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PROGRAM INSTRUCTION

TO: State Agencies Administering Title IV-E of the Social Security Act

SUBJECT: Procedures for Establishing Adoption and Guardianship Baselines to Implement the Presidential Initiative, **Adoption 2002** and the Requirements of the Adoption and Safe Families Act of 1997

LEGAL AND RELATED REFERENCES: The Adoption and Safe Families Act of 1997 (Public Law 105-89); Sections 473A and 473(a)(1)(B)(ii) of Title IV-E of the Social Security Act; **Adoption 2002**, A Response to the Presidential Executive Memorandum on Adoption, issued December 14, 1996; and 45 CFR 1355.40. This Program Instruction (PI) supplements Information Memorandum, ACYF-CB-IM-97-05, issued July 7, 1997. (To the extent that there is an inconsistency between ACYF-CB-IM-97-05 and this PI, this issuance supersedes.)

PURPOSE:

The purpose of this PI is to provide information to the States about adoption incentive payments authorized by the Adoption and Safe Families Act (ASFA), establishing adoption and guardianship baseline data, calculating bonuses and setting targets for implementing the President's Adoption Initiative, **Adoption 2002**.

BACKGROUND:

In December 1996, the President introduced the **Adoption 2002** initiative. This initiative is a collaborative undertaking between the States and the Federal government to double the number of children adopted or placed for guardianship by the year 2002 as compared to the same such permanent placements made in fiscal year (FY) 1997. The joint effort is meant to engage Federal, State and local governments, child welfare and adoption professionals, community leaders and other interested citizens in creative and meaningful activities to improve the lives of

children who are backlogged, or at risk of being backlogged, in the child welfare system, by creating permanent homes for them.

As part of the **Adoption 2002** initiative, the President directed the Department to develop a proposal for a per-child financial incentive to States to increase adoptions from State foster care systems. The proposal included providing an additional sum of money to the State child welfare agency for every child adopted from the public child welfare system in excess of each year's established baseline. That proposal, with some modifications by the Congress, was included in ASFA. The incentive funds--\$4,000 per adopted child and an additional \$2,000 per adopted title IV-E special needs child--will only be paid to the State agency for **finalized** adoptions. Up to \$20 million per year for five years, between FYs 1999 and 2003, is authorized to be available to the States. Although **Adoption 2002** emphasizes the establishment of permanency through both adoption and guardianship, ASFA restricts the bonus incentives to finalized adoptions. Nevertheless, States are required to set baselines and numerical targets to be achieved for the number of guardianships completed as well as adoptions finalized for the purposes of the **Adoption 2002** initiative.

STATUTORY REQUIREMENTS

A State is eligible for an adoption incentive payment for a fiscal year if:

1. the State has an approved plan under title IV-E;
2. the number of foster child adoptions from the public child welfare system finalized during the fiscal year exceeds the baseline established for that year;
3. except in the initial year of a State's participation in the adoption incentive program, the determination of the number of children adopted each year, FY 1998 through FY 2002, is made on the basis of the Adoption and Foster Care Analysis and Reporting System (AFCARS) data submissions in compliance with Federal regulations at 45 CFR 1355.40;¹ and
4. in FY 2001 and FY 2002, the State provides health insurance coverage to any special needs child for whom there is an adoption assistance agreement between the State and the child's adoptive parent(s).

The incentive funds will be paid to the States in the year following the year in which they are earned. The incentive money will be available for use by the State for any activity or service which is allowable under titles IV-B or IV-E of the Social Security Act (SSA) and requires no matching State funds. Regardless of when during the fiscal year the incentive funds are received, they must be liquidated by the end of the succeeding fiscal year.

INSTRUCTIONS:

The following provides definitions of the terms used for the purpose of establishing the baseline and providing the incentive funds:

Adoption--For purposes of this PI, adoption means the final legalized adoption of a child who, at the time of adoptive placement, was in foster care under the responsibility or supervision of the State.

FY 1998 Baseline--The **average** number of children adopted from the State child welfare agency foster care program, whose adoptions were finalized during fiscal years 1995, 1996 and 1997.

FY 1998 Special Needs Baseline--The **average** number of title IV-E special needs children adopted from the State child welfare agency foster care program, whose adoptions were finalized during fiscal years 1995, 1996 and 1997.

FY 1999 - FY 2002 Baselines--For each of the fiscal years, FY 1999 - FY 2002, baselines will be based on the previous fiscal year that has the largest number of finalized adoptions from the State child welfare agency foster care program, beginning with FY 1997.

FY 1999 - FY 2002 Special Needs Baselines--For each of the fiscal years, FY 1999 - FY 2002, baselines will be based on the previous fiscal year that has the largest number of finalized special needs adoptions from the State child welfare agency title IV-E foster care program, beginning with FY 1997.

Fiscal Year--Fiscal year means Federal fiscal year (October 1 through September 30).

Guardianship--Guardianship is the judicially created relationship between a child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control, custody, and decision-making. For purposes of establishing a baseline and counting completed guardianship arrangements, only those children being released from foster care under the responsibility or supervision of the State should be counted.

Special Needs Child(ren)--A special needs child is one whose adoption has been finalized and for whom there is a title IV-E adoption assistance agreement under section 473(a)(1)(B)(ii) of the Social Security Act.

ESTABLISHING THE BASELINE AND INCREMENTS:

A. ADOPTION INCENTIVE PROGRAM

The process for establishing adoption incentive baselines is based on the following principles:

- The law requires that AFCARS be the sole source of data to determine State baselines, except for the initial FY 1998 baseline. For FY 1998, this data may come from other sources and must be derived through consultation between the States and the ACF Regional Office and Central Office staff. Any adoption data source(s) proposed as an alternative to AFCARS for the FY 1998 baseline must be documented to be of equivalent completeness and reliability.

- Separate baselines are to be established for total foster child adoptions and, of these, the number of title IV-E special needs adoptions.
- The FY 1998 baseline data will be the average of the number of finalized adoptions during FYs 1995, 1996 and 1997, as mandated by statute. At the end of FY 1998, that baseline, for practical purposes, will cease to exist.
- Beginning in FY 1999, the baseline data will consist of the greatest annual number of qualifying adoptions for any single fiscal year from FY 1997 or later. Thus, if the number of adoptions completed in FY 1998 does not surpass the number of adoptions completed in FY 1997, the new baseline for FY 1999 will be the number of adoptions completed in FY 1997.
- Although incremental targets are to be established for the Adoption 2002 initiative, it will be the actual number of a State's finalized adoptions, and not the proposed increments or the relationship between the actual numbers and the proposed increments, that will determine the final amount of the incentive awards.

Developing Adoption Incentive Baselines for FY 1998

With assistance from ACF Regional Offices and using [ACYF-CB-IM-97-05](#) as guidance, States began establishing FY 1998 baselines based on FY 1997 data. However, ASFA expanded the FY 1998 baseline requirement to include the average number of adoptions finalized in fiscal years 1995, 1996, and 1997. Baselines must be established counting all children adopted from the State child welfare agency foster care system in those years.

Establishing Subsequent Baselines

The baselines for each of the fiscal years after 1998 will be calculated based on the greatest number of adoptions finalized by the State from FY 1997 to the fiscal year prior to the current fiscal year. If a State does not make a submission for FY 1998 incentive awards and/or a State chooses not to participate during the initial year(s) of the incentive program, it may choose to establish initial baselines in any year up to and including FY 2002. However, only AFCARS data can be used for baseline data after FY 1998.

Amount of Incentives

Every State that meets the requirements established in section 473A of the Social Security Act and this PI with an approved FY 1998 baseline will receive incentive funds as follows (see attached [Table 1](#)):

For FY 1998, the sum of:

- A. \$4,000 for every qualified child adopted over the FY 1998 baseline, and
- B. \$2,000 for every special needs child adopted over the FY 1998 special needs baseline.

For FYs 1999 through 2002, the sum of:

- A. \$4,000 for every qualified child adopted over the baseline established for that year, and
- B. \$2,000 for every special needs child adopted over the special needs baseline established for that year.

Calculation of Incentive Payments (See [Table 1](#))

The actual amount of incentive funds earned cannot be calculated until each State's AFCARS data has been submitted after the end of the fiscal year for which the funds will be awarded. The funds will not, therefore, be paid out until the year following the year in which they have been earned. Thus, incentive funds earned in FY 1998 will be paid to the States in FY 1999, as soon as possible after their AFCARS submissions for FY 1998 have been processed and reviewed. This may not occur until the latter part of the fiscal year.

After all of the States have submitted their data, further analysis of the potential incentives to be paid out must also be undertaken by ACF before final payments are issued to ensure that the total amount payable to all States does not exceed the annual amount of incentive funds appropriated by Congress. Pub. L. 105-89 authorizes an annual appropriation of \$20 million for payment in fiscal years 1999-2003. Should the total amount of incentives earned exceed the actual annual appropriation, the final amount of the incentive payable to each State will be a *pro rata* share of the total appropriation based on the percentage of the national incentive earned by that State.

Expenditure of Incentive Bonuses

The funds awarded for adoption incentive bonuses must be expended by the end of the fiscal year following the fiscal year in which they are awarded. This means that incentive funds earned in FY 1998 and awarded in FY 1999 must be fully liquidated by September 30, 2000. Information on the procedures for claiming and awarding of the adoption incentive funds as well as for reporting fiscal and program uses of the funds will be provided in a subsequent issuance.

B. ADOPTION 2002

The process for establishing adoption and guardianship baselines and increments for the Adoption 2002 initiative is based on the following principles:

- Separate baselines will be established for FY 1997 for: (1) the total number of finalized foster child adoptions, (2) the total number of title IV-E special needs adoptions, and (3) the total number of guardianships.
- AFCARS is the primary source of data to determine the State FY 1997 baselines for the Adoption 2002 initiative. However, if the State has not reported data to AFCARS, or if the State and the Central Office statistical staff or Regional Office staff agree that the reported data are unreliable, the State may propose the use of alternative data sources to determine the baselines. The proposed alternative to AFCARS for the FY 1997 baseline must be documented to be of equivalent completeness and reliability.

- Interim targets will be set for the numbers of finalized adoptions and guardianships during each of the five years after FY 1997. Setting interim numerical targets for adoptions, including title IV-E special needs adoptions and guardianships by the year 2002, is primarily the responsibility of the States. ACF Regional and Central Office staff will provide assistance, as appropriate and requested. (See attached [Table 2](#) and [ACYF-CB-IM-97-05](#).)
- The goal to be reached in FY 2002 is determined by doubling the FY 1997 baseline numbers for finalized adoptions and guardianships.
- Although not relevant for incentive awards, it is necessary to determine the baselines and establish the increments in order to measure the progress toward and the degree of successful achievement of the **Adoption 2002** goals.

Incremental Targets for Adoption 2002

In consultation with the Regional Offices, States are to propose increments in the target numbers for increasing adoptions and guardianships from FY 1998 through FY 2002. The proposed increments will help the States monitor their progress and help ACF project the likelihood of success and determine areas where additional technical assistance may be needed. The increments do not need to be the same number or rate for each year. The impact of child welfare demonstration waivers and the implementation of other ASFA provisions should be taken into consideration when developing and evaluating increments. Increments should be calculated to lead to at least a doubling of the number of permanent placements in 2002, that is, a 100 percent increase, compared to the number of permanent placements finalized in FY 1997. If a State plans to set a goal to more than double the numbers and desires to establish yearly targets to do so, Federal child welfare staff will work with them to achieve this.

The States and Regional Offices should work together to establish the increments and develop plans for achieving them. This should begin as soon as possible after the baseline has been established. Central Office staff are available for consultation and for the review of increments upon request by the Regional Offices. As experience and knowledge are gained, States may choose to amend or supplement their procedures or change their incremental targets. The Regional Offices will work with the States in accomplishing this and notify Central Office of such changes.

DUE DATES:

Adoption Incentive Baseline Data Deadline:

Section 473A(c)(2)(B) of the SSA requires that baseline data for the adoption incentive program be submitted by November 30, 1997. This is clearly impossible since the effective date of the legislation was November 19, 1997. Technical amendments are currently before the Congress to change this date. In the meantime, since the data has to be approved by the Secretary by July 1, 1998, States are encouraged to submit their data as soon as possible.

Adoption 2002 Baseline Data Deadline:

The **Adoption 2002** increments, targets and the plans for achieving them should be transmitted to the Regional Offices by July 1, 1998.

INQUIRIES TO: ACF Regional Administrators

/s/
 James A. Harrell
 Deputy Commissioner
 Administration on Children, Youth, and Families

¹ Adoption data element # 34, category 1, will be used to identify adoptions from the public foster care system.

Attachments:

[Attachment 1](#) - Table 1: Illustrates how the incentive works

[Attachment 2](#) - Table 2: Illustrates how a State may set its incremental targets

Table 1 illustrates how the incentive works.

Adoptions Finalized and Incentive Bonuses Paid for State XYZ for FYs 1998 Through 2002

STATE XYZ	1995	1996	1997	AVG	1998	1999	2000	2001	2002
1. Established Baseline	-	-	-	-	100	150	150	160	190
2. Established Special Needs Baseline	-	-	-	-	50	75	90	100	115
3. Total Number of Adoptions	78	106	117	100	150	148	160	190	238
4. Number of Special Needs Adoptions	34	56	59	50	75	90	100	115	160
5. Bonus Payment [(L3-L1)x\$4,000]	-	-	-	-	\$200,000	**	\$40,000	\$120,000	\$192,000
6. Special Needs Bonus Payment* [(L4-L2)x\$2,000]	-	-	-	-	\$50,000	**	\$20,000	\$30,000	\$90,000
7. Total Bonus [Line5+Line6]	-	-	-	-	\$250,000	**	\$60,000	\$150,00	\$282,000

* Special needs bonus payments are made only if Line 3 exceeds Line 1, **and** Line 4 exceeds Line 2.

** No bonus payments are made because the total number of adoptions for fiscal year 1999 did not exceed the baseline for the year.

Please note the following situations reflected in the table:

- a. Each year's awards are considered on their own.
- b. Incentives are not paid out until the year after they have been earned.
- c. In this example, the baselines for the 1998 incentives are 100 and 50. Because the 1997 achievements were 117 and 59, however, no year's established baselines (other than 1998) could fall below 117 and 59 for the purposes of earning the incentive funds.

The following table indicates how the baselines and incremental targets for adoption and guardianship may be structured:

1997 Baseline Data:

117 Adoptions

30 Guardianships

147 Permanent Placements

Goals for 2002:

234 Adoptions

60 Guardianships

294 Permanent Placements

Table 2 illustrates how a State may set its incremental targets.

State XYZ's Incremental Targets for Doubling Permanent Placements

STATE XYZ	1997	1998	1999	2000	2001	2002
1. Total Adoptions Baseline	117	117	134	152	174	203
2. Total Projected Increase	-	+17	+18	+22	+29	+31
3. Special Needs** Adoption Baseline	59	59	65	75	87	105
4. Special Needs Portion** of Projected Increase	-	+6	+10	+12	+18	+22
5. Total Target Adoptions [L1+L2]	-	134	152	174	203	234
6. Guardianship Baseline	30	30	35	39	45	53
7. Guardianship Projected	-	+5	+4	+6	+8	+7

Change						
8. Target Guardianships	-	35	39	45	53	60
9. Total Projected Permanent Placements [L5+L8]	147	169	191	219	256	294

**The numbers in Lines 3 and 4 are subsets of the numbers in Lines 1 and 2 respectively.