

**§ 1357.30 Fiscal requirements (title IV-B).**

(a) The requirements of this section shall apply to all funds allotted or reallocated to States under title IV-B and to all funds not needed for foster care which are transferred from title IV-A or title IV-E and awarded to States under title IV-B.

(b) Allotments for each State shall be determined in accordance with section 421 of the Act.

(c) Payments to States shall be made in accordance with section 423 of the Act.

(d) In the event of a State's failure to comply with the terms of the grant under title IV-B and with the regulations listed in §1355.30, the provisions of §§74.113 through 74.115 of this title shall apply.

(e) Federal financial participation is available only if costs are incurred in implementing sections 422, 423, and 425 and, when applicable, section 427 of the Act, and in accordance with the grants administration requirements of 45 CFR Part 74 except that—

(1) Non-public third party in-kind contributions may not be used to meet the requirements of the non-Federal share of the costs of programs funded under this part.

(2) The total of Federal funds used for the following purposes under title IV-B may not exceed an amount equal to the FY 1979 Federal payment under title IV-B:

(i) Child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, plus;

(ii) Foster care maintenance payments, plus;

(iii) Adoption assistance payments.

(3) Notwithstanding paragraph (e)(2) of this section, State expenditures required to match the title IV-B allotment may include foster care maintenance expenditures in any amount.

(4) Funds awarded under title IV-B may not be used for the purchase, construction, or other capital costs for child care facilities.

(f) *Maintenance of effort.* (1) A State may not receive an amount of Federal funds under title IV-B in excess of the Federal payment made in FY 1979

under title IV-B unless the State's total expenditure of State and local appropriated funds for child welfare services under title IV-B of the Act is equal to or greater than the total of the State's expenditure from State and local appropriated funds used for similar covered services and programs under title IV-B in FY 1979.

(2) In computing a State's level of expenditures under this section in FY 1979 and any subsequent fiscal year, the following costs shall not be included—

(i) Expenditures and costs for child day care necessary to support the employment of a parent or other relative;

(ii) Foster care maintenance payments; and

(iii) Adoption assistance payments.

(3) A State applying for an amount of Federal funds under title IV-B greater than the amount of title IV-B funds received by that State in FY 1979 shall certify:

(i) The amount of their expenditure in FY 1979 for child welfare services as described in paragraphs (f) (1) and (2) of this section, and

(ii) The amount of State and local funds that have been appropriated and are available for child welfare services as described in paragraphs (f)(1) and (2) of this section for the fiscal year for which application for funds is being made.

Records verifying the required certification shall be maintained by the State and made available to the Secretary as necessary to confirm compliance with this section.

(g) *Reallotment.* (1) When a State certifies to the Commissioner that funds available to that State under its title IV-B allotment will not be required for carrying out that State's plan, those funds shall be available for reallotment to other States.

(2) When a State, after receiving notice from the Commissioner of the availability of funds, does *not* certify by a date fixed by the Commissioner that it will be able to obligate during the fiscal year all of the funds available to it under its title IV-B allotment, those funds shall be available for reallotment to other States.

(3) The Commissioner may reallot available funds to another State when he determines that—

(i) The requesting State's plan requires funds in excess of the State's original allotment; and

(ii) The State will be able to obligate the additional funds during the current fiscal year.

(4) To be eligible to receive funds under the reallocation provisions of this paragraph, the State shall submit an application by the date and in the form prescribed by the Commissioner.

(h) *Fiscal year of expenditures.* An expenditure under an annual budget will be charged to the FY in which the obligation was incurred (the year the Federal funds were awarded). Such budgets and expenditure reports as are required by the Commissioner will be prepared on this basis. For the purposes of this section and this paragraph, "obligation" means only bonafide encumbrances or commitments which are supported by contracts or other evidence of liability consistent with State purchasing procedures.

(i) *Liquidation of obligations.* All obligations of the State agency incurred in carrying out the annual budget must be liquidated within 2 years or the period within which claims must be filed under title IV-B, whichever is earlier.

(Approved by the Office of Management and Budget under control number 0989-0047)

[47 FR 30928, July 15, 1982]

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

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

(b) *Joint planning.* For purposes of this section, Joint Planning means ITO and Federal review and analysis of the ITO's child welfare services including analysis of the service needs of children and their families, selection of unmet service needs that will be addressed in a plan for program improvement, and development of goals and objectives to enhance the capability of

the tribe providing child welfare services.

(c) *Title IV-B plan requirements.* The Indian Tribal Organization's title IV-B plan must meet all of the requirements of this paragraph. With respect to paragraph (c)(1) through (c)(5), of this section, the Indian Tribe/ITO must meet the requirements applicable to the State/State (or local) agency.

(1) Sections 422(a) and 422(b) (2) through (8) of the Act;

(2) 45 CFR 1355.20 and the definition of child welfare services in 45 CFR 1357.10(c);

(3) 45 CFR 1355.21(a);

(4) 45 CFR 1357.15(e);

(5) 45 CFR 1355.30 except that requirements of paragraphs (i) and (m) do not apply;

(6) The name of the ITO;

(7) A brief description of the ITO;

(8) A brief description of the legal and organizational relationship of the Tribal Organization to the Indians in the area to be served;

(9) A statement of the legal responsibility, if any, for children who are in foster care on the reservation and those awaiting adoption;

(10) A description of tribal jurisdiction in civil and criminal matters, existence or nonexistence of a tribal court and the type of court and codes, if any;

(11) An identification of the standards for foster family homes and institutional care and day care;

(12) The Indian Tribal Organization's political subdivisions, if any;

(13) Whether the Tribal Organization is controlled, sanctioned or chartered by the governing body of Indians to be served and if so, documentation of that fact;

(14) Any limitations on authorities granted the ITO; and

(15) The tribal resolution(s) authorizing it to apply for a direct title IV-B grant under this part.

(d) *Submittal of the title IV-B services plan and annual budget request.* (1) The ITO's title IV-B Annual Budget Request must be submitted, in a form and manner prescribed by the Department to the appropriate regional Office, ACYF.