

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 11-405.213(a)

Specific Purpose:

This section is amended to specify that a non-profit corporation that expends \$300,000 or more in combined federal funds during the corporation's fiscal year must have an audit conducted and submit a financial audit report to the Department annually. Language is also added to specify that the financial audit report submitted by a non-profit corporation shall include copies of any management letters issued by the independent auditor.

Factual Basis:

This amendment is necessary for consistency with Welfare and Institutions Code Section 11466.21(a)(1), as amended by Assembly Bill (AB) 444, Chapter 1022, Statutes of 2002 and to ensure that California meets the federal audit standard for the Foster Care (FC) program as required under Office of Management and Budget (OMB) Circular A-133. The amendment also specifies that the financial audit report submitted by the non-profit corporation shall include copies of any management letters from the independent auditor to the non-profit corporation, which describe internal control weaknesses or compliance deficiencies discovered during the course of a financial statement audit.

Section 11-405.213(b)

Specific Purpose:

This section is amended to specify that a non-profit corporation that expends less than \$300,000 in combined federal funds during the corporation's fiscal year must have an audit conducted and submit a financial audit report to the Department at least once every three years. Language is also added to specify that upon request by the Department, a non-profit corporation shall include copies of any management letters issued by the independent auditor.

Factual Basis:

This amendment is necessary for consistency with Welfare and Institutions Code Section 11466.21(a)(2), as amended by AB 444, Chapter 1022, Statutes of 2002. The amendment would also indicate that the financial audit report submitted by the non-profit corporation shall also submit copies of any management letters from the independent auditor to the non-

profit corporation, which describe internal control weaknesses or compliance deficiencies discovered during the course of a financial statement audit.

Section 11-405.213(b)(1)

Specific Purpose:

This section is adopted to specify that cost data shall be reported to the Department for those years in which a financial audit report is not required for a non-profit corporation that expends less than \$300,000 in combined federal funds in its fiscal year. The cost data reported in those years may be unaudited or audited.

Factual Basis:

This section is necessary to provide the Department with ongoing financial information from a non-profit corporation to help ensure the fiscal integrity of the corporation's financial records. While a financial audit report may not be required for two years out of a three-year period, overall financial accountability is still required under Title 22, Division 6, Chapter 1, General Licensing Requirements, Section 80062. This section states, in part, that each licensee (provider) shall maintain financial records and shall submit financial reports as required upon the written request of the Department. Furthermore, this information will assist providers in ensuring that they have adequate financial records to obtain the required audit in the required year. Lastly, providers are familiar with this requirement as they have been responsible for submitting annual cost reports since the implementation of this rate system over 10 years ago.

Section 11-405.213(b)(1)(A)

Specific Purpose/Factual Basis:

This section is adopted to specify the time period to be covered and the due date for the cost data to be reported for the years in which a financial audit report is not required. These time frames and due dates are consistent with other audit requirements.

Section 11-405.213(b)(1)(B)

Specific Purpose:

This section is adopted to clarify requirements for maintaining the cost data reports and other documentation to support AFDC-FC program expenditures for at least five years.

Factual Basis:

This section is necessary to inform non-profit corporations of the requirement to maintain financial records so that a certified public accountant or state licensed public accountant has complete and accurate information to prepare a financial audit report for each year that a non-profit corporation is required to submit a report. The five year maintenance period is

consistent with the requirement for maintaining program records specified in Section 11-402.52.

Section 11-405.213(b)(2)

Specific Purpose:

This section is adopted to indicate the circumstances for which the Department may require a non-profit corporation that expends less than \$300,000 in combined federal funds during its fiscal year to submit a financial audit report more frequently than once every three years on a schedule determined by the Department.

Factual Basis:

Welfare and Institutions Code Section 11466.21(a)(2) requires any provider who receives less than \$300,000 in combined federal funds to submit to the Department a financial audit at least once every three years. This section is necessary to specify those situations in which the Department may require financial audit reports more frequently than once every three years. These situations include a non-profit corporation which is under corrective actions as specified in a management decision letter or which has been found to have committed misuse or fraud.

Section 11-405.213(b)(2)(A)

Specific Purpose/Factual Basis:

This section is adopted to specify that the Department must provide written notice to a non-profit corporation prior to requiring it to submit financial audit reports more frequently than once every three years.

Section 11-405.213(b)(2)(B)

Specific Purpose/Factual Basis:

This section is adopted to specify the information that must be included in the written notice to a non-profit corporation which is required to submit financial audit reports more frequently than once every three years.

Section 11-405.213(b)(2)(C)

Specific Purpose/Factual Basis:

This section is adopted to specify the regulatory standards that must be followed for financial audit reports that must be submitted more frequently than once every three years.

Section 11-405.213(b)(2)(D)

Specific Purpose/Factual Basis:

This section is adopted to specify that a non-profit corporation which is required to submit a financial audit report more frequently than once every three years is subject to rate termination if an acceptable report is not submitted by the due date.

Section 11-405.213(b)(2)(E)

Specific Purpose/Factual Basis:

This section is adopted to specify that financial audits required more frequently than once every three years are not eligible for audit cost reimbursement under Section 11-405.22.

Section 11-405.213(b)(3)

Specific Purpose:

This section is adopted to specify that for those years during the triennial period when a financial audit report is not required, a non-profit corporation must provide a written certification stating that combined federal funds received from all sources for the most recent fiscal year was less than \$300,000. This section also specifies the form to be used for the federal revenue certification and the timeframe when the certification must be submitted.

Factual Basis:

This section is necessary to document that a non-profit corporation's federal revenues were below the \$300,000 federal funding threshold to allow continued justification for submission of a financial audit report once every three years rather than annually, and to ensure continued compliance with the federal audit standard for the foster care program as required under Office of Management and Budget Circular A-133.

Section 11-405.213(b)(4)

Specific Purpose:

This section is adopted to specify that a non-profit corporation which is on a triennial financial audit reporting schedule must report total federal revenue in excess of the \$300,000 federal funding threshold to the Department within three months from the end of the non-profit corporation's fiscal year. This section also specifies the requirement for financial audit report submission when a non-profit corporation receives federal revenue in excess of \$300,000 during a fiscal year for which a financial audit report is not scheduled.

Factual Basis:

This section is necessary for compliance with Office of Management and Budget Circular A-133 audit standards and to help ensure continued federal financial participation.

Sections 11-405.215 and .215(a)

Specific Purpose:

These sections are amended to specify that a financial audit report and the required cost data must be submitted by a non-profit corporation that has been incorporated fewer than 12 calendar months by the end of its first fiscal year in which it received AFDC-FC funds.

Factual Basis:

These sections are necessary to provide guidelines on when a financial audit report must be submitted by a new provider and for consistency with Welfare and Institutions Code Section 11466.21(b)(3) as amended by AB 444, Chapter 1022, Statutes of 2002.

Section 11-405.22

Specific Purpose:

This section is amended to add the condition that a non-profit corporation must receive less than \$300,000 in combined federal funds to be eligible for reimbursement of the costs of financial audits. In addition, the word “annual” has been deleted in reference to financial audits since non-profit corporations that are eligible for reimbursement are not required to submit annual financial audit reports. Language has also been added that audit cost reimbursement is subject to the availability of funds and may be authorized only once during any three-year period.

Factual Basis:

This amendment is necessary for consistency with Welfare and Institutions Code Section 11466.21(c), as amended by AB 444, Chapter 1022, Statutes of 2002.

Section 11-405.221

Specific Purpose:

This section is amended to delete the word “annual” in reference to a financial audit since non-profit corporations that are eligible for audit cost reimbursement are not required to submit annual financial audit reports. In addition, the completion of a specific form (Financial Audit Report Transmittal, SR 8), which includes a section on audit cost reimbursement claiming, has been added as a condition to receiving reimbursement.

Factual Basis:

This section is necessary for consistency with Welfare and Institutions Code Section 11466.21(c), as amended by AB 444, Chapter 1022, Statutes of 2002.

Section 11-405.223(a)

Specific Purpose:

This section is amended to specify that non-profit corporations which operate a group home program or programs must receive less than \$300,000 in combined federal funds to be eligible for reimbursement of audit costs.

Factual Basis:

This section is necessary for consistency with Welfare and Institutions Code Section 11466.21(c), as amended by AB 444, Chapter 1022, Statutes of 2002.

Section 11-405.223(b)

Specific Purpose:

This section is amended to specify that non-profit corporations which operate a foster family agency with or without a group home must receive less than \$300,000 in combined federal funds to be eligible for reimbursement of audit costs.

Factual Basis:

This section is necessary for consistency with Welfare and Institutions Code Section 11466.21(c), as amended by AB 444, Chapter 1022, Statutes of 2002.

Section 11-406(f)(1)

Specific Purpose:

This section is adopted to ensure necessary information is provided on the Financial Audit Report Transmittal (SR 8).

Factual Basis:

Adoption of this section is necessary to specify that the SR 8 is a regulatory form which must be completed by a non-profit corporation as a condition to receiving financial audit cost reimbursement. Of note is that the SR 8 is also the form used by a non-profit corporation to transmit the financial audit report to the Department and is incorporated by reference.

Section 11-406(f)(2)

Specific Purpose:

This section is adopted to ensure necessary information is provided on the Federal Revenue Certification (SR 9).

Factual Basis:

Adoption of this section is necessary to specify that the SR 9 is a regulatory form used by a non-profit corporation to certify that total federal revenue received from all sources for the corporation's most recent fiscal year was less than \$300,000. The SR 9 is used to as justification for a non-profit corporation's submission of a financial audit report once every three years rather than annually and is incorporated by reference.

b) Identification of Documents Upon Which Department Is Relying

- Assembly Bill 444 (Chapter 1022, Statutes of 2002)

c) Local Mandate Statement

These regulations do impose a mandate on local agencies but not on school districts. There are no state mandated costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would lessen any adverse impact on small business.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.