

Maintenance of Effort Resource Material

This package contains selected statutory and regulatory material related to requirements for expenditures to count towards the TANF Maintenance of Effort (MOE).

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Title IV, PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

PURPOSE

SEC. 401. [42 U.S.C. 601] (a) IN GENERAL.—The purpose of this part is to increase the flexibility of States in operating a program designed to—

- (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 the 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) NO INDIVIDUAL ENTITLEMENT.—This part shall not be interpreted to entitle any individual or family to assistance under any State program funded under this part.

**Social Security Act, Title IV-A,
Sec. 409(7) FAILURE OF ANY STATE TO MAINTAIN CERTAIN
LEVEL OF HISTORIC EFFORT.—**

(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section [403\(a\)\(1\)](#) for fiscal year 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, or 2011^[29] by the amount (if any) by which qualified State expenditures for the then immediately preceding fiscal year are less than the applicable percentage of historic State expenditures with respect to such preceding fiscal year.

(B) DEFINITIONS.—As used in this paragraph:

(i) QUALIFIED STATE EXPENDITURES.—

(I) IN GENERAL.—The term “qualified State expenditures” means, with respect to a State and a fiscal year, the total expenditures by the State during the fiscal year, under all State programs, for any of the following with respect to eligible families:

(aa) Cash assistance, including any amount collected by the State as support pursuant to a plan approved under part D, on behalf of a family receiving assistance under the State program funded under this part, that is distributed to the family under section [457\(a\)\(1\)\(B\)](#) and disregarded in determining the eligibility of the family for, and the amount of, such assistance.

(bb) Child care assistance.

(cc) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures which involve the provision of services or assistance to a member of an eligible family which is not generally available to persons who are not members of an eligible family.

(dd) Administrative costs in connection with the matters described in items (aa), (bb), (cc), and (ee), but only to the extent that such costs do not exceed 15 percent of the total amount of qualified State expenditures for the fiscal year.

(ee) Any other use of funds allowable under section [404\(a\)\(1\)](#).

(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include expenditures under any State or local program during a fiscal year, except to the extent that—

(aa) the expenditures exceed the amount expended under the State or local program in the fiscal year most recently ending before the date of the enactment of this section^[30], or

(bb) the State is entitled to a payment under former section [403](#) (as in effect immediately before such date of enactment) with respect to the expenditures.

(III) EXCLUSION OF AMOUNTS EXPENDED TO REPLACE PENALTY GRANT REDUCTIONS.—Such term does not include any amount expended in order to comply with paragraph (12).

(IV) ELIGIBLE FAMILIES.—As used in subclause (I), the term “eligible families” means families eligible for assistance under the State program funded under this part, families that would be eligible for such assistance but for the application of section [408\(a\)\(7\)](#) of this Act, and families of aliens lawfully present in the United States that would be eligible for such assistance but for the application of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(V)^[31] COUNTING OF SPENDING ON CERTAIN PRO-FAMILY ACTIVITIES.—The term “qualified State expenditures” includes the total expenditures by the State during the fiscal year under all State programs for a purpose described in paragraph (3) or (4) of section [401\(a\)](#).

(ii) APPLICABLE PERCENTAGE.—The term “applicable percentage” means for fiscal years 1997 through 2010^[32], 80 percent (or, if the State meets the requirements of section [407\(a\)](#) for the fiscal year, 75 percent).

(iii) HISTORIC STATE EXPENDITURES.—The term “historic State expenditures” means, with respect to a State, the lesser of—

(I) the expenditures by the State under parts A and F (as in effect during fiscal year 1994) for fiscal year 1994; or

(II) the amount which bears the same ratio to the amount described in subclause (I) as—

(aa) the State family assistance grant, plus the total amount required to be paid to the State under former section [403](#) for fiscal year 1994 with respect to amounts expended by the State for child care under subsection (g) or (i) of section [402](#) (as in effect during fiscal year 1994); bears to

(bb) the total amount required to be paid to the State under former section [403](#) (as in effect during fiscal year 1994) for fiscal year 1994.

Such term does not include any expenditures under the State plan approved under part A (as so in effect) on behalf of individuals covered by a tribal family assistance plan approved under section [412](#), as determined by the Secretary.

(iv) EXPENDITURES BY THE STATE.—The term “expenditures by the State” does not include—

(I) any expenditure from amounts made available by the Federal Government;

(II) any State funds expended for the medicaid program under title XIX;

(III) any State funds which are used to match Federal funds provided under section [403\(a\)\(5\)](#); or

(IV) any State funds which are expended as a condition of receiving Federal funds other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of the expenditures does not exceed the amount of State expenditures in fiscal year 1994 or 1995 (whichever is the greater) that equal the non-Federal share for the programs described in section [418\(a\)\(1\)\(A\)](#).

(v) SOURCE OF DATA.—In determining expenditures by a State for fiscal years 1994 and 1995, the Secretary shall use information which was reported by the State on ACF Form 231 or (in the case of expenditures under part F) ACF Form 331, available as of the dates specified in clauses (ii) and (iii) of section [403\(a\)\(1\)\(D\)](#).

Interim Final Rules – Preamble discussion (June 29, 2006)

Part 263—Expenditures of State and Federal TANF Funds

Subpart A—What Rules Apply to a State’s Maintenance of Effort?

Section 263.2 What kinds of State expenditures count toward meeting a State’s basic MOE expenditure requirement?

We made changes to the maintenance of effort regulations in § 263.2(a)(4) to reflect the impact of the provision in the Deficit Reduction Act of 2005 on counting spending for certain pro-family activities. Similarly, we clarified existing matching policy under a new § 263.2(e) and renumbered the former section (e) as section (f). We also added a new paragraph (g) to clarify that State funds used to meet any matching requirement under the Healthy Marriage Promotion and Responsible Fatherhood Grant may count to meet the MOE requirement in § 263.1.

As provided under PRWORA, States are subject to a cost-sharing amount known as the maintenance-of-effort (MOE) requirement. If a State fails to meet the required minimum all-family or two-parent work participation rate for a fiscal year, then the State must spend at least 80 percent of its FY 1994 historic State expenditures in that fiscal year. If the State meets both minimum work program participation rate requirements, then the required spending level decreases to 75 percent of its FY 1994 historic State expenditures.

Before the Deficit Reduction Act of 2005, States could only count toward their MOE requirement, expenditures to provide assistance, benefits, and/or services to or on behalf of eligible families, regardless of the TANF purpose that the expenditure is reasonably calculated to accomplish. Under our original rule, an “eligible family” must meet two fundamental criteria. First, the family must, at a minimum, consist of a child living with a custodial parent or other caretaker relative, or consist of a pregnant woman. Second, to receive benefits, the family must be financially needy according to the quantified income and resource (if applicable) criteria established by the State and contained in the State’s TANF plan.

The Deficit Reduction Act of 2005 maintains the same MOE spending levels. However, the new law adds a provision “Counting of Spending on Certain Pro-Family Activities” at 409(a)(7)(B)(i)(V) of the Social Security Act. This provision allows States to count expenditures on pro-family activities, if the expenditure is reasonably calculated to prevent and reduce the incidence of out-of-wedlock births (TANF purpose three), or encourage the formation and maintenance of healthy two-parent married families (TANF purpose four).

This new provision allows States to claim for MOE all qualified pro-family expenditures for non-assistance benefits and services provided to or on behalf of an individual or family, regardless of financial need or family composition, if the activity is reasonably calculated to accomplish either TANF purpose three or TANF purpose four. We reflect this new provision in the MOE regulation at § 263.2(a)(4). However, States must continue to limit the provision of Federal TANF and MOE-funded “assistance,” as defined in § 260.31(a) to eligible families, regardless of the TANF purpose.

Congress also created a new TANF discretionary funding stream (Grants for Healthy Marriage Promotion and Responsible Fatherhood) in the Deficit Reduction Act of 2005. Because Congress placed these funds in title IV– A of the Social Security Act, all State expenditures for allowable activities under the Healthy Marriage Promotion and Promoting Responsible Fatherhood programs specified in sections 403(a)(2)(A)(iii) and 403(a)(2)(C)(ii) of the Act may count toward the State’s MOE requirement, unless a limitation, restriction or prohibition under this subpart applies.

Section 409(a)(7)(B)(iv)(IV) of the Act allows States to count expenditures made as a condition of receiving Federal funds under title IV, part A of the Social Security Act toward their MOE requirement. The Healthy Marriage Promotion Grants are under title IV, part A of the Social Security Act. Therefore, if grantees are required to contribute a matching share of the total approved costs of Healthy Marriage Promotion and Responsible Fatherhood projects under subsections 403(a)(2)(A)(iii) and 403(a)(2)(C)(ii) of the Act, then State expenditures made to meet any required non-Federal share may count toward the State’s MOE requirement, provided the expenditure also meets all applicable MOE requirements, restrictions, and limitations. This provision is outlined in § 263.2(g).

The regulations at 45 CFR Part 92, which apply to the TANF program, cover matching or cost-sharing requirements. These rules permit States to count toward their MOE requirement non-Federal cash or in-kind qualified expenditures on allowable activities by a third party, provided there is an agreement to do so in writing by the two parties. We previously clarified this point in TANF Policy Announcement TANF–ACF–PA–2004–01, dated December 1, 2004. This may include Healthy Marriage and Responsible Fatherhood providers in a State to meet any required non-Federal share. In the interest of clarity, we have added a paragraph discussing the counting of third-party expenditures towards the MOE requirement at § 263.2(e). This amendment does not reflect a change in policy.

Section 263.6 What kinds of expenditures do not count?

The Deficit Reduction Act of 2005 does not change the prohibition at section 409(a)(7)(B)(iv)(IV) of the Act. Under this prohibition, States may not count expenditures made “as a condition of receiving Federal funds other than under this part” toward its TANF MOE requirement. However, paragraph (c) of our original rule does not accurately reflect this provision, as it stipulates that “Expenditures that a state makes as a condition of receiving Federal funds under another program * * *” may not count toward the State’s MOE requirement. Therefore, we have corrected paragraph (c) to say that the prohibition applies to expenditures that a State makes as a condition of receiving Federal funds under another program that is not in Part IV–A of the Act. This should avoid any misunderstanding and ensure that States know that they may count the non-Federal share of expenditures on allowable activities under the healthy marriage promotion or promoting responsible fatherhood programs in sections 403(a)(2)(A)(iii) or 403(a)(2)(C)(ii) of the Act.

Excerpt from Code of Federal Regulations Title 45--Public Welfare

CHAPTER II--OFFICE OF FAMILY ASSISTANCE (ASSISTANCE PROGRAMS),
ADMINISTRATION FOR CHILDREN AND FAMILIES, DEPARTMENT OF
HEALTH AND HUMAN SERVICES
PART 263--EXPENDITURES OF STATE AND FEDERAL TANF FUNDS

*[Revised as of October 1, 2005 and further updated to insert modifications in the
Interim Final Regulations published June 29, 2006]*

TITLE 45--PUBLIC WELFARE

CHAPTER II--OFFICE OF FAMILY ASSISTANCE (ASSISTANCE PROGRAMS),
ADMINISTRATION FOR CHILDREN AND FAMILIES, DEPARTMENT OF
HEALTH AND HUMAN SERVICES

PART 263 _EXPENDITURES OF STATE AND FEDERAL TANF FUNDS--Table of
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Source: 64 FR 17893, Apr. 12, 1999, unless otherwise noted where the material is revised under the authority: 42 U.S.C. 604, 607, 609, and 862a; Pub. L. 109-171.

Sec. 263.0 What definitions apply to this part?

(a) Except as noted in Sec. 263.2(d), the general TANF definitions at Sec. 260.30 through Sec. 260.33 of this chapter apply to this part.

(b) The term ``administrative costs" means costs necessary for the proper administration of the TANF program or separate State programs.

(1) It excludes direct costs of providing program services.

(i) For example, it excludes costs of providing diversion benefits and services, providing program information to clients, screening and assessments, development of

employability plans, work activities, post-employment services, work supports, and case management. It also excludes costs for contracts devoted entirely to such activities.

(ii) It excludes the salaries and benefits costs for staff providing program services and the direct administrative costs associated with providing the services, such as the costs for supplies, equipment, travel, postage, utilities, rental of office space and maintenance of office space.

(2) It includes costs for general administration and coordination of these programs, including contract costs and all indirect (or overhead) costs. Examples of administrative costs include:

- (i) Salaries and benefits of staff performing administrative and coordination functions;
- (ii) Activities related to eligibility determinations;
- (iii) Preparation of program plans, budgets, and schedules;
- (iv) Monitoring of programs and projects;
- (v) Fraud and abuse units;
- (vi) Procurement activities;
- (vii) Public relations;
- (viii) Services related to accounting, litigation, audits, management of property, payroll, and personnel;
- (ix) Costs for the goods and services required for administration of the program such as the costs for supplies, equipment, travel, postage, utilities, and rental of office space and maintenance of office space, provided that such costs are not excluded as a direct administrative cost for providing program services under paragraph (b)(1) of this section;
- (x) Travel costs incurred for official business and not excluded as a direct administrative cost for providing program services under paragraph (b)(1) of this section;
- (xi) Management information systems not related to the tracking and monitoring of TANF requirements (e.g., for a personnel and payroll system for State staff); and
- (xii) Preparing reports and other documents.

Subpart A_What Rules Apply to a State's Maintenance of Effort?

Sec. 263.1 How much State money must a State expend annually to meet the basic MOE requirement?

(a)(1) The minimum basic MOE for a fiscal year is 80 percent of a State's historic State expenditures.

(2) However, if a State meets the minimum work participation rate requirements in a fiscal year, as required under Sec. Sec. 261.21 and 261.23 of this chapter, after adjustment for any caseload reduction credit under Sec. 261.41 of this chapter, then the minimum basic MOE for that fiscal year is 75 percent of the State's historic State expenditures.

(3) A State that does not meet the minimum participation rate requirements in a fiscal year, as required under Sec. Sec. 261.21 and 261.23 of this chapter (after adjustment for any caseload reduction credit under Sec. 261.41 of this chapter), but which is granted full or partial penalty relief for that fiscal year, must still meet the minimum basic MOE specified under paragraph (a)(1) of this section.

(b) The basic MOE level also depends on whether a Tribe or consortium of Tribes residing in a State has received approval to operate its own TANF program. The State's basic MOE level for a fiscal year will be reduced by the same percentage as we reduced the SFAG as the result of any Tribal Family Assistance Grants awarded to Tribal grantees in the State for that year.

Sec. 263.2 What kinds of State expenditures count toward meeting a State's basic MOE expenditure requirement? *[Revised June 29, 2006]*

(a) Expenditures of State funds in TANF or separate State programs may count if they are made for the following types of benefits or services:

(1) Cash assistance, including the State's share of the assigned child support collection that is distributed to the family, and disregarded in determining eligibility for, and amount of the TANF assistance payment;

(2) Child care assistance (see § 263.3);

(3) Education activities designed to increase self-sufficiency, job training, and work (see § 263.4);

(4) Any other use of funds allowable under section 404(a)(1) of the Act including:

(i) Nonmedical treatment services for alcohol and drug abuse and some medical treatment services (provided that the State has not commingled its MOE funds with Federal TANF funds to pay for the services), if consistent with the goals at § 260.20 of this chapter; and

(ii) Pro-family activities that are consistent with the goals at §§ 260.20(c) or (d) of this chapter, but do not constitute "assistance" as defined in § 260.31(a) of this chapter; and

(5)(i) Administrative costs for activities listed in paragraphs (a)(1) through (a)(4) of this section, not to exceed 15 percent of the total amount of countable expenditures for the fiscal year.

(ii) Costs for information technology and computerization needed for tracking or monitoring required by or under part IV-A of the Act do not count towards the limit in paragraph (5)(i) of this section, even if they fall within the definition of "administrative costs."

(A) This exclusion covers the costs for salaries and benefits of staff who develop, maintain, support, or operate the portions of information technology or computer systems used for tracking and monitoring.

(B) It also covers the costs of contracts for the development, maintenance, support, or operation of those portions of information technology or computer systems used for tracking or monitoring.

(b) With the exception of paragraph (a)(4)(ii) of this section, the benefits or services listed under paragraph (a) of this section count only if they have been provided to or on behalf of eligible families. An "eligible family" as defined by the State, must:

(1) Be comprised of citizens or aliens who:

(i) Are eligible for TANF assistance;

(ii) Would be eligible for TANF assistance, but for the time limit on the receipt of federally funded assistance; or

(iii) Are lawfully present in the United States and would be eligible for assistance, but for the application of title IV of PRWORA;

(2) Include a child living with a custodial parent or other adult caretaker relative (or consist of a pregnant individual); and

(3) Be financially eligible according to the appropriate income and resource (when applicable) standards established by the State and contained in its TANF plan.

(c) Benefits or services listed under paragraph (a) of this section provided to a family that meets the criteria under paragraphs (b)(1) through (b)(3) of this section, but who became ineligible solely due to the time limitation given under § 264.1 of this chapter, may also count.

(d) Expenditures for the benefits or services listed under paragraph (a) of this section count whether or not the benefit or service meets the definition of assistance under § 260.31 of this chapter. Further, families that meet the criteria in paragraphs (b)(2) and (b)(3) of this section are considered to be eligible for TANF assistance for the purposes of paragraph (b)(1)(i) of this section.

(e) Expenditures for benefits or services listed under paragraph (a) of this section may include allowable costs borne by others in the State (e.g. local government), including cash donations from non-Federal third parties (e.g., a non-profit organization) and the value of third party in-kind contributions if:

(1) The expenditure is verifiable and meets all applicable requirements in 45 CFR 92.3 and 92.24;

(2) There is an agreement between the State and the other party allowing the State to count the expenditure toward its MOE requirement; and

(3) The State counts a cash donation only when it is actually spent.

(f)(1) The expenditures for benefits or services in State-funded programs listed under paragraph (a) of this section count only if they also meet the requirements of § 263.5.

(2) Expenditures that fall within the prohibitions in § 263.6 do not count.

(g) State funds used to meet the Healthy Marriage Promotion and Responsible Fatherhood Grant match requirement may count to meet the MOE requirement in § 263.1, provided the expenditure also meets all the other MOE requirements in this subpart.

Sec. 263.3 When do child care expenditures count?

(a) State funds expended to meet the requirements of the CCDF Matching Fund (i.e., as match or MOE amounts) may also count as basic MOE expenditures up to the State's child care MOE amount that must be expended to qualify for CCDF matching funds.

(b) Child care expenditures that have not been used to meet the requirements of the CCDF Matching Fund (i.e., as match or MOE amounts), or any other Federal child care program, may also count as basic MOE expenditures. The limit described in paragraph (a) of this section does not apply.

(c) The child care expenditures described in paragraphs (a) and (b) of this section must be made to, or on behalf of, eligible families, as defined in Sec. 263.2(b).

Sec. 263.4 When do educational expenditures count?

(a) Expenditures for educational activities or services count if:

(1) They are provided to eligible families (as defined in Sec. 263.2(b)) to increase self-sufficiency, job training, and work; and

(2) They are not generally available to other residents of the State without cost and without regard to their income.

(b) Expenditures on behalf of eligible families for educational services or activities provided through the public education system do not count unless they meet the requirements under paragraph (a) of this section.

Sec. 263.5 When do expenditures in State-funded programs count?

(a) If a current State or local program also operated in FY 1995, and expenditures in this program would have been previously authorized and allowable under the former AFDC, JOBS, Emergency Assistance, Child Care for AFDC recipients, At-Risk Child Care, or Transitional Child Care programs, then current fiscal year expenditures in this program count in their entirety, provided that the State has met all requirements under Sec. 263.2.

(b) If a current State or local program also operated in FY 1995, and expenditures in this program would not have been previously authorized and allowable under the former AFDC, JOBS, Emergency Assistance, Child Care for AFDC recipients, At-Risk Child Care, or Transitional Child Care programs, then countable expenditures are limited to the amount by which total current fiscal year expenditures that meet the requirements under Sec. 263.2 exceed total State expenditures in the program during FY 1995.

Sec. 263.6 What kinds of expenditures do not count? *[Revised June 29, 2006]*

The following kinds of expenditures do not count:

- (a) Expenditures of funds that originated with the Federal government;
- (b) State expenditures under the Medicaid program under title XIX of the Act;
- (c) Expenditures that a State makes as a condition of receiving Federal funds under another program that is not in Part IV-A of the Act, except as provided in § 263.3;
- (d) Expenditures that a State made in a prior fiscal year;
- (e) Expenditures that a State uses to match Federal Welfare-to-Work funds provided under section 403(a)(5) of the Act; and
- (f) Expenditures that a State makes in the TANF program to replace the reductions in the SFAG as a result of penalties, pursuant to § 264.50 of this chapter.

Sec. 263.8 What happens if a State fails to meet the basic MOE requirement?

(a) If any State fails to meet its basic MOE requirement for any fiscal year, then we will reduce dollar-for-dollar the amount of the SFAG payable to the State for the following fiscal year.

(b) If a State fails to meet its basic MOE requirement for any fiscal year, and the State received a WtW formula grant under section 403(a)(5)(A) of the Act for the same fiscal year, we will also reduce the amount of the SFAG payable to the State for the following fiscal year by the amount of the WtW formula grant paid to the State.

Sec. 263.9 May a State avoid a penalty for failing to meet the basic MOE requirement through reasonable cause or corrective compliance?

No. The reasonable cause and corrective compliance provisions at Sec. Sec. 262.4, 262.5, and 262.6 of this chapter do not apply to the penalties in Sec. 263.8.

From Appendix I to 45 CFR 265 -**Annual Report on State Maintenance-of-Effort Programs: ACF-204**

State _____ Fiscal Year _____ DateSubmitted _____

Complete this form for each program for which the State claims MOE expenditures.

1. Program Name: _____
 2. Description of Major Program Activities: _____
 3. Program Purpose(s): _____
 4. Program Type. Program is: under the TANF program _____ is a separate State/local program _____.
 5. Description of Work Activities
(Complete only if this is a separate State/local program): _____
 6. Total State Expenditures for Program: _____ (by federal fiscal year)
 7. Total State MOE Expenditures: _____ (by federal fiscal year).
 8. Number of Families Served with MOE Funds: _____
This figure represents: the average monthly total _____ total for the year _____
 9. Eligibility Criteria: _____
 10. Prior Program Authorization:
Was this program authorized and allowable under prior law? Yes _____ No _____
 11. Total Program Expenditures in FY 1995. _____
This certifies that all families for which the State claims MOE expenditures for the fiscal year meet the State's criteria for "eligible families."
- Signature: _____
- Name: _____
- Title: _____
- Approved OMB No. xxxx-xxxx Form ACF- 204

Instruction for Completion of Form ACF-204 Annual Report on State Maintenance-of- Effort Programs

All States must complete and submit this report in accordance with these instructions and the requirements at 45 CFR 265.9(c) on behalf of the State agency administering the TANF Program.

Due Dates: This form must be submitted by November 14.

States must submit this report for each fiscal year. Also, each State must complete a form for each program for which the State has claimed MOE expenditures for the fiscal year.

Distribution: The original copy (with original signatures) should be submitted to:

Administration for Children and Families,
Office of Family Assistance, Aerospace
Building, 5th Floor, 370 L'Enfant Promenade,
S.W., Washington, D.C. 20447. An additional copy should be submitted to the ACF
Regional Administrator.

General Instructions

—Round all dollar amounts to the nearest dollar. Omit cents.

—Enter State Name.

—Enter the Fiscal Year for which this report is being submitted. Enter the date that the report is being submitted.

Line Item Instructions

Line 1. Program name. Enter the name of the program.

Line 2. Description of major activities. Describe the major activities and major types of benefits and services provided under the program.

Line 3. Program purpose. Provide the purpose(s) of the program and relate this purpose to the statutory and regulatory TANF purposes (at 45 CFR 260.20).

Line 4. Program type. Put an “X” on the appropriate line (indicating whether the MOE expenditures are being made under the TANF program or under a separate State program.

Line 5. Work program description. If the program is a separate State program, describe the work activities (if any) provided for eligible families and the extent to which eligible families are subject to work requirements. If the work activities are the same as the TANF activities, or a subset of the TANF activities, you may include a list of the activities and a cross-reference to the definitions provide in the annual report rather than representing them. (It is not necessary to describe work activities provided under TANF because that information is provided elsewhere.) Also include information explaining whether individuals served by the program must participate in work activities and describing the extent to which such requirements apply (e.g., to which categories of recipients).

Line 6. Total amount of State expenditures. Enter the total dollar amount of State expenditures in the program during the Federal fiscal year.

Line 7. Total State MOE expenditures. Enter the total dollar amount of expenditures reported in item 16 that are reported as State MOE expenditures.

Line 8. Number of families served with MOE funds. Enter the number of eligible families that are receiving assistance and other forms of services and supports under the program. Also, put an “X” on the appropriate line to indicate whether the number being provided is a report on the average monthly number of families being served or on the total number served over the course of the fiscal year.

Line 9. Eligibility criteria. Provide the eligibility criteria for families served under this program. If the eligibility criteria differ for different kinds of program benefits or activities, specify the eligibility criteria for all the major benefits and activities.

Line 10. Prior authorization. Put an “X” on the appropriate line to indicate whether the program was authorized and allowable under

prior law. Programs that were previously authorized and allowable under prior law (i.e., under an approved State IV–A plan in effect either on Sept. 30, 1995, or August 21, 1996, at State option) are not subject to the “new spending” test.

Line 11. Total program expenditures in 1995. If the program was not previously authorized and allowable (i.e., if the answer on item #10 is “No”), enter the total expenditures for the program in 1995. Only qualified State expenditures above this level may count towards the State MOE total.

Certification. The certification must be signed by an authorized official. Under the signature line, type the title of the authorized official, together with the agency name.

Excerpt from Code of Federal Regulations Title 45, Volume 1

[Revised as of October 1, 2005]

From the U.S. Government Printing Office via GPO Access

[CITE: 45CFR92.3]

TITLE 45--PUBLIC WELFARE
SUBTITLE A--DEPARTMENT OF HEALTH AND HUMAN SERVICES
PART 92_ UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND
COOPERATIVE AGREEMENTS TO STATE, LOCAL, AND TRIBAL
GOVERNMENTS--Table of Contents
Subpart A_ General

Sec. 92.3 Definitions.

As used in this part:

Accrued expenditures mean the charges incurred by the grantee during a given period requiring the provision of funds for:

- (1) Goods and other tangible property received;
- (2) services performed by employees, contractors, subgrantees, subcontractors, and other payees; and
- (3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

Accrued income means the sum of: (1) Earnings during a given period from services performed by the grantee and goods and other tangible property delivered to purchasers, and (2) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

Acquisition cost of an item of purchased equipment means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

Administrative requirements mean those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from programmatic requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

Awarding agency means (1) with respect to a grant, the Federal agency, and (2) with respect to a subgrant, the party that awarded the subgrant.

Cash contributions means the grantee's cash outlay, including the outlay of money contributed to the grantee or subgrantee by other public agencies and institutions, and private organizations and individuals.

When authorized by Federal legislation, Federal funds received from other assistance agreements may be considered as grantee or subgrantee cash contributions.

Contract means (except as used in the definitions for grant and subgrant in this section and except where qualified by Federal) a procurement contract under a grant or subgrant, and means a procurement subcontract under a contract.

Cost sharing or matching means the value of the third party in-kind contributions and the portion of the costs of a federally assisted project or program not borne by the Federal Government.

Cost-type contract means a contract or subcontract under a grant in which the contractor or subcontractor is paid on the basis of the costs it incurs, with or without a fee.

Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

Expenditure report means: (1) For nonconstruction grants, the SF-269 "Financial Status Report" (or other equivalent report); (2) for construction grants, the SF-271 "Outlay Report and Request for Reimbursement" (or other equivalent report).

Federally recognized Indian tribal government means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

Government means a State or local government or a federally recognized Indian tribal government.

Grant means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

Grantee means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.

Local government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

OMB means the United States Office of Management and Budget.

Outlays (expenditures) mean charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For

reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the new increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subgrantees, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

Percentage of completion method refers to a system under which payments are made for construction work according to the percentage of completion of the work, rather than to the grantee's cost incurred.

Prior approval means documentation evidencing consent prior to incurring specific cost.

Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

Share, when referring to the awarding agency's portion of real property, equipment or supplies, means the same percentage as the awarding agency's portion of the acquiring party's total costs under the grant to which the acquisition costs under the grant to which the acquisition cost of the property was charged. Only costs are to be counted--not the value of third-party in-kind contributions.

State means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

Subgrant means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases, nor does it include any form of assistance which is excluded from the definition of grant in this part.

Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

Supplies means all tangible personal property other than equipment as defined in this part.

Suspension means depending on the context, either (1) temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee or subgrantee or a decision to terminate the grant, or (2) an action taken by a suspending official in accordance with agency regulations implementing E.O. 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

Termination means permanent withdrawal of the authority to obligate previously-awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee or subgrantee. "Termination" does not include: (1) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period; (2) Withdrawal of the unobligated balance as of the expiration of a grant; (3) Refusal to extend a grant or award additional funds, to make a competing or noncompeting continuation, renewal, extension,

or supplemental award; or (4) voiding of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

Terms of a grant or subgrant mean all requirements of the grant or subgrant, whether in statute, regulations, or the award document.

Third party in-kind contributions mean property or services which benefit a federally assisted project or program and which are contributed by non-Federal third parties without charge to the grantee, or a cost-type contractor under the grant agreement.

Unliquidated obligations for reports prepared on a cash basis mean the amount of obligations incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.

Unobligated balance means the portion of the funds authorized by the Federal agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

Subpart C_Post-Award Requirements

Sec. 92.24 Matching or cost sharing.

(a) Basic rule: Costs and contributions acceptable. With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:

(1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.

(2) The value of third party in-kind contributions applicable to the period to which the cost sharing or matching requirements applies.

(b) Qualifications and exceptions--(1) Costs borne by other Federal grant agreements. Except as provided by Federal statute, a cost sharing or matching requirement may not be met by costs borne by another Federal grant. This prohibition does not apply to income earned by a grantee or subgrantee from a contract awarded under another Federal grant.

(2) General revenue sharing. For the purpose of this section, general revenue sharing funds distributed under 31 U.S.C. 6702 are not considered Federal grant funds.

(3) Cost or contributions counted towards other Federal costs-sharing requirements. Neither costs nor the values of third party in-kind contributions may count towards satisfying a cost sharing or matching requirement of a grant agreement if they have been or will be counted towards satisfying a cost sharing or matching requirement of another Federal grant agreement, a Federal procurement contract, or any other award of Federal funds.

(4) Costs financed by program income. Costs financed by program income, as defined in Sec. 92.25, shall not count towards satisfying a cost sharing or matching requirement unless they are expressly permitted in the terms of the assistance agreement. (This use of general program income is described in Sec. 92.25(g).)

(5) Services or property financed by income earned by contractors. Contractors under a grant may earn income from the activities carried out under the contract in addition to the amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost sharing or matching

requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the requirement.

(6) Records. Costs and third party in-kind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors. These records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be supported by the same methods that the organization uses to support the allocability of regular personnel costs.

(7) Special standards for third party in-kind contributions.

(i) Third party in-kind contributions count towards satisfying a cost sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.

(ii) Some third party in-kind contributions are goods and services that, if the grantee, subgrantee, or contractor receiving the contribution had to pay for them, the payments would have been an indirect costs. Costs sharing or matching credit for such contributions shall be given only if the grantee, subgrantee, or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions.

(iii) A third party in-kind contribution to a fixed-price contract may count towards satisfying a cost sharing or matching requirement only if it results in:

(A) An increase in the services or property provided under the contract (without additional cost to the grantee or subgrantee) or

(B) A cost savings to the grantee or subgrantee.

(iv) The values placed on third party in-kind contributions for cost sharing or matching purposes will conform to the rules in the succeeding sections of this part. If a third party in-kind contribution is a type not treated in those sections, the value placed upon it shall be fair and reasonable.

(c) Valuation of donated services--(1) Volunteer services. Unpaid services provided to a grantee or subgrantee by individuals will be valued at rates consistent with those ordinarily paid for similar work in the grantee's or subgrantee's organization. If the grantee or subgrantee does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount for fringe benefits may be included in the valuation.

(2) Employees of other organizations. When an employer other than a grantee, subgrantee, or cost-type contractor furnishes free of charge the services of an employee in the employee's normal line of work, the services will be valued at the employee's regular rate of pay exclusive of the employee's fringe benefits and overhead costs. If the services are in a different line of work, paragraph (c)(1) of this section applies.

(d) Valuation of third party donated supplies and loaned equipment or space. (1) If a third party donates supplies, the contribution will be valued at the market value of the supplies at the time of donation.

(2) If a third party donates the use of equipment or space in a building but retains title, the contribution will be valued at the fair rental rate of the equipment or space.

(e) Valuation of third party donated equipment, buildings, and land. If a third party donates equipment, buildings, or land, and title passes to a grantee or subgrantee, the

treatment of the donated property will depend upon the purpose of the grant or subgrant, as follows:

(1) Awards for capital expenditures. If the purpose of the grant or subgrant is to assist the grantee or subgrantee in the acquisition of property, the marketvalue of that property at the time of donation may be counted as cost sharing or matching,

(2) Other awards. If assisting in the acquisition of property is not the purpose of the grant or subgrant, paragraphs (e)(2) (i) and (ii) of this section apply:

(i) If approval is obtained from the awarding agency, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant, the terms of the grant agreement may require that the approval be obtained from the Federal agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or rental of the land would be approved as an allowable direct cost. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost-sharing or matching.

(ii) If approval is not obtained under paragraph (e)(2)(i) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated equipment and buildings. The depreciation or use allowances for this property are not treated as third party in-kind contributions. Instead, they are treated as costs incurred by the grantee or subgrantee. They are computed and allocated (usually as indirect costs) in accordance with the cost principles specified in Sec. 92.22, in the same way as depreciation or use allowances for purchased equipment and buildings. The amount of depreciation or use allowances for donated equipment and buildings is based on the property's market value at the time it was donated.

(f) Valuation of grantee or subgrantee donated real property for construction/acquisition. If a grantee or subgrantee donates real property for a construction or facilities acquisition project, the current market value of that property may be counted as cost sharing or matching. If any part of the donated property was acquired with Federal funds, only the non-federal share of the property may be counted as cost sharing or matching.

(g) Appraisal of real property. In some cases under paragraphs (d), (e) and (f) of this section, it will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In these cases, the Federal agency may require the market value or fair rental value be set by an independent appraiser, and that the value or rate be certified by the grantee. This requirement will also be imposed by the grantee on subgrantees.