodial parents who refused to work because of inability to obtain child care for a child under the age of six.

Suggested Audit Procedures

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

b. Select a sample of adult single custodial parents caring for a child who is under six 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.

IV. OTHER INFORMATION

Transfers into TANF

As described in the program supplement for the Social Services Block Grant (SSBG) program (CFDA 93.667) in Part 4 of this Compliance Supplement (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 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 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 (SEFA), the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

Transfers out of TANF

As described in III.A.1.b, "Activities Allowed or Unallowed," funds may be transferred out of TANF 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 on the quarterly ACF-196, *TANF Financial Report.* 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. On the SEFA, the amount transferred out should not be shown as TANF expenditures but should be shown as expenditures for the program into which they are transferred.

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 OMB Circular A-133. However, the State-donated MOE is not considered Federal awards expended by the tribe.

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 FY 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 tht 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:

Territory	**Federal TANF Block Grant Spending Amount (FGA)[1]**	**Matching Grant MOE Spending Amount[2]**	**Total Spending Requirement**
Puerto Rico	$71,562,501	$28,182,864	$99,745,365
Guam	$3,465,478	$974,517	$4,439,995
Virgin Islands	$2,846,564	$820,380	$3,666,944
American Samoa	$ 0	$0	$0

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 1108(b).

[1] Amount reported in Column (C) of the ACF-196-TR.
[2] Amount reported in Column (D) of the ACF-196-TR.

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 States provide safe, appropriate, 24-hour, substitute care for children who are under the jurisdiction of the administering State 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 and Puerto Rico, based on a State plan and amendments, as required by changes in statutes, rules, and regulations submitted to and approved by the cognizant ACF Regional Administrator. This program is considered an open-ended entitlement program and allows the State to be funded at a specified percentage (Federal financial participation) for program costs for eligible children.

The designated State 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); and Independent Living (93.674); 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); and the Social Services Block Grant program (CFDA 93.667) (Title XX of the Social Security Act, as amended).

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.*). Implementing regulations are at 45 CFR parts 1355, 1356, and 1357.

Awards under the Foster Care program with funding periods beginning on or after October 1, 2003, are subject to the HHS implementation of the A-102 Common Rule, 45 CFR part 92 (*Federal Register*, September 8, 2003, 68 FR 52843-52844). Previously, this program and other HHS entitlement programs described in the Compliance Supplement (as noted under the applicable program description) were excluded from this coverage. This program also is subject to 45 CFR part 95 and the cost principles under Office of Management and Budget Circular A-87 (as provided in *Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government*, HHS Publication ASMB C-10, available on the Internet at http://www.hhs.gov/grantsnet/state/index.htm).

States 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 State plan.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look first to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

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 State's Foster Care maintenance payment rate schedule, to individuals serving as foster family homes, to child-care institutions, or to public or non-profit child-placement or child-care agencies. Such payments may include the cost of (and the cost of providing, including the 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 (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)).

c. 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)).

d. Funds may be expended for costs directly related to the administration of the program, including those associated with eligibility determination and redetermination; referral to services; placement; preparation for and participation in hearings and appeals; rate setting; recruitment and licensing of foster homes and institutions; and a proportionate share of related agency overhead (45 CFR section 1356.60(c)).

e. With any required ACF approval, funds may be expended for costs related to design, implementation and operation of a statewide data collection system (45 CFR sections 1356.60(d) and 95.611).

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).

B. Allowable Costs/Cost Principles

In addition to the requirements of OMB Circular A-87, States are subject to the cost allocation provisions and rules governing allowable costs of equipment of 45 CFR part 95, which references OMB Circular A-87 at 45 CFR section 95.507(a)(2) (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 his or her home by means of a judicial determination or pursuant to a voluntary placement agreement, as defined in 42 USC 672(f) (42 USC 672(a) and 45 CFR section 1356.21).

(1) *Judicial Determination*

(a) *Contrary to the welfare determination* – A child's removal from the home must be the result of 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 (unless removal is pursuant to a voluntary placement agreement). 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 on or 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 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. 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(c)).

(b) *Removal from home of a specified relative* - 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)).

(i) *Prior to March 27, 2000* – For a child who entered care foster care on or 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)).

(c) *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. 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 on or 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 Register,* Vol 65, Num 16, pages 4020 and 4088).

(ii) *On or after March 27, 2000* - For a child who enters foster care 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).

(2) 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 State agency administering the approved Title IV-E plan or any other public agency under a valid agreement with the cognizant State 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)). Unless the child is expected to graduate from a secondary educational, or an equivalent vocational or technical training, institution before his or her 19th birthday, eligibility ceases at the child's 18th birthday (45 CFR section 233.90(b)(3)).

d. The provider, whether a foster family home or a child-care institution must be fully licensed by the proper State Foster Care licensing authority. A child care institution is defined as a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed or approved by the State in which it is situated, 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)).

e. The foster family home provider must have satisfactorily met a criminal records check with respect to prospective foster and adoptive parents (45 CFR sections 1356.30(a) and (b)).

f. 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)).

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.

G. Matching, Level of Effort, Earmarking

1. Matching

The percentage of required State 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 (ACYF-CB-PIQ-84-06, 10/22/84; incorporated in the Child Welfare Manual 8.1F. 8/16/02). The non-applicability of the

matching and cost sharing provisions of 45 CFR Part 74 to this program conveys to the similar provisions of 45 CFR 92.24 (as a result of the Department of Health and Human Services inclusion of entitlement programs under 45 CFR Part 92) (45 CFR sections 1355.30(c) and 1355.30(n)(1); 45 CFR section 201.5(e)).

b. The percentage of Federal funding in Foster Care maintenance payments will be the Federal Medical Assistance Program percentage. This percentage varies by State and is available on the Internet (http://www.aspe.hhs.gov/health/fmap.htm) (42 USC 674(a)(1); 45 CFR section 1356.60(a)).

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-licensed or State-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 for expenditures for planning, design, development, and installation and operation of a statewide 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)).

e. 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 Availability of Federal Funds

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 State made the expenditure. This limitation does not apply to any claim resulting from a court-ordered retroactive adjustment (45 CFR sections 95.7, 95.13, and 95.19).

L. Reporting

1. Financial Reporting

a. SF-269, *Financial Status Report* - Not Applicable

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

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

d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PSC-272 series of reports.

e. ACF-Title IV-E-1, *Foster Care and Adoption Assistance Financial Report (OMB No. 0970-0205)* - States report current expenditures for the previous quarter, and estimate costs for the next quarter. States may also report adjustments to prior quarter costs for the prior two years.

Key Line Items - The following line items contain critical information.

Part 1, *Foster Care, columns (a) through (d)*

Part 2, *Foster Care, columns (a) through (d)*

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.889 NATIONAL BIOTERRORISM HOSPITAL PREPAREDNESS PROGRAM

I. PROGRAM OBJECTIVES

The purpose of the National Bioterrorism Hospital Preparedness Program (NBHPP) is to improve the capacity of the Nation's health care system to respond to biological, chemical, and radiological terrorist attacks; infectious disease epidemics; and acute mass casualty events. The primary focus of the NBHPP is to develop, implement, and intensify regional terrorism preparedness plans and protocols for hospitals, outpatient facilities, EMS systems, and poison control centers in collaborative statewide or regional arrangements.

II. PROGRAM PROCEDURES

The NBHPP is administered by the Health Resources and Services Administration (HRSA), an Operating Division of the Department of Health and Human Services, in coordination with the Office of Public Health Emergency Preparedness (OPHEP). The activities under this program also are coordinated with the Centers for Disease Control and Prevention and other Federal entities that assist in State and local health bioterrorism preparedness efforts.

The NBHPP makes awards to the health departments of all 50 States, the District of Columbia, the nation's three largest municipalities (New York City, Chicago, and Los Angeles County), the Commonwealths of Puerto Rico and the Northern Mariana Islands, the territories of American Samoa, Guam and the U.S. Virgin Islands, the Federated States of Micronesia, and the Republics of Palau and the Marshall Islands. The award instrument is a cooperative agreement.

Source of Governing Requirements

The NBHPP is authorized by section 319C-1 of the Public Health Service Act, as added by the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188) (42 USC 247d-3a). There are no program regulations for this program.

Availability of Other Program Information

Additional program information is available from the BHPP site on the Internet (www.hrsa.gov/bioterrorism.htm).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Funds may be used for the following activities:

1. *Planning and Related Activities.*

    a. Funds may be used to develop statewide plans (including development of the Bioterrorism and Other Public Health Emergency Preparedness and Response Plan) and community-wide plans for responding to bioterrorism and other public health emergencies that are coordinated with the capacities of applicable national, State, and local health agencies and health care providers, including poison control centers (42 USC 247d-3a(d)(1)).

    b. Funds may be used to address deficiencies identified in the assessment conducted under Section 319B of the Public Health Service Act (42 USC 247d-1 and 42 USC 247d-2) of emergency preparedness public health needs (42 USC 247d-3a(d)(2)).

    c. Funds may be used to develop and implement the trauma care and burn center care components of State plans for the provision of emergency medical services (42 USC 247d-3a(d)(5).

    d. Funds may be used to prepare and plan for contamination prevention efforts related to public health that may be implemented in the event of a bioterrorist attack, including training and planning to protect the health and safety of workers conducting these activities (42 USC 247d-3a(d)(12)).

    e. Funds may be used to prepare a plan for triage and transport management in the event of bioterrorism or other public health emergencies (42 USC 247d-3a(d)(13)).

2. *Training and Related Activities.*

    a. Funds may be used for training or workforce development to enhance the operation of public health laboratories (42 USC 247d-3a(d)(6)).

    b. Funds may be used to provide training and develop, enhance, coordinate, or improve methods to enhance the safety of workers and workplaces in the event of bioterrorism (42 USC 247d-3a(d)(11)).

    c. Funds may be used to train and enhance training of public health and health care personnel to (1) recognize and treat the mental health consequences of bioterrorism or other public health emergencies, and (2) assist in providing appropriate health care for large numbers of individuals exposed to a bioweapon (42 USC 247d-3a(d)(14) and (15)).

    d. Funds may be used to enhance training and planning to protect the health and safety of personnel, including health care professionals, involved in responding to a biological attack (42 USC 247d-3a(d)(16)).

e. Funds may be used to train public health and health care personnel to enhance the ability of such personnel to (1) detect, provide accurate identification of, and recognize the symptoms and epidemiological characteristics of exposure to a biological agent that may cause a public health emergency; and (2) to provide treatment to individuals who are exposed to such an agent (42 USC 247d-3a(d)(7)).

3. *Readiness Activities and Communications.*

a. Funds may be used to purchase or upgrade equipment (including stationary or mobile communications equipment), supplies, pharmaceuticals or other priority countermeasures to enhance preparedness for and response to bioterrorism or other public health emergencies consistent with the Bioterrorism and Other Public Health Emergency Preparedness and Response Plan (42 USC 247d-3a(d)(3)).

b. Funds may be used to conduct exercises to test the capability and timeliness of public health emergency response activities (42 USC 247d-3a(d)(4)).

c. Funds may be used to develop, enhance, coordinate, or improve participation in systems (1) by which disease detection and information about biological attacks and other public health emergencies can be rapidly communicated among national, State, and local health agencies, emergency response personnel, and health care providers and facilities; or (2) used to detect and respond to a bioterrorist attack or other public health emergency, including activities to improve information technology and communications equipment available to health care and public health officials for use in responding to a biological threat or attack or other public health emergency (42 USC 247d-3a(d)(8)).

d. Funds may be used to enhance communication to the public of information on bioterrorism and other public health emergencies, including the use of 2-1-1 call centers (42 USC 247d-3a(d)(9)).

e. Funds may be used to address the health security needs of children and other vulnerable populations with respect to bioterrorism and other public health emergencies (42 USC 247d-3a(d)(10)).

f. Funds may be used to improve surveillance, detection, and response activities to prepare for emergency response activities including biological threats or attacks, including training personnel in these and other necessary functions and including early warning and surveillance networks that use advanced information technology to provide early detection of biological threats or attacks (42 USC 247d-3a(d)(17)).

g. Funds may be used to develop, enhance, and coordinate or improve the ability of existing telemedicine programs to provide health care information and advice as part of the emergency public health response to bioterrorism or other public health emergencies (42 USC 247d-3a(d)(18)).

L. Reporting

1. Financial Reporting

a. SF-269, *Financial Status Report* - Applicable

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

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

d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PSC-272 series of reports.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable