

(d) *Sectarian purposes and activities.* Funds provided under grants or contracts to providers may not be expended for any sectarian purpose or activity, including sectarian worship or instruction. Pursuant to §98.2, assistance provided to parents through certificates is not a grant or contract. Funds provided through child care certificates may be expended for sectarian purposes or activities, including sectarian worship or instruction when provided as part of the child care services.

(e) The CCDF may not be used as the non-Federal share for other Federal grant programs.

§98.55 Cost allocation.

(a) The Lead Agency and subgrantees shall keep on file cost allocation plans or indirect cost agreements, as appropriate, that have been amended to include costs allocated to the CCDF.

(b) Subgrantees that do not already have a negotiated indirect rate with the Federal government should prepare and keep on file cost allocation plans or indirect cost agreements, as appropriate.

(c) Approval of the cost allocation plans or indirect cost agreements is not specifically required by these regulations, but these plans and agreements are subject to review.

Subpart G—Financial Management

§98.60 Availability of funds.

(a) The CCDF is available, subject to the availability of appropriations, in accordance with the apportionment of funds from the Office of Management and Budget as follows:

(1) Discretionary Funds are available to States, Territories, and Tribes,

(2) Mandatory and Matching Funds are available to States;

(3) Tribal Mandatory Funds are available to Tribes.

(b) Subject to the availability of appropriations, in accordance with the apportionment of funds from the Office of Management and Budget, the Secretary:

(1) May withhold no more than one-quarter of one percent of the CCDF funds made available for a fiscal year

for the provision of technical assistance; and

(2) Will award the remaining CCDF funds to grantees that have an approved application and Plan.

(c) The Secretary may make payments in installments, and in advance or by way of reimbursement, with necessary adjustments due to overpayments or underpayments.

(d) The following obligation and liquidation provisions apply to States and Territories:

(1) Discretionary Fund allotments shall be obligated in the fiscal year in which funds are awarded or in the succeeding fiscal year. Unliquidated obligations as of the end of the succeeding fiscal year shall be liquidated within one year.

(2)(i) Mandatory Funds for States requesting Matching Funds per §98.53 shall be obligated in the fiscal year in which the funds are granted and are available until expended.

(ii) Mandatory Funds for States that do not request Matching Funds are available until expended.

(3) Both the Federal and non-Federal share of the Matching Fund shall be obligated in the fiscal year in which the funds are granted and liquidated no later than the end of the succeeding fiscal year.

(4) Except for paragraph (d)(5) of this section, determination of whether funds have been obligated and liquidated will be based on:

(i) State or local law; or,

(ii) If there is no applicable State or local law, the regulation at 45 CFR 92.3, Obligations and Outlays (expenditures).

(5) Obligations may include subgrants or contracts that require the payment of funds to a third party (e.g., subgrantee or contractor). However, the following are not considered third party subgrantees or contractors:

(i) A local office of the Lead Agency;

(ii) Another entity at the same level of government as the Lead Agency; or

(iii) A local office of another entity at the same level of government as the Lead Agency.

(6) For purposes of the CCDF, funds for child care services provided through

§98.61

a child care certificate will be considered obligated when a child care certificate is issued to a family in writing that indicates:

(i) The amount of funds that will be paid to a child care provider or family, and

(ii) The specific length of time covered by the certificate, which is limited to the date established for redetermination of the family's eligibility, but shall be no later than the end of the liquidation period.

(7) Any funds not obligated during the obligation period specified in paragraph (d) of this section will revert to the Federal government. Any funds not liquidated by the end of the applicable liquidation period specified in paragraph (d) of this section will also revert to the Federal government.

(e) The following obligation and liquidation provisions apply to Tribal Discretionary and Tribal Mandatory Funds:

(1) Tribal grantees shall obligate all funds by the end of the fiscal year following the fiscal year for which the grant is awarded. Any funds not obligated during this period will revert to the Federal government.

(2) Obligations that remain unliquidated at the end of the succeeding fiscal year shall be liquidated within the next fiscal year. Any tribal funds that remain unliquidated by the end of this period will also revert to the Federal government.

(f) Cash advances shall be limited to the minimum amounts needed and shall be timed to be in accord with the actual, immediate cash requirements of the State Lead Agency, its subgrantee or contractor in carrying out the purpose of the program in accordance with 31 CFR part 205.

(g) Funds that are returned (e.g., loan repayments, funds deobligated by cancellation of a child care certificate, unused subgrantee funds) as well as program income (e.g., contributions made by families directly to the Lead Agency or subgrantee for the cost of care where the Lead Agency or subgrantee has made a full payment to the child care provider) shall,

(1) if received by the Lead Agency during the applicable obligation period, described in paragraphs (d) and (e) of

45 CFR Subtitle A (10-1-07 Edition)

this section, be used for activities specified in the Lead Agency's approved plan and must be obligated by the end of the obligation period; or

(2) if received after the end of the applicable obligation period described at paragraphs (d) and (e) of this section, be returned to the Federal government.

(h) Repayment of loans, pursuant to §98.51(a)(2)(ii), may be made in cash or in services provided in-kind. Payment provided in-kind shall be based on fair market value. All loans shall be fully repaid.

(i) Lead Agencies shall recover child care payments that are the result of fraud. These payments shall be recovered from the party responsible for committing the fraud.

§98.61 Allotments from the Discretionary Fund.

(a) To the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the funds appropriated for the Child Care and Development Block Grant, less amounts reserved for technical assistance and amounts reserved for the Territories and Tribes, pursuant to §98.60(b) and paragraphs (b) and (c) of this section, shall be allotted based upon the formula specified in section 658O(b) of the Act.

(b) For the U.S. Territories of Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands an amount up to one-half of one percent of the amount appropriated for the Child Care and Development Block Grant shall be reserved.

(1) Funds shall be allotted to these Territories based upon the following factors:

(i) A Young Child factor—the ratio of the number of children in the Territory under five years of age to the number of such children in all Territories; and

(ii) An Allotment Proportion factor—determined by dividing the per capita income of all individuals in all the Territories by the per capita income of all individuals in the Territory.

(A) Per capita income shall be:

(1) Equal to the average of the annual per capita incomes for the most recent period of three consecutive years for which satisfactory data are available