

ACF Administration For Children And Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
	1. Log No: ACYF-CB-PI-03-04	2. Issuance Date: March 28, 2003
	3. Originating Office: Children's Bureau	
	4. Key Words: State Court Improvement Program	

PROGRAM INSTRUCTION

TO: Highest State Courts of Appeal

SUBJECT: Instructions for States Applying for Court Improvement Program Funds for Fiscal Years (FYs) 2003-2006

LEGAL AND RELATED REFERENCES: Title IV-B and IV-E of the Social Security Act; Section 438 of the Social Security Act; Section 305 of the Adoption and Safe Families Act (ASFA) of 1997 (Public Law 105-89); the Promoting Safe and Stable Families Amendments of 2001 (Public Law (107-133); ACYF-PI-94-12; ACYF-CB-PI-99-02; 45 CFR Parts 16, 30, 75, 76, 80, 81, 84, 91, 92, 93, 95; Letter of April 24, 2002 from Administration on Children, Youth and Families (ACYF) Commissioner Joan E. Ohl to the Highest State Courts of Appeal

PURPOSE

The purpose of this Program Instruction is to set forth the eligibility requirements and grant application procedures for the State Court Improvement Program for fiscal years 2003 through 2006.

BACKGROUND

The State Court Improvement Program (CIP) was created as part of the Omnibus Budget Reconciliation Act (OBRA) of 1993, Public Law 103-66, which among other things, provided Federal funds to State child welfare agencies and Tribes for preventive services and services to families at risk or in crisis. OBRA designated a portion of these funds (\$5 million in fiscal year 1995 and \$10 million in each of FYs 1996 through 1998) for grants

to State court systems to conduct assessments of their foster care and adoption laws and judicial processes, and to develop and implement a plan for system improvement. The Adoption and Safe Families Act of 1997, Public Law 105-89, reauthorized the CIP through 2001, which Congress funded at \$10 million annually. There were no substantive changes made to the CIP in the 1997 reauthorization.

The Promoting Safe and Stable Families Amendments of 2001, Public Law 107-133, reauthorizes the Court Improvement Program through FY 2006. The law also expands the scope of the program to: (1) include improvements that the highest courts deem necessary to provide for the safety, well-being, and permanence of children in foster care, as set forth in ASFA; and (2) implement a corrective action plan, as necessary, in response to findings identified in a child and family services review¹ of the State's child welfare system. Public Law 107-133 authorizes a mandatory funding level of \$10 million for CIP and new discretionary funding for FYs 2002 through 2006. From any discretionary funding appropriated annually for the Promoting Safe and Stable Families Program, the law authorizes a 3.3 percent set-aside for the CIP. Finally, the Court Improvement Program authority was transferred to a new section 438 of the Social Security Act (see Attachment A).

As of FY 2001 all eligible States (50 States, the District of Columbia, and Puerto Rico) are receiving annual Court Improvement Program grants. On April 24, 2002, the Administration for Children and Families (ACF) sent a letter to the Highest State Courts of Appeal in each of these States with guidance on applying for FY 2002 CIP grants.

Table of Contents

¹ Beginning in FY 2001 the ACF implemented the child and family services reviews (CFSR) (see 45 CFR 1355.31– 1355.37). The purpose of the reviews is for the Federal government, in partnership with the States, to review States' child and family service programs to ensure substantial conformity with the State plan requirements in titles IV-B and IV-E of the Social Security Act. The reviews cover child protective services, foster care, adoption, family preservation, family support, and independent living. The reviews are designed to help States improve child welfare services and the outcomes for children and families who receive services by identifying strengths and needs within State programs, as well as areas where technical assistance can lead to program improvements

The initial step in the CFSR is for the State to conduct a statewide assessment, using statewide aggregate data to evaluate the programs under review, and address the other requirements subject to review. Following the statewide assessment, the on-site phase of the CFSR is conducted. This includes a review of a sample of cases and related interviews to determine a State's level of conformity with regard to safety, permanency, and well-being outcomes, in addition to State and local stakeholder interviews to determine conformity with a range of systemic factors. Courts, administrative review bodies, and children's guardians *ad litem* are included in these stakeholder interviews. In the event that ACF determines a State is not in substantial conformity with any one of the outcomes or systemic factors, a program improvement plan (PIP) is required. The State must address in its PIP each outcome and systemic factor that was determined not to be in substantial conformity. Additional information on these reviews can be found at <http://www.acf.hhs.gov/programs/cb/>

INSTRUCTION	3
Eligibility	3
Funding	3
Activities	5
<u>Re-assessments</u>	5
<u>Implementation of Court Improvement Recommendations</u>	6
<u>Strategic Plan</u>	7
Application Procedures	10
<u>FY 2003 Funding</u>	10
<u>Fiscal Years 2004-2006 Funding</u>	11
Reporting Requirements	12
<u>Fiscal Reports</u>	12
<u>Program Reports</u>	12
Resources For State Courts	13
PAPERWORK REDUCTION ACT	13
INQUIRIES TO	14
ATTACHMENTS	14

INSTRUCTION

This Program Instruction reflects the statutory provisions of Congress with respect to the Court Improvement Program as outlined in Public Law 103-66 (OBRA of 1993) and its Conference Report. It also addresses the expanded scope and additional funding included in the CIP's reauthorization in Public Law 107-133. States must comply with the requirements of this Program Instruction in order to receive CIP funds for FYs 2003-2006.

Eligibility

The highest State court in each State that participates in the programs funded under title IV-E of the Social Security Act is eligible to apply for Court Improvement Program funds. The term "highest State court" means the judicial tribunal that is the ultimate court of appeals in the State. The court may choose to enter into an agreement with another entity, such as a university or non-profit organization, for the purpose of complying with CIP requirements, particularly with regard to the assessment portion of the program or an evaluation. The ultimate responsibility for implementing the grant remains with the highest State court.

Funding

Public Law 107-133 authorizes up to \$505 million in each of FYs 2002 through 2006, including \$305 million in mandatory funds and up to \$200 million in discretionary funds, for the Promoting Safe and Stable Families program. Of this amount, \$10 million of the mandatory funds and 3.3 percent of any discretionary funds appropriated are set aside for the Court Improvement Program annually.

- Allotments: Each year, any discretionary funds set aside for the CIP will be added to the amount of mandatory funds appropriated by Congress. Each State court with an approved application will be allotted \$85,000. In addition to this base amount, the remainder of the total amount of funds appropriated for all State courts will be divided on the basis of each State's proportionate share of children under age 21. Attachment B provides the estimated allotments for FY 2003. ACF will issue estimated allotments annually for FYs 2004-2006.
- Program Expenditure Period: State courts have two years from the date of award to expend (obligate and liquidate) each Federal fiscal year's funds. A negative grant award will be issued for any unobligated balances or unliquidated obligations reported at the end of each two-year program expenditure period. ACF does not have the authority to grant an extension of a program expenditure period. Accordingly, any unexpended funds must be returned to the U.S. Treasury.
- Cost Sharing Requirement: A non-Federal share is required for each of FYs 2003-2006 CIP funds at the rate of 25 percent of the total budget (1/3 of the Federal share). For example, for a project totaling \$100,000, a State court must contribute \$25,000 for \$75,000 of Federal funds requested. Funds that are eligible to be used as non-Federal share must meet the regulatory provisions of 45 CFR 92.24, which establishes the rules for cost sharing.

In accordance with these provisions, funds eligible to be used as non-Federal share, among other things,

- must not be Federal grant funds, unless specifically allowed by Federal statute;
- must not be used to match any other Federal grant;
- must be used for costs that are otherwise allowable. The non-Federal share, whatever its nature, must be used for assessments or the implementation of improvements described in this Program Instruction;
- may originate with a third party, public or non-public; and
- may be in-kind contributions of services, equipment, or property.

See Attachment C for the full text of 45 CFR 92.24.

- Indirect Costs: If a State court wishes to receive reimbursement for indirect costs within its allotment as a part of its grant, it must have an approved indirect cost rate with the cognizant Federal agency. The cognizant Federal agency is that Federal agency which provides the most funds to the State court. If a State court has not been assigned a cognizant agency, it should work with the Federal agency from which it receives the largest amount of funds to negotiate and receive approval of indirect cost proposals. Where the Department of Health and Human Services (HHS) is the cognizant agency, the appropriate Division of Cost Allocation Field Office is available to negotiate indirect cost rates. See Attachment D for a list of these offices.
- Drawdown of Funds from the Payment Management System: In accordance with Public Law 101-510, grant funds that have been expended within the two-year program expenditure period must be drawn down within five years from the fiscal year for which the funds were awarded (i.e., FY 2003 funds must be drawn down by no later than September 30, 2008). Requests for adjustments/revisions to the Payment Management account after five years will not be honored.

Activities

States applying for FY 2003 Court Improvement Program funds must submit a strategic plan for court improvement for the period beginning October 1, 2002 and ending September 30, 2006. The strategic plan must include: (1) a re-assessment of proceedings relating to foster care and adoption, and (2) implementation of recommendations for court improvement resulting from the re-assessment.

Re-assessments

In many States, initial assessments to comply with Court Improvement Program requirements were completed as early as 1995 and 1996. States courts must conduct a re-assessment to update their earlier findings, particularly in light of the ASFA requirements, the States' implementation of ASFA legislation, and the CIP reform efforts. States courts must also update their assessments to incorporate the strengths and weaknesses related to court system practice and procedures reflected in the final reports of the State child welfare agency's CFSR and the title IV-E foster care eligibility review.²

² The reviews of the Federal title IV-E foster care program focus on whether payments were made on behalf of eligible children placed in eligible homes and institutions. Just as in the child and family services reviews, each review team is comprised of Federal and State representatives. The reviewers examine cases to determine if they meet Federal eligibility requirements, including court orders with appropriate language confirming the need to remove the child from the home; confirming the State agency's reasonable efforts to preserve the family, when it is safe to do so; and finalizing a permanency plan.

States which have conducted a follow-up assessment to the first CIP assessment prior to issuance of this Program Instruction may satisfy this re-assessment requirement if the follow-up assessment

- meets the purposes in Section 438 of the Social Security Act and the requirements of this Program Instruction;
- has been completed within the past three years; and
- incorporates the results of any statewide assessment, final report and program improvement plan (PIP) completed in connection with a CFSR or title IV-E foster care eligibility review, or the State provides an assurance that it will be revised to include such results from future reviews.

Requirements for these re-assessments are described in Attachment E.

Implementation of Court Improvement Recommendations

States courts are expected to work on court improvement in collaboration with those who share responsibility with the judiciary for providing care, representation and protection for children removed from their homes. These should include the following:

- representatives of the State child welfare, health, mental health, and substance abuse agencies;
- juvenile and family court judges;
- tribal court representation, or an individual with ICWA expertise;
- representatives of the foster care citizen review board, if any;
- defense attorneys;
- court-appointed special advocates (CASAs);
- guardians *ad litem*; and
- attorneys who represent child welfare agencies.

Because of the importance of judicial leadership, we encourage the Chief Justice (or his or her judicial designee) to serve as chair of any advisory group or task force formed to implement court improvement.

States must address the most crucial court reform issues that will improve the safety, well-being and permanency of children in foster care, and strengthen the legal and

A disallowance is taken for all cases that fail to meet Federal requirements, and if a State fails in more than a specific percentage of cases, it is considered to be out of substantial compliance with the Federal foster care eligibility requirements. States that do not achieve substantial compliance must develop and implement a Program Improvement Plan, and a subsequent on-site case review will be conducted after PIP implementation is completed. After the secondary review, if the State is still not in substantial compliance, a larger disallowance is assessed on the basis of the state's total foster care population. Additional information on these reviews can be found at <http://www.acf.hhs.gov/programs/cb/>

judicial system's areas of weakness identified in the CFSR and title IV-E foster care eligibility review. These issues include:

- improving judicial competence and skills and identifying and supporting judicial leadership for dependency issues;
- limiting workloads to allow timely and well-informed judicial decisions through increases in personnel or resources, reductions in numbers of case reviews mandated by State law, or any other changes needed to enable the courts to effectively manage their caseloads;
- developing automated information systems to track cases and measure performance, including the collection and dissemination of additional data or information, and the establishment of links with other child welfare information systems in the State, such as the Statewide Automated Child Welfare Information System (SACWIS), to improve decision-making in the courts;
- institutionalizing stronger links with child welfare agencies, tribal courts, and community programs (including faith-based programs) to improve the coordination of services for children;
- encouraging communication between, and cross-systems training of, court and agency personnel including, but not limited to, judges, attorneys, social workers, administrators, and court appointed representatives of parents and children;
- improving the amount and quality of legal representation for children, parents and agencies; and
- giving fairer treatment, notice, and consideration to all parties before the court.

State courts are expected to develop a strong collaborative relationship with the State child welfare agency (See Attachment F). State Court Improvement Programs should also collaborate with the Children's Justice Act program funded through ACF, and related programs funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) at the Department of Justice, such as the Child Victims Act Model Courts Project, the Safe Start Initiative and the Safe Kids/Safe Street Initiative demonstration sites, and the Strengthening Abuse and Neglect Courts (SANCA) demonstration sites. See Attachment G for further details on these programs.

In making decisions about allocating CIP funds, State courts are expected to give priority to any legal and judicial issues identified in the program improvement plans (PIPs) developed as part of the State's CFSR and title IV-E foster care eligibility review.

Strategic Plan

In developing a new strategic plan State courts should build on their accomplishments and experience with the strategic plan developed for implementation of court improvement reforms during fiscal years 1999-2001. The plan should be targeted to achieving safety, permanency and well-being for children in foster care. The strategic plan should identify short- and long-range activities to work toward achievement of the CFSR child welfare outcomes. Those outcomes are:

Safety

- Children are, first and foremost, protected from abuse and neglect;
- Children are safely maintained in their homes whenever possible and appropriate;

Permanency

- Children have permanency and stability in their living situation;
- The continuity of family relationships and connections is preserved for children;

Child and Family Well-Being

- Families have enhanced capacity to provide for their children's needs;
- Children receive appropriate services to meet their educational needs; and
- Children receive adequate services to meet their physical and mental health needs.³

As applicable, the strategic plan should target specific activities to bring the State into compliance in accordance with a program improvement plan resulting from a CFSR or a title IV-E foster care eligibility review. The strategic plan must:

- describe plans for conducting a re-assessment of proceedings relating to foster care and adoption. If a re-assessment meeting the requirements described above has been completed, a copy of the re-assessment report must be included;
- define specific court improvement activities likely to produce better outcomes for children and families that are:
 - tangible,
 - measurable, and
 - time-specific;

³ For further information about these outcomes and the performance and data indicators utilized in the CFSR, see the materials available at <http://www.acf.hhs.gov/programs/cb/cwrp/index.htm>. States should note the statewide data indicators used to evaluate permanency outcome 1 in the CFSR which have particular relevance to the courts, including the rate of foster care re-entries; the number of moves experienced by children in foster care; the length of time to achieve reunification; and the length of time to achieve adoption.

- lay out timetables describing steps to be taken in conducting the activities to achieve these outcomes, and identifying who is responsible for their accomplishment;
- identify indicators of progress or measures; and
- include interim benchmarks, such as quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity, in such terms as:
 - terminations of parental rights finalized, as well as the percentage filed for children in foster care for 15 of the most recent 22 months;
 - adoptions finalized, as well as the percentage finalized within 24 months of the child entering foster care;
 - rules changed;
 - case review timeframes accelerated; or
 - legislative changes enacted.

When accomplishments cannot be quantified by activity or function, they should be listed in chronological order to show the schedule of accomplishments and their target dates.

In light of the close connection between the purposes of the CIP and the purposes of the CFSRs, State courts also must include in their strategic plans a strategy to facilitate legal and judicial participation in the CFSR and collaboration with the child welfare agency at all stages of the review, including the development of the statewide assessment, planning of and participation in the on-site review, and development and implementation of the PIP. Activities should be identified that will inform the legal and judicial community about the reviews and encourage active legal and judicial participation.

The strategic plan must address how the State will collect and analyze automated and non-automated data to evaluate the quality of court performance and measure the success of court improvement efforts. The strategic plan also must include procedures for monitoring implementation and evaluation of improvement efforts, and methods to measure progress and revise the plan as needed.

A State may revise its strategic plan at any time during FYs 2003-2006 by submitting the proposed change in writing to the appropriate ACF Regional Office (see Attachment H) for approval.

Application Procedures

FY 2003 Funding

The application requirements for FY 2003 CIP funding, which differ from those for FYs 2004-2006 as described below, are as follows:

To receive FY 2003 funding States must submit an application by June 30, 2003 to their ACF Regional Office for approval, which includes the following:

- A strategic plan with a timetable for the implementation of court reforms during FYs 2003-2006;
- A copy of a re-assessment of the State courts' handling of proceedings relating to foster care and adoption conducted within the past three years that meets the requirements outlined in the "re-assessments" section on page 5, or a plan for conducting such a re-assessment.

The application must describe the methods used, or to be used, to conduct the assessment and to select State courts for inclusion, the types of data (to be) collected, and the organization (s) and individual (s) responsible for conducting the assessment, including relevant experience. The application must describe how the State child welfare agency and the citizen review board, if any exists, and other important parties in the system, such as guardians *ad litem* or court appointed special advocates (CASA), were involved or will be involved in the court assessment.

- The application must include a statement that the State child welfare agency and the citizen review board, if any exists, have reviewed the application.
- Standard Forms 424 and 424-A (See Attachment I) describing the State's budget for use of FY 2003 funds and a tentative budget for the fiscal years 2004-2006. A line item budget and budget justification must be submitted with these forms. The budget must include funds adequate to support the travel of at least two individuals to Washington, D.C. to attend the Permanency Partnership Forum, an annual meeting of representatives of child welfare agencies and the courts. These travel funds may be budgeted as either Federal or non-Federal share.
- A program report covering all activities currently supported by Court Improvement Program funds (See detailed description below under Reporting Requirements).

- A list of partners collaborating in court improvement or members of an advisory group or task force, if such a group exists, including the names, titles, and a brief description of the relevant professional experience.

- Certifications (Attachment J)

- Anti-Lobbying Certification and Disclosure Form

Pursuant to 45 CFR Part 93, the Anti-Lobbying Certification and Disclosure Form must be signed and submitted with the State's CIP application. If applicable, a Standard Form LLL, which discloses lobbying payments, also must be submitted.

- Other Certifications

The signature on the State's CIP application by an authorized official attests to the applicant's intent to comply with each of the following certifications:

- Certification Regarding Drug-Free Work Place;
- Debarment Certification; and
- Certification Regarding Environmental Tobacco Smoke.

It is not necessary to submit these three certifications with the application.

Fiscal Years 2004-2006 Funding

To receive funding for fiscal years 2004 – 2006, States must submit an application by June 30th of each year to their ACF Regional Office for approval, which includes the following:

- A letter from the highest State court requesting funding for that fiscal year;
- A program report covering all activities currently supported by Court Improvement Program funds (see detailed description below under Reporting Requirements);
- A description of any changes from the projected budget on Forms 424 and 424-A submitted with the application in FY 2003; and
- A description of any changes from the strategic plan for implementing reforms that was submitted with the application in FY 2003.

States may submit the applications as a paper copy, or at their option, on a 3.5 diskette, or attached to an e-mail to the Regional Office. The ACF Regional Administrator will

approve applications meeting the purposes in Section 438 of the Social Security Act and the requirements of this Program Instruction.

Forms: The following forms are available electronically at <http://www.acf.dhhs.gov/programs/ofs/forms.htm>

- Standard Form 269 (SF-269)
- Standard Forms 424 and 424-A
- Anti-Lobbying Certification and Disclosure Form
- Certification Regarding Drug-Free Work Place
- Debarment Certification
- Certification Regarding Environmental Tobacco Smoke.

Reporting Requirements

Fiscal Reports

Expenditures under the Court Improvement Program must be reported annually on a Standard Form 269 (SF-269), Financial Status Report. A fiscal report is due 90 days after the close of each twelve months of a grant's two-year program expenditure period. The first fiscal report for a program period is an interim report covering the first twelve months of the program period. The final report should cover the entire 24-month program period. Financial reports should be mailed to the following address, with a copy to the appropriate ACF Regional Administrator (see Attachment H):

Administration for Children and Families
Office of Administration, OGM
Switzer Building
330 C Street, SW
Washington, D.C. 20447

Fiscal reports must be current before new funding will be awarded each year.

Program Reports

The program report, covering all activities supported by Court Improvement Program funds, should be submitted with each year's application. The annual program report should address the outcomes of court improvement activities and how they help provide for the safety, well-being, and permanence of children in foster care. The report should

describe any corrective action undertaken as a result of child and family services or title IV-E foster care eligibility reviews. Annual program reports must include:

- a description of activities undertaken during the program period to implement improvements to the courts;
- a plan for the next year's court improvement activities, including a description of targeted efforts with strategies and timelines; and
- a statement regarding the State court's overall progress in relation to its re-assessment and strategic plan.

The program reports should be submitted to the appropriate ACF Regional Administrator (See Attachment H) as part of an application for funding. They may be submitted as a paper copy, or at the State's option, on a 3.5 diskette or attached to an e-mail. A copy of the program report should be submitted concurrently to:

National Child Welfare Resource Center on Legal and Judicial Issues
c/o ABA Center on Children and the Law
740 15th Street, NW
Washington, D.C. 20005-1022

Resources For State Courts

For training and technical assistance regarding assessment tools and approaches, best practice materials, and ongoing consultation on court improvements, State courts should contact the National Council of Juvenile and Family Court Judges (NCJFCJ) National Center for Juvenile Justice, the National Center for State Courts, the American Bar Association Center on Children and the Law, and the NCJFCJ Permanency Planning Department. The Children's Bureau, in the Administration on Children, Youth and Families, provides an array of training and technical assistance support resources through grants, contracts, and cooperative agreements. Currently the Bureau operates ten National Resource Centers, two Clearinghouses, and four technical support projects. Detailed information on all of these resources for State courts can be found at Attachment K.

PAPERWORK REDUCTION ACT

Under the Paperwork Reduction Act of 1995 (Public Law 104-13), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The public reporting burden for the Court Improvement Program is estimated to average 76 hours per response.

INQUIRIES TO: ACF Regional Offices

/s/

Joan E. Ohl
Commissioner
Administration on Children,
Youth and Families

ATTACHMENTS

- A: Section 438 of the Social Security Act
- B: Estimated State Court Allotments for FY 2003
- C: 45 CFR 92.24
- D: Division of Cost Allocation Field Offices
- E: Requirements for the Re-assessments
- F: List of State Child Welfare Administrators
- G: Related Programs
- H: List of ACF Regional Administrators
- I: Standard Forms 424 and 424-A
- J: Certification Forms
- K: Resources for State Courts