

## **SUPPORTING STATEMENT**

**OMB # 0970-0214**

### **A. JUSTIFICATION**

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

The Administration for Children and Families (ACF) seeks permission to revise a currently approved information collection because the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law (Pub. L.) 110-351) (Fostering Connections) permits Indian Tribes, Tribal organizations, and Tribal consortia (Tribes) to directly-operate a title IV-E program. As a result, the burden estimates in this information collection are revised to include Tribes.

Effective October 1, 2009, section 479B(b) of the Social Security Act (the Act) authorizes direct Federal funding to Tribes that directly-operate a foster care, adoption assistance and, at Tribal option, a kinship guardianship assistance program under title IV-E of the Act. In accordance with section 479B(b) of the Act, title IV-E requirements apply to Indian Tribes approved to directly-operate a title IV-E program “in the same manner as this part applies to a State” except for a limited number of provisions provided for in statute (section 479B(b) of the Act).

Fostering Connections requires that ACF issue an interim final regulation (IFR) addressing:

procedures to ensure that a transfer of responsibility for the placement and care of a child under a State title IV-E plan to a Tribal title IV-E plan occurs in a manner that does not affect the child's eligibility for title IV-E or title XIX benefits, including Medicaid, under the Act and such services or payments; in-kind expenditures from third-party sources for the Tribal share of administration and training expenditures under title IV-E; and other provisions to carry out the Tribal-related amendments to title IV-E. The IFR was received by OMB for approval on September 1, 2011.

Also revised are: earlier cost and burden estimates regarding the child and family services review (CFSR) statewide assessment; CFSR on-site review; CFSR program improvement plan (PIP); title IV-E foster care eligibility review PIP; and anti-discrimination enforcement corrective action plan cost and burden estimates. With experience, we became aware that some of the earlier estimates did not reflect the actual high costs and burdens that resulted from these activities.

Copies of the relevant sections of the federal statute are attached.

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

This collection is used by the Children's Bureau and others for various purposes including: to monitor how child protective services, foster care, adoption, guardianship, family preservation and family support, and independent living services are delivered to families; and the extent to

which title IV-E agencies restrict claiming for title IV-E benefits to eligible children and act in accordance with section 471(a)(18) of the Act (which prohibits discrimination on the basis of race, color, or national origin per the Multi-Ethnic Placement Act (MEPA)).

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

For the CFSR on-site review, ACF uses automated instruments and stores information electronically. ACF encourages title IV-E agencies to electronically submit their Statewide Assessment and CFSR PIPs.

**4. Efforts to Identify Duplication and Use of Similar Information.**

No other data sources collect similar information.

**5. Impact on Small Businesses or Other Small Entities.**

This information collection does not impact small businesses or other small entities. Title IV-E agencies are required to collect and report this information.

**6. Consequence of Collecting the Information Less Frequently.**

*CFSR* – ACF needs the information collection to ensure compliance with plan requirements for

titles IV-B and IV-E of the Act as required by section 1123A of the Act and 45 CFR 1355.31 through .35. The consequences to the Federal programs if the reviews are not conducted would be the inability to ensure that title IV-E agencies are achieving critical outcomes for children and families; an inability to review compliance with plan requirements of both titles IV-B and IV-E; and the inability to safeguard funds appropriated by Congress for these programs. Reducing this burden could only come from a regulatory or statutory change.

***Title IV-E Foster Care Eligibility Review PIP*** – ACF requires at 45 CFR 1355.71 that title IV-E agencies not in substantial compliance with a title IV-E foster care eligibility review complete a PIP. Completing and complying with a PIP increases payment accuracy and reduces erroneous payments. Reducing this burden could only come from a regulatory or statutory change.

***Anti-Discrimination enforcement corrective action plan*** – ACF requires at 45 CFR 1355.38(b) that a title IV-E agency found to be in violation of section 471(a)(18) of the Act must develop and submit a corrective action plan within 30 days of receiving written notice from ACF of its violation. Reducing this burden could only come from a regulatory or statutory change.

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

There are no special circumstances required to collect 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.**

On March 13, 2009, ACF published a Federal Register notice, 74 FR 10920, inviting Tribal leaders and/or their representatives to attend one of seven in-person meetings and/or provide written comments on several topics related to development of the IFR. None of the comments were relevant to the information collection burden.

**9. Explanation of Any Payments or Gift to Respondents.**

No gifts or payments will be provided to any respondents.

**10. Assurance of Confidentiality Provided to Respondents.**

There is no assurance of confidentiality in the CFSR information collections, title IV-E eligibility reviews program improvement plans, or MEPA corrective action plans.

**11. Justification for Sensitive Questions.**

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

**12. Estimate of Annualized Burden Hours and Costs.**

ANNUAL BURDEN ESTIMATES

<b>Collection</b>	<b>Number of Respondents</b>	<b>Number of Responses</b>	<b>Average Burden Hours Per Response</b>	<b>Total Burden Hours</b>
Statewide or Tribal Assessment 45 CFR 1355.33(b) (0970-0214)	14	1	240	3,360
On-Site Review 45 CFR 1355.33(c) (0970-0214)	14	1	1,170	16,380
CFSR Program Improvement Plan 45 CFR 1355.35(a) (0970-0214)	14	1	240	3,360
Corrective Action Plan (MEPA) 45 CFR 1355.38(b) (0970-0214)	1	1	780	780
Title IV-E Program Improvement Plan 45 CFR 1356.71(i) (0970-0214)	8	1	90	720

Estimated Total Annual Burden Hours: 24,600

Below we describe how we arrived at the estimated burden:

- The Statewide or Tribal assessment addresses outcomes for children and systemic factors under review in a CFSR including, but not limited to, the information system, case review system, quality assurance system, staff training, service array, agency responsiveness to the community, and foster care and adoptive parent licensing

recruitment and retention.

- The CFSR on-site review examines case records of children and families served by the title IV-E agency and interviews with caseworkers and key stakeholders (among other things).
- Title IV-E agencies are required to submit CFSR PIPs when their child welfare services are out of conformity on any of seven outcomes or seven systemic factors assessed.
- Title IV-E agencies determined to be in noncompliance with recipient or provider eligibility provisions of title IV-E or applicable regulations must develop a PIP designed to correct the areas determined not to be in substantial compliance.
- MEPA corrective action plans – In anti-discrimination enforcement actions, the Office for Civil Rights and ACF work jointly to assist the title IV-E agency to develop and implement corrective action plans to remedy violations for which the title IV-E agency was cited.

### ***CFSR***

We estimated in the previously approved information collection that we would review an average of 13 title IV-E agencies per year during the third round of CFSRs. Given the complexities and issues to conduct a CFSR for a Tribal title IV-E agency, we estimate we will conduct a CFSR in no more than one Indian Tribe during the first three year period after the effective date of the IFR. That would mean 14 on-site reviews, statewide or Tribal assessments, and PIPs. Our experience to date indicates that every title IV-E agency reviewed will be required to complete a PIP.

- We estimate the annual cost to complete the statewide or Tribal assessment phase of the CFSR to be \$67,200 (3,360 hours at \$20.00 per hour = \$67,200), or \$4,800 per title IV-E agency.
- We estimate the annual cost of completing the on-site review phase of the CFSR to be \$327,600 (16,380 hours at \$20.00 per hour = \$327,600), or \$23,400 per title IV-E agency.
- We estimate the annual cost of completing the PIP phase of the CFSR to be \$67,200 (3,360 hours at \$20.00 per hour = \$67,200), or \$4,800 per title IV-E agency.

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

We expect these reviews for Indian Tribes to begin within a four year period after an Indian Tribe's title IV-E plan is approved, if the Tribal title IV-E agency has a sufficient number of cases for the procedures in 45 CFR 1356.71 to apply. Therefore, we estimate that at most one additional PIP will be developed during the first three year period. ACF has current OMB approval for 7 title IV-E foster care eligibility review PIPs.

- We estimate the annual cost of completing PIPs for title IV-E eligibility reviews to be \$14,400 (720 hours at \$20.00 per hour = \$14,400), or \$1,800 per title IV-E agency.

#### ***MEPA Corrective Action Plans***

There have been few MEPA corrective action plans required in previous years and in each case it has taken several years for the issues involved to advance to the corrective action phase. We estimate that the number of title IV-E agencies found to have compliance issues with MEPA will



remain exceptional and thus, do not add any additional burden estimate at this time.

- 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 per hour).

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

The estimated annual costs to a State or Tribe resulting from the information collections are:

- 462,000 for the CFSR Statewide Assessment, the on-site review, and the CFSR PIP;
- 14,400 for the title IV-E foster care eligibility review PIPs; and
- 15,600 for the Anti-Discrimination Enforcement Corrective Action Plans.

Total costs burden to respondents is \$492,000.

Certain costs associated with these activities may be claimed for Federal reimbursement under the title IV-E agency's title IV-E authorization.

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

#### ***CFSR***

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 \$50,400 (120 hours x 14 reviews per year x \$30.00 per hour = \$50,400). This estimate consists of Regional and Central Office staff time to review, approve, and monitor title IV-E agency progress in implementing the CFSR PIPs.

The estimated annual cost for contract support for the CFSRs includes labor and other direct costs (i.e., travel and per diem, meetings, honoraria/consultants, telephone, postage/delivery, reproduction, supplies/equipment, and warehouse expenses). Annual costs vary by review schedule. The average cost for the next three years (Federal fiscal years (FYs) 2012 through 2015) is \$11.5 million (\$3.8 million per year).

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

We estimate an annual cost of \$28,800 to the Federal government as a result of the title IV-E foster care eligibility review PIPs from the title IV-E CFSRs (120 hours x 8 PIPs per year x \$30.00 per hour = \$28,800). This estimate consists of Regional and Central Office staff time to review, approve and monitor title IV-E agency progress to implement the PIPs.

***Anti-discrimination Enforcement Corrective Action Plans***

We estimate an annual cost of \$3,600 to the Federal government primarily for staff time to review, approve, and monitor existing and new anti-discrimination corrective action plans (120 hours x 1 review per year x \$30.00 per hour = \$3,600).

Thus, the total cost to the Federal Government is 3,882,800 per year.

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

There are no program changes; however, there is an adjustment. The estimated number of burden hours has increased from previous estimates. This is primarily due to an increased number of estimated respondents because the statute extends the requirements that previously applied only to States to a Tribal title IV-E agency approved to directly-operate a title IV-E program. The new respondents are Indian Tribes with an approved title IV-E plan. We have only rough estimates of the number of children in foster care who may be served by a Tribal title IV-E agency. We are using 50 children per Indian Tribe as a rough estimate based on our consultations with Indian Tribes and information from other sources. We estimate no more than 20 Tribes will directly-operate a title IV-E program during Federal fiscal years 2012 through 2015 based on the number of title IV-E development grant applications submitted by Tribes.

In previous years, we inaccurately excluded the estimated cost burden. We are correcting that in this submission. There is no actual change, only a correction in the way the costs are reported. As stated above, the estimated annual cost to States or Tribes resulting from the information collections is \$492,000. Certain costs associated with these activities may be claimed for Federal reimbursement under the title IV-E agency's title IV-E authorization.

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

The Department publishes a summary of the outcomes data collected during CFSRs in the annual report to Congress required under section 479 of the Act. In addition, the results of the CFSRs, including final reports, assessments, and PIPs are published on ACF's website.

We publish both the final reports summarizing the data from the title IV-E eligibility reviews and the PIPs. The statute nor regulations require publication. However, ACF prepares reports on estimated national erroneous payments and progress to reduce such payments, and national title IV-E monitoring activity on an annual basis.

There are no regulatory or statutory requirements to publish any corrective action plans that might be completed regarding the anti-discrimination enforcement corrective action plans.

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

For both the title IV-E foster care eligibility review PIP and the corrective action plan for the anti-discrimination enforcement protocol, the Department of Health and Human Services (DHHS) requests that the OMB number and expiration date not be displayed, as there is no standardized form issued to title IV-E agencies to use for the title IV-E foster care eligibility review PIP. The OMB approval numbers are displayed at 45 CFR 1356.71(i) and 45 CFR 1355.38(b) and (c).

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

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

There are no exceptions to the certification statement. No special circumstances require the collection of the requested information in a manner other than that required by OMB.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

The information collected in these information collections does not require the use of statistical methods.