

## THE SUPPORTING STATEMENT

### Specific Instructions

Please do not remove or alter the headings below

#### A. Justification

##### 1. Circumstances Making the Collection of Information Necessary

The Children's Bureau, ACYF/ACF/DHHS, is seeking renewal authority for its existing information collection effort regarding program improvement plans resulting from title IV-E Foster Care Eligibility Reviews (FCER), re-authorization of the monitoring protocols for the Child and Family Service Reviews (CFSR) including program improvement plans, and re-authorization of the corrective action plan regarding the anti-discrimination enforcement to remove barriers to interethnic foster care placements and adoptions.

Sections 472 [42 U.S.C. 672] and 474 [42 U.S.C 674] of the Social Security Act (the Act) and 45 CFR 1356.71(i) govern the collection of information for review of Federal payments to States for foster care maintenance. The FCERs ensure that States claim title IV-E funds on behalf of title IV-E eligible children. There is one information collection associated with the title IV-E eligibility reviews: a program improvement plan.

Section 1123A [42 U.S.C. 1320a-1a] of the Act and regulations at 45 CFR 1355.33(b), 45 CFR 1355.33(c) and 45 CFR 1355.35(a) govern the Child and Family Service Reviews (CFSR). Three information collections are associated with the CFSR: a statewide assessment, an on-site review, and a program improvement plan. The CFSR looks at both the outcomes related to safety, permanency and well-being of children served by the child welfare system and at seven systemic factors that support the outcomes.

Section 474 (d) of the Act [42 U.S. C. 671] deploys enforcement provisions (45 CFR 1355.38(b) and (c)) for the requirements at section 471(a)(18) [42 U.S.C. 671], which prohibit the delay or denial of foster and adoptive placements based on the race, color, or national origin of any of the individuals involved. The enforcement provisions require the execution and completion of corrective action plans when a State is in violation of section 471(a)(18).

##### 2. Purpose and Use of the Information Collection

###### ***Title IV-E Foster Care Eligibility Review PIPs***

The Children's Bureau ensures that funds for the title IV-E Foster Care program are expended for intended use through the regulatory FCER. The title IV-E Foster Care program provides funds to States to assist with board and care payments for eligible

children under the supervision of the State and placed in foster family homes or childcare institutions that are safe and licensed; administrative expenses to operate the program; and training for State staff, foster parents, and private agency staff. The FCER, promulgated in regulations at 45 CFR 1356.71, are routinely and systematically conducted by the Children's Bureau in every State (the 50 States, District of Columbia and Puerto Rico) to ensure that foster care maintenance payments are made only for program-eligible children. The FCER is a collaborative effort between the State and Federal governments. Each FCER examines a State's level of compliance in meeting the Federal eligibility requirements necessary for Federal financial participation in the title IV-E Foster Care program and validates the accuracy of a State's claim for reimbursements of foster care payments. Effective validations are made by examining case records of the child and provider and payment documentation. Each FCER also details the strengths and weaknesses of each State's program and identifies technical assistance for program improvement. The primary purpose of the FCER is to recover title IV-E funds claimed by States for ineligible children and, in conjunction with the required program improvement plan (PIP) for those States determined non-compliant, to help States change their behavior so that subsequent reviews will result in lower error rates and meaningful program improvements.

As stated above, States that do not meet the compliance threshold for the FCER are required to develop and implement a PIP and undergo a more extensive, secondary level of program review. The State has one year to complete its PIP, unless an extension is granted. There is no specific format for developing a PIP; however, the PIP must be designed to lead to measurable changes in program operations and must identify the specific action steps developed to attain the desired outcomes and correct program deficiencies. If the State again is determined noncompliant following the PIP implementation period and the secondary FCER, an extrapolated penalty is assessed in addition to case-specific financial disallowances.

From fiscal year 2003 through fiscal year 2008, there were 107 FCERs conducted. Twenty-nine PIPs were developed during this period.

### **Child and Family Service Reviews**

Section 1123A [42 U.S.C. 1320a-1a] of the Act and regulations at 45 CFR 1355.33(b), 45 CFR 1355.33(c) and 45 CFR 1355.35(a) require a review of a State's child welfare program including program performance related to child protective services, foster care, adoption, family preservation and family support, and independent living. In addition to reviewing for the State's substantial conformity with applicable requirements, the CFSRs are designed to help States improve child welfare services and the outcomes for families and children who receive services by identifying strengths and needs within State programs, as well as areas where technical assistance can lead to program improvements. The CFSRs are a collaborative effort between the State and Federal governments. A review team composed of both State and Federal staff conducts the reviews and evaluates

State performance. The first round of CFSRs was conducted in all fifty States, the District of Columbia, and Puerto Rico. The first round ended in March 2004. The second round of on-site reviews began in March of 2007 and is scheduled to be completed in September of 2010.

There are three phases included in the CFSR process: the statewide assessment, the on-site review and the program improvement phase. In the first phase of the review which is the six month period prior to the on-site review, the State completes a statewide assessment instrument by using statewide aggregate data along with information from other sources such as internal quality assurance activities, focus groups, or surveys to evaluate the programs under review. As part of the second phase, an on-site review instrument is completed for each of the cases reviewed to examine the outcomes of safety, permanency, and well-being for a sample of children and families served by the State. Also during the on-site review, stakeholder interview guides are used to capture information obtained from both local site and state level stakeholder interviews. In the third phase, if determined not to be in substantial conformity, the State develops a PIP that covers all areas of non-conformity based on information gathered during the first two phases of the CFSR process. The Children's Bureau has developed a standard format that States use to prepare the PIP for submission to the Childre's Bureau's Regional Office. States use of this PIP format facilitates ease of review, approval, and tracking of the implementation of the PIP. All 50 states, Puerto Rico and the District of Columbia were required to complete a PIP after the first round of reviews, and so far through the second round of reviews all States reviewed have been required to develop a PIP.

### **Anti-Discrimination Enforcement**

There is no formal review process for section 471(a)(18) which prohibits the delay or denial of foster and adoptive placements based on the race, color, or national origin of any of the individuals involved. States, including entities in the state who receive Federal government funds and who are involved in foster care and adoptive placements, may not deny a person the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin. Additionally, States may not delay or deny placement of a child for adoption or placement into foster care based on the race, color, or national origin of either the adoptive or foster parent or of the child involved.

Federal regulations require a State found to be in violation of section 471(a)(18) of the Act with respect to a person or the State's statutes, regulations, policies, procedures or practices to develop and submit a corrective action plan to ACF. A State has six months to develop, obtain approval of and implement a plan of corrective action after it receives written notification from the Children's Bureau that is it in violation of section 471(a) (18) of the Act. A corrective plan must identify the issues to be addressed, set forth the steps for taking corrective action, identify any technical assistance needs and sources of technical assistance, and specify the completion date. There is no template for a

corrective action plan.

### 3. Use of Improved Information Technology and Burden Reduction

For the FCER, the regulations at 45 CFR 1356.71(i) delineate the specific information that must be addressed in the state-specific PIP. The Children's Bureau does not require a specific record keeping format for the PIP nor does it specify the manner in which the State submits the document to the Children's Bureau. Electronic transmissions are strongly encouraged and supported through communication between the Children's Bureau and the States.

For the CFSR, ACF provides each State data related to each of the outcome areas based on the State's submissions to the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Child Abuse and Neglect Data System (NCANDS). This data is used in the formulation of the statewide assessment and sent to a State in advance of the CFSR. The Department provides this information to the States in the appropriate format. States may also draw information from their Statewide Automated Child Welfare Information Systems (SACWIS), provided the State has such a system, in completing the statewide assessment.

During the second round of Child and Family Services Review, which began in early 2007, the On-site Review Instrument and the Stakeholder Interview Guide will be automated. Each reviewer will have a tablet personal computer to record and store information.

The general benefits of automating the CFSR instruments have included an increased efficiency associated with the collection, accuracy and analysis of data during the onsite reviews. A wireless network is used to compile case ratings; and internet access and modem connections are used to transfer the case ratings from local sites to a central server for data processing to produce site-specific and State level reports.

More specifically, the benefits of the automated system include:

- increased accuracy in completing the instruments through a logic sequence component that will alert reviewers of rating errors, prompt them when a required data fields has not been completed, and serve as a preliminary quality assurance check;
- enhanced quality assurance review capability by allowing completed instruments to be transferred to site leader's laptop for quality assurance review and comment, rather than reviewing multiple hard copies;
- instantaneous reports of site-specific and state-level findings from the review;
- real-time access to data that will become readily available for viewing and downloading by the site leaders so teams can share data across the State;

- reduced time in data entry allowing a data file of the instruments to be transferred electronically to the Children’s Bureau for preparation of the final report. Time needed to complete the instruments also will decrease as staff become more proficient in using the equipment;
  - improved archiving of data through a data file that replaces the paper copies of the CFSR instruments, thereby improving the archiving of data; and
  - enhanced availability of data that will be in an application that allows easy access to viewing or printing of cases. The data file will eliminate copying and shipping of the instruments to the States following the review.
4. Efforts to Identify Duplication and Use of Similar Information  
No other data source collects similar information.
  5. Impact on Small Businesses or Other Small Entities  
This information collection does not impact small businesses or other small entities.
  6. Consequences of Collecting the Information Less Frequently

#### ***Foster Care Eligibility Review PIPs***

Federal regulations require the review of the State’s compliance with title IV-E eligibility provisions and associated payments at least every three years, and more frequently if a State is found not in conformity. States determined not in compliance are required by these regulations to complete a State-specific PIP designed to correct the areas of non-compliance and to strengthen State programs. The PIP must identify the specific action steps necessary to attain desired outcomes and correct program deficiencies. Each action strategy must have a projected completion date that will not extend more than one year from the date the PIP is approved by the Children’s Bureau. This assures that proper attention is given to correcting deficiencies in a timely manner. The development and implementation of the PIP is the critical key to identifying the reasons why performance standards are not met and to motivating States to do something about correcting identified problems. Through the PIP process States are able to strategically identify and redirect resources to effectuate systemic changes that lead to effective child welfare systems and improved services to children and families. If a State refuses to engage in the PIP planning and implementation process, the Children’s Bureau is authorized to immediately conduct a secondary FCER of a substantially larger number of State foster care cases which can result in a geometrically larger financial penalty than was taken as a result of the primary FCER. The PIP is required by Federal regulations at 45 CFR 1356.71(i). Legislative change is the only means to reduce or eliminate this burden.

#### ***Child and Family Services Reviews***

Federal statute and regulations require an outcomes-focused monitoring of state child welfare programs that focus on results in the areas of safety, permanency and well-being. These reviews ensure compliance with State plan requirements for title IV-B and IV-E of the Social Security Act as required by section 1123A. A State determined not to be in substantial compliance as a result of a review must develop and implement a PIP. A format is recommended for the CFSR PIP, but it is not mandatory. A State may opt to develop a PIP in its own format. The PIP is a plan that a State engages in for up to two years to address the issues that lead to it not being in substantial compliance.

A PIP is an essential component in the review process that requires a State agency to engage in corrective action in its child welfare program and the systems that support the program so that the State will achieve better outcomes related to safety, permanency and well-being for children. A State identifies what activities it will engage in to improve the quality of its program and what level of improvement in outcomes it plans on achieving. Therefore, it is important that PIPs be fully implemented both timely and successfully. The associated penalty for not being in substantial conformity with Federal provisions and standards are suspended pending completion of a PIP. Failure to engage in the PIP process or failure to successfully complete a PIP will result in the suspended penalties being taken. States found to be in compliance will be reviewed every 5 years, while States not in compliance will be reviewed 2 years after completion of a PIP.

The consequences to the Federal programs, if the reviews are not conducted, would be the inability to review and monitor critical outcomes for children and families served through the State child welfare system; an inability to review a State's compliance with State plan requirements of both titles IV-B and IV-E; a missed opportunity to formulate new policies and procedures that impact program operation, thus resulting in improved outcomes; and the inability to safeguard funds appropriated by Congress for these programs. Reduction of this burden could only come in the form of a legislative change.

### ***Anti-Discrimination Enforcement***

Federal statute and regulation prohibit discrimination based on the race, color, or national origin of persons seeking the opportunity to become a foster or adoptive parent, or the child who may be placed with that person. Delaying or denying a placement based on those criteria may deny a child an opportunity for a permanent home. If a State, or an entity in the State receiving funds for foster or adoptive placements, is found to have violated a person's civil rights on the basis of race, color or national origin, then the State must develop and implement a Corrective Action Plan (CAP). The CAPs are required by Federal law (section 474 (d) of the Act [42 U.S. C. 671]) and regulations (section 471(a) (18) [42 U.S.C. 671] with enforcement provisions at 45 CFR 1355.38(b) and (c) that address the issues underlying the discriminatory action. There also are financial penalties associated with the discrimination. The amount of the penalties can be significant and are levied on the State or on the entity who engaged in such discrimination. Consequences to the Federal programs if the CAP is not developed and implemented

leads to a non-compliance with Federal statute with the possibility of continued discrimination that might require remedy under other Federal laws for the aggrieved individual(s). A CAP provides an opportunity to address the deficiencies in a State's programs and/or policies, or for the entity to correct program deficiencies. Without this attention to corrective action, there is a much greater likelihood that discrimination will continue, possibly at an increased rate.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

There are no special circumstances required in the collection of this information in a manner other than required by OMB.

8. Comments in Response to the Federal Register Notice and Efforts to Consult Outside the Agency

A 60-day notice soliciting comments on the information collection was published in the Federal Register on May 8, 2009 (74 FR 21689). The Children's Bureau did not receive any comments in response to the notice.

9. Explanation of Any Payment or Gift to Respondents

No payment or gifts will be provided to any respondents, other than remuneration of contractors or grantees.

10. Assurance of Confidentiality Provided to Respondents

The State child welfare agency is the respondent; therefore, no assurance is needed because the information collected is for the respondent's use in making internal programmatic and systemic improvements. As a public agency, any information regarding the State child welfare agency's performance is public domain. Moreover, OMB instructed the Children's Bureau to require States to make public the findings of the child welfare monitoring reviews. Thus, final reports of the monitoring findings are placed on the Children's Bureau website for public inspection and review. Information from the respondent and the State obtained through interviews with children, parents, foster parents, agency workers, and other agency stakeholders is subject to the confidentiality requirements and protections set forth at 45 CFR 205.50.

11. Justification for Sensitive Questions

There are no questions of a sensitive nature in this collection.

12. Estimates of Annualized Burden Hours and Costs

**Information collection for title IV-E Foster Care Eligibility Review PIPs**

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Collection	Number of Respondents	Number of Responses	Average Burden Hours Per Response	Total Burden Hours
45 CFR 1356.71(i) Program Improvement Plan	7	1	90	630

Estimated Total Annual Burden Hours: 630

Title IV-E FCERs occur once every three years. This estimate presumes that one-third of the States will be reviewed each year and that one third of the States reviewed will be required to develop program improvement plans. This is consistent with our experience to date.

We estimate the annual cost of completing program improvement plans for title IV-E FCERs to be \$12,600 (630 hours at \$20.00/hour = \$12,600), or \$1,800 per State.

### Information collections for Child and Family Services Review

Collection	Number of Respondents	Number of Responses	Average Burden Hours Per Response	Total Burden Hours
45 CFR 1355.33(b) Statewide Assessment	13	1	240	3,120
45 CFR 1355.33(c) On-Site Review	13	1	1,170	15,210
45 CFR 1355.35(a) Program Improvement Plan	13	1	240	3,120

Estimated Total Annual Burden Hours: 21,450

There are 10 CFSR's scheduled for FY 2010. We estimate we will review an average of 13 States per year during the third round of reviews. Our experience to date indicates that every State reviewed will be required to complete a program improvement plan.

We estimate the annual cost of completing a statewide assessment phase of the CFSR to be \$62,400 (3,120 hours at \$20.00/hour = \$62,400), or \$4,800 per State.

We estimate the annual cost of completing the on-site review phase of the CFSR to be \$304,200 (15,210 hours at \$20.00/hour = \$304,200), or \$23,400 per State.



We estimate the annual cost of completing the program improvement plan phase of the CFSR to be \$62,400 (3,120 hours at \$20.00/hour = \$62,400), or \$4,800 per State.

For all three phases, we estimate the cost of the CFSR to be \$33,000 per State.

**Information collection for Corrective Action Plans (Anti-discrimination Enforcement)**

Collection	Number of Respondents	Number of Responses	Average Burden Hours Per Response	Total Burden Hours
1355.38(b) and (c) Corrective Action Plan	1	1	780	780

Estimated Total Annual Burden Hours: 780

Over the past three fiscal years there has been one State that has been required to develop and complete an approved Corrective Action Plan related to anti-discrimination enforcement. The figure here is based on the premise that the number of States found or alleged to have compliance issues since the information collection was initially authorized will continue to remain low. Each case must be handled differently depending on the circumstances involved.

We estimate the annual cost of completing corrective action plans for section 471(a)(18) violations to be \$15,600 (780 hours at \$20.00/hour = \$15,600), or \$15,600 per State.

For the five information collections discussed above, the total of the annual estimated number of hours for completing them is 22,860. The total of the estimated annual monetary value is (22,860 hours X \$20) \$457,200. In addition, the total of the estimated number of estimated respondents expected to complete the information collections is 47.

13. Estimates of Other Total Annual Cost Burden to Respondents and Record Keepers

There are no dollar costs to a State resulting from the five information collections.

Monitoring and evaluating State systems of care are customary and usual business practices utilized by States to ensure the effectiveness of the delivery of child welfare services and the efficiency of program administration. Therefore, States use existing resources to assist with accomplishing the tasks associated with the information collections. In addition, certain costs associated with these activities may be claimed for Federal reimbursement under the State's title IV-E authorization.

#### 14. Annualized Cost to the Federal Government

##### ***Title IV-E Foster Care Reviews PIPs***

We estimate an annual cost of \$25,200 to the Federal government as a result of the PIPs from the title IV-E FCER (120 hours x 7 PIPs per year x \$30.00/hr = \$25,200). This estimate consists of Regional and Central Office staff time for reviewing, approving and monitoring State progress in implementing the PIPs.

##### ***Child and Family Services Reviews***

The cost to the Federal government as a result of the CFSRs includes both Federal staff time and contract costs. For Federal staff time, we estimate an annual cost of \$46,800 (120 hours x 13 reviews per year x \$30.00/hr = \$46,800). This estimate consists of Regional and Central Office staff time for reviewing, approving and monitoring State progress in implementing the PIPs.

As of September 30, 2009 there will be one five-year contract for CFSR related activities. The Child Welfare Reviews the Project will consist of three components. The first is Child and Family Services Reviews component (which includes Child Welfare Monitoring). The second is the State Team Training component. The title IV-E FCER component is part of the Child Welfare Reviews Project contract; however, its process related to the PIP is separate from and does not factor into the costs for CFSR activities. There are no contractual costs directly tied to the FCER PIP. (Please see #14 for information regarding title IV-E FCER).

The estimated annual cost for the Child Welfare Reviews Project contract includes labor and other direct costs (i.e., travel and per diem, meetings, honoraria/consultants, telephone, postage/delivery, reproduction, supplies/equipment, and warehouse expenses). The estimated annual cost for each component of the contract is shown in the following chart:

### Estimated Annual CFSR Contract Costs

	Child Welfare Review Project	State Team Training Project	Contract Costs of the CFSR
Five-year Contract Amount	44,563,274	11,180,439	55,743,713
Annual Contract Cost	8,912,654	2,236,087	11,148,741

The total annual cost to the Federal government for the CFSR is \$11,195,541 (\$46,800 staff time and \$11,148,741 in contracts).

#### **Anti-Discrimination Enforcement**

We estimate an annual cost of \$3,600 to the Federal government primarily for staff time as a result of reviewing approving and monitoring existing and new anti-discrimination corrective action plans (120 hours x 1 review per year x \$30.00/hr = \$3,600).

For the five information collections discussed above, the total of the estimated annual cost to the Federal government is \$11,224,341.

#### 15. Explanation for Program Changes or Adjustments

There are no program changes. We have adjusted the estimates for the total annual burden hours from 21,450 to 22,860, the costs from \$429,000 to \$457,000, and respondents from 52 to 47. These adjustments correct the miscalculated figures reported in the current approval for the five information collections.

#### 16. Plans for Tabulation and Publication and Project Time Schedule

The Children's Bureau publishes on its website for each State the State's assessment, final report and PIP pertaining to the reviews. There are no requirements in the statute or regulation for publication of documents related to the FCER PIP, CFSR and anti-discrimination enforcement protocols.

Section 479(A) of the Act requires that HHS publish an annual report to Congress on the performance of each State on each outcome measure. Information from the CFSR with a particular focus on the statewide data profile (see section 3 of this document), a component of the assessment phase of the review process, is compiled in summary format and submitted to Congress and shared with all interested parties.

#### 17. Reason(s) Display of OMB Expiration Date is Inappropriate

There is no standardized form or template issued to States to use in developing a FCER

PIP; therefore, there is no document upon which to display a valid OMB control number and expiration date. Regulations at 45 CFR 1356.71(i) govern the collection of this information.

For the CFSR, the Department will display the OMB number and expiration date on the Statewide Assessment, On-Site Review Instruments and the template for the PIP.

There is no standardized form or template issued to States to use in developing a corrective action plan for the anti-discrimination enforcement protocol; therefore, there is no document upon which to display a valid OMB control number and expiration date. Regulations at 45 CFR 1355.38(b) and (c) detail the requirements and timelines required to be addressed in a correction action plan.

#### 18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification statement.

### **B. Statistical Methods (used for collection of information employing statistical methods)**

The information collections discussed in this document do not lend themselves to the use of statistical methods as they entail either the review of case records, client/stakeholder interviews, or corrective action plans.

#### 1. Respondent Universe and Sampling Methods

Not applicable

#### 2. Procedures for the Collection of Information

Not applicable

#### 3. Methods to Maximize Response Rates and Deal with Nonresponse

Not applicable

#### 4. Test of Procedures or Methods to be Undertaken

Not applicable

#### 5. Individuals Consulted on Statistical Aspects and Individuals Collecting and/or Analyzing Data

Not applicable