United States Department of
Health & Human Services
Leading America to Better Health, Safety and Well-Being
ACCTG
2008 OCT -2 PM 1:02

ADMINISTRATION FOR CHILDREN AND FAMILIES
ADMINISTRATION ON CHILDREN, YOUTH and FAMILIES

FOSTER CARE PROGRAM GRANT
Catalog of Federal Domestic Assistance (CFDA) Program No. 93.658

ADOPTION ASSISTANCE PROGRAM GRANT
Catalog of Federal Domestic Assistance (CFDA) Program No. 93.995

TERMS AND CONDITIONS
FISCAL YEAR 2009
(October 1, 2008 – September 30, 2009)

By acceptance of this award, the State agrees to comply with the terms and conditions detailed below. Failure to comply with these terms and conditions may result in the loss of Federal funds and may be considered grounds for the suspension or termination of these grants.

PROGRAM STANDARDS

1. The administration of these programs is based on:
   - the provisions of **Part E of Title IV** of the Social Security Act;
   - Federal regulations at **45 CFR 1355 and 1356;**
   - the approved State plan, including all approved amendments or revisions;
   - the provisions of the ACF Child Welfare Policy Manual;
   - all other applicable Federal regulations, program policies and instructions.

ADMINISTRATIVE REQUIREMENTS

2. These programs are governed by the following Federal regulations ;

   - **2 CFR Part 225** – Cost Principles for State, Local and Indian Tribal Governments;
   - **45 CFR Part 16** – Procedures of the Departmental Grant Appeals Board;
   - **45 CFR Part 30** – Claims Collection;
   - **45 CFR Part 76** – Debarment and Suspension from Eligibility for Financial Assistance (Nonprocurement);
   - **45 CFR Part 80** - Nondiscrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services, Effectuation of Title VI of the Civil Rights Act of 1964;
   - **45 CFR Part 81** - Practice and Procedure for Hearings Under Part 80 of this Title;
   - **45 CFR Part 84** - Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance;
   - **45 CFR Part 86** – Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance;
   - **45 CFR Part 87** – Equal Treatment for Faith-Based Organizations;
   - **45 CFR Part 91** – Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance;
   - **45 CFR Part 92** – Uniform Administrative Requirements for Grants and Cooperative Agreements to State, and Local, and Tribal Governments

- **45 CFR Part 93** – New Restrictions on Lobbying;
- **45 CFR Part 95** – General Administration – Grant Programs;
- **45 CFR Part 100** – Intergovernmental Review of Department of Health and Human Services Programs and Activities.
- **45 CFR Part 201** – Approval of State Plans and Certification of Grants (applicable sections only – see 45 CFR 1355.30(n));
- **45 CFR Part 204.1** – Submittal of State Plans for Governor's Review;
- **45 CFR Part 205** – General Administration (applicable sections only – see 45 CFR 1355.30(p));
- **45 CFR 235.60 through 235.65** – FFP for State and Local Training.

3. These programs are governed by Office of Management and Budget **Circular A-133**, Audits of States, Local Governments, and Non-Profit Organizations, including the audit requirements of the **Single Audit Act of 1984** (Public Law 98-502)

4. In accordance with Public Law 103-333, the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1995," the following provisions are applicable to this grant award:

   - Section 507: "Purchase of American-Made Equipment and Products - It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made."

   - Section 508: "When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all States receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources."

5. In accordance with Title XII of Public Law 103-227, the "PRO-KIDS Act of 1994," smoking may not be permitted in any portion of any indoor facility owned or regularly used for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs wither directly or through State or local governments. Federal programs include grants, cooperative agreements, loans and loan guarantees, and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions or facilities and used for inpatient drug and alcohol treatment.

   The above language must be included in any subawards that contain provisions for children's services and that all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to $1,000 per day.

6. Direct Federal grants, sub-awards, or contracts under this program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this program. (See 45 CFR 87)

7. Federal grant funds provided under this award may not be used by the grantee or any sub-grantee to support lobbying activities to influence proposed or pending Federal or State legislation or

appropriations. This prohibition is related to the use of Federal grant funds and is not intended to affect an individual's right or that of any organization, to petition Congress, or any other level of Government, through the use of other resources. (See 45 CFR 93.)

8. These awards are subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000 (22 USC 7104). The full text of this requirement is found at http://www.acf.gov/.grants/award_terms.html .

SUB-RECIPIENTS UNDER GRANTS

9. States are required to determine recipient type when sub-granting or contracting using Federal funds. In accordance with the standards set in OMB Circular A-133, the determination is based on the substance of the relationship with the State, rather than the form of the agreement.

   - The presence of one or more of the following conditions would indicate that the recipient should be considered a *sub-grantee* and is subject to the provisions of OMB Circular A-133:
     a. Determines who is eligible to receive what Federal financial assistance;
     b. Has its performance measured against whether the objectives of the Federal program are met;
     c. Has responsibility for programmatic decision making;
     d. Has responsibility for adherence to applicable Federal program compliance requirements;
     e. Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity;

   - The presence of one or more of the following conditions would indicate that the recipient should be considered a *vendor* and is not subject to the provisions of OMB Circular A-133:
     a. Provides the goods and services within normal business operations;
     b. Provides similar goods or services to many different purchasers;
     c. Operates in a competitive environment;
     d. Provides goods or services that are ancillary to the operation of the Federal program;
     e. Is not subject to compliance requirements of the Federal program.

10. No organization may participate in this program in any capacity or be a recipient of Federal funds designated for this program if the organization has been debarred or suspended or otherwise found to be ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." (See 45 CFR 92.35.) States must include a similar term and/or condition for all sub-awards or contracts awarded under this program. Prior to issuing subawards or contracts under this grant, the state must consult the ineligible parties list to ensure that organizations under funding consideration are not ineligible. The list is available on the Web at http://www.epls.gov.

11. The State is responsible for monitoring grant, sub-grant/sub-recipient and contract supported activities to assure compliance with Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function and activity. (See 45 CFR 92.40.)

12. The State is required to advise sub-grantees/sub-recipients of requirements imposed on them by Federal laws, regulations, and the provisions of grant agreements or contracts as well as any supplemental requirements imposed by the State. These include grant administrative requirements under 45 CFR Part 92, audit requirements under OMB Circular A-133 and cost principles according to recipient type:

- Non-Profit Organizations: 2 CFR Part 230;
- Educational Institutions: 2 CFR Part 220;
- Commercial Vendors or Subcontractors: 48 CFR Part 31.

Sub-recipients and sub-grantees are also subject to the provisions of 45 CFR Part 92 and OMB Circular A-133.

13. States must ensure that any sub-recipient or sub-grantee that expends Federal funds totaling $500,000 or more during the course of its fiscal year must arrange for a financial audit in compliance with the requirements of OMB Circular A-133.

NON-FEDERAL SHARE OF PROGRAM FUNDING

14. For these programs, States are required to provide a portion of program funding, ranging from **25 percent** for training costs to **50 percent** for other expenses of program administration, assistance payments and computer systems.

    - In most instances all of the non-Federal share of funding for these programs will be appropriated specifically for that purpose by State legislatures;

    - Third party in-kind contributions may not be used as the non-Federal share of any program expenditure. (Federal regulations at 45 CFR 1355.30(c) specifically exclude the requirements of 45 CFR 74.23 [now, 45 CFR 92.24], "Matching or cost sharing," from applicability to these programs.)

    - Donated funds may be used as the non-Federal share under the following conditions:
      a. The donor may specify the activities to be supported by the donation, but may not be a sponsor or operator of the specified activity. Any specified activity must be an allowable expense under all applicable laws, regulations and policies governing these programs;
      b. The donor may specify the geographic area in which the specified activity is to be provided;
      c. Donations provided for training expenditures under title IV-E must come from a public source.

FINANCIAL REPORTING

15. States are required to file quarterly reports indicating the amount of Total and Federal share of funds that have been expended in the preceding quarter and an estimate of the funding required for the upcoming quarter. **Form ACF-IV-E-1 "Title IV-E Foster Care and Adoption Assistance Financial Report"** is required for this purpose.

    a. States are requested to file these reports electronically through the ACF On-Line Data Collection (OLDC) system. OLDC requires electronic signatures from the appropriate State official. (See Action Transmittal OA-ACF-AT-01-05, issued January 24, 2005.) When electronic reports are completed and submitted, no paper submission is required.

    b. For States that elect to submit paper copies of the required expenditure reports, send one (1) copy with an original signature of each submission of Form ACF-IV-E-1 to the financial office. (See "Important Addresses," below.) Send an additional copy of each submission to the Regional Grants Officer in the appropriate regional office.

c. Regardless of the method of submission, each quarterly report must be submitted within 30 days of the end of each fiscal quarter (i.e., **no later than January 30, April 30, July 30 October 30**). (See 45 CFR 1355.31(n)(1) and 45 CFR 92.40, 92.41 and 201.5)

GRANT PAYMENTS

16. Payments under these grants will be made through the Department of Health and Human Services' Payment Management System (PMS). The State must comply with requirements imposed by the PMS on-line system. Please direct any questions concerning grant payments to the payment office (include phone number).

IMPORTANT ADDRESSES

- Financial Office: Administration for Children and Families
  Office of Grants Management
  Division of Mandatory Grants
  Att'n: Title IV-E Programs
  370 L'Enfant Promenade, S.W., 6th Floor East
  Washington, D.C. 20447

  Contact: Michael Bratt
  e-mail: mbratt@acf.hhs.gov
  phone: (202) 401-4629
  fax: (202) 401-5644

- Payment Office: U.S. Department of Health and Human Services
  Division of Payment Management
  Payment Management System (PMS)
  P.O. Box 6021
  Rockville, Maryland 20852

  Contact: PMS Help Desk
  phone: (877) 614-5533
  Internet site: http://www.dpm.psc.gov

IMPORTANT NOTE

The U.S. Government Accountability Office (GAO) maintains **FraudNET**, a system for reporting allegations of fraud, waste and abuse under Federal grants and cooperative agreements. Reports are kept confidential; you need not provide your name. Information provided through the Internet web site is secure and all information is safeguarded against unauthorized disclosure.

Report the possible misuse of federal funds, through one of the following methods:

- Phone: (800) 424-5454;
- Fax: (202) 512-3086;
- E-mail: fraudnet@gao.gov ;
- Mail: GAO FraudNET
  441 G Street N.W.
  Washington, D.C. 20548

Please provide as much detailed information as possible in your report.