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PROGRAM INSTRUCTION

TO: State Public Assistance Agencies; Federally recognized title IV-B and title IV-E Indian Tribes, Tribal Organizations and Consortia (Tribes); State and Tribal Information Executives; and Other Interested Parties

SUBJECT: NEW REGULATIONS – Advance Planning Document Process

LEGAL AND RELATED REFERENCES: 45 CFR Part 95; 45 CFR Part 92; OMB Circular A-87 (2 CFR Part 255); ACYF-CB-IM-05-02 (Issued May 3, 2005); ACYF-CB-IM-05-04 (Issued May 3, 2005); 75 FR 66319 (October 28, 2010).

PURPOSE: This Program Instruction (PI) provides information to States and Tribes regarding changes to the regulations at 45 CFR Part 95 related to the Advance Planning Document (APD) process used to obtain approval of Federal financial participation (FFP) for acquiring automated data processing equipment and services.

OUTLINE: The PI contains ***thirteen*** sections titled:

Section I: Background
Section II: New Definitions
Section III: Federal Procurement Standards
Section IV: Independent Verification and Validation (IV&V)
Section V: Operational APD
Section VI: Cost Benefit Analysis
Section VII: Procurement Prior Approval Process
Section VIII: Prior Approval Thresholds
Section IX: Waiver of APD Requirements
Section X: Reconsideration of Denial of FFP Due to Lack of Submission
Section XI: Disallowance of FFP for Failed Projects
Section XII: Submission Date
Section XIII: Electronic Submissions

INSTRUCTION:

Section I: Background

The Advance Planning Document (APD) process governs the procedure by which States and Tribes obtain approval for Federal financial participation (FFP) in the cost of acquiring automated data processing (ADP) equipment and services. An APD should demonstrate that the expenditure of Federal funds is made in accordance with Federal regulation. The APD process is designed to mitigate financial risks in Federally-supported system development projects, confirm that a system supports program goals and objectives, and operates as intended by law and regulation.

On October 28, 2010, the APD regulations at 45 CFR 95 were changed, as outlined in the Federal Register (75 FR 66319). The primary goal of this final rule is to simplify and streamline the APD process. The 2010 APD rules reduce the submission requirements for low-risk information technology (IT) projects and procurements and increase oversight of high-risk IT projects and procurements. Additionally, States and Tribes may now request an exemption from Federal prior approval of acquisitions and waivers of APD requirements. The 2010 APD rule expands the use of Independent Verification and Validation (IV&V) reviews, and provides expanded authority for the Department of Health and Human Services to recoup FFP from failed system projects.

Due to differences in the legislative language authorizing Tribes to administer programs under titles IV-B, IV-D and IV-E, the APD requirements for Tribes are separately addressed in the regulations. For titles IV-B and IV-E, the Tribal APD regulations are the same as those for States and are at 45 CFR 95 Subpart F. For Tribes that have been approved to administer their own title IV-D Child Support program, the APD regulations are at 45 CFR 309 and 310. At the time that this PI was written, Tribes were unable to operate their own Title XIX program.

The sections below discuss the key changes to the regulations; please refer to the full-text of the final rule published October 28, 2010 at 75 FR 66319 for detail on all the changes.

Section II: New Definitions

The rule at § 95.605 provides new and updated definitions related to the APD process.

The general term ―APD" may refer to a Planning, Implementation, Operational or an APD Update. Revised definitions in the final rule include the following:

- *Advance Planning Document (APD)* is a plan of action to request funding for a project that will require the use of ADP service or equipment. It provides a structured project plan, schedule and budget for a project. Requirements are detailed in § 95.610, paragraphs (a), (b), and (c).

- *Advance Planning Document Update (APD Update)* is a document submitted annually (Annual APD Update) to report project status and changes to the approved plan. An APD Update may also be submitted on an as-needed basis (As-Needed APD Update) to request additional funding or provide new information on the project, as specified in § 95.610(c).

- *Operational APD* is a brief document that is submitted annually by programs whose system is not covered by an open APD. The Operational APD provides a brief overview of the activities, method of acquisition to support the ongoing and planned activities, and an annual budget for operations and software maintenance.

- *Planning APD* is a document that requests FFP for planning activities related to an information system project and describes the Agency's plans for conducting, among other activities, a feasibility study, developing functional requirements, and preparing a procurement document to acquire services related to developing an information system project.

Related and component definitions include the following:

- *Acquisition Checklist* is a tool that States and Tribes can submit to meet the prior approval requirements instead of submitting the actual Request for Proposals (RFP), contract or contract amendment. The Acquisition Checklist allows States and Tribes to self-certify that their acquisition documents comply with the applicable rules governing their procurement process.

- *Base contract* means the initial contractual activity, including all option years, allowed during a defined unit of time. The base contract includes option years but does not include amendments. The concept of a *base contract* period is a new factor in determining when a contract amendment must be submitted for prior approval.

- *Commercial-off-the-shelf (COTS) software* means proprietary software products that are ready-made and available for sale to the general public at established catalog or market prices.

- *Service Oriented Architecture (SOA)*, also referred to as *Service Component Based Architecture*, describes a means of organizing and developing IT capabilities as collaborating services that interact with each other based on open standards. Agency SOA artifacts may include models, approach documents, inventories of services or other descriptive documents.

- *Software maintenance* means routine support activities that normally include corrective, adaptive, and perfective changes, without introducing additional functional capabilities. Corrective changes are tasks to correct errors or deficiencies in software. Adaptive changes are revisions to existing software to meet changing requirements. Perfective changes are minor improvements to application software so it will perform in a more efficient, economical, and/or effective manner. Software maintenance can include

activities such as revising/creating new reports, making data element/data base changes, and making alterations to data input and display screen designs.

Please see § 95.605 for a full list of definitions.

Section III: Federal Procurement Standards

The final APD rule shifts the focus from Federal procurement criteria requirements to State procurement laws, policies and procedures. This provides greater latitude to agencies to follow their own procurement laws and regulations as long as they follow the same procurement policies and procedures that are used for its procurements that are not Federally-funded.

The Children's Bureau (CB) retains the authority to provide greater oversight, including requiring an agency to comply with the competition provisions in § 92.36(c) if it determines that elements of an agency's procurement process provide an impediment to competition that could affect project cost or heighten risk of failure.

Section IV: Independent Verification and Validation (IV&V)

The final rule allows CB to require IV&V reviews for high risk projects, and defines the high risk factors that could be used to trigger the need for such a review. New regulations at § 95.626 state that an IV&V analysis <u>may</u> be required if an agency or project:

1. Is at risk of missing statutory or regulatory deadlines for automation that is intended to meet program requirements;
2. Is at risk of failing to meet a critical milestone;
3. Indicates the need for a new or redesign system;
4. Is developing systems under waivers pursuant to sections 452(d)(3) or 627 of the Social Security Act;
5. Is at risk of failure, major delay, or cost overrun in their system development efforts;
6. Fails to submit APD updates or other required systems documentation;
7. Has procurement policies that could put the project at risk, including a pattern of failing to pursue competition to the maximum extent feasible; and/or
8. Fails to adequately involve the program offices in the development and implementation of the project.

Please note that the Federal funding agencies that use the APD process reserve the right to prospectively require a State or Tribe to conduct an IV&V review based on documentation received, or not received, reviews conducted, or project status.

Lack of competition, in and of itself, is not a trigger for IV&V; rather, where CB ascertains an impediment to free and open competition, it will conduct an assessment to determine if there is a pattern of failing to pursue competition, which may create a risk to the project. This determination may require the initiation of an IV&V review to evaluate the impact that the apparent lack of competition has had on the project for both increased cost and increased risk for system failure.

The lack of involvement of the agency's program offices in the development and implementation of the project described in the APD is also a possible trigger for IV&V. During the IV&V review, the team will consult with all stakeholders, including end users, caseworkers and business partners, to assess user involvement and buy-in regarding system functionality and the ability of the system to support program business needs.

When it is determined that IV&V activities are required, § 95.626(b) provides that they must be conducted by an entity that is independent from the State or Tribal agency (unless the Federal Agency grants an exception). The acquisition documents and contracts for IV&V services must be submitted to CB for review and prior approval. Work products from the IV&V review must be shared with the Federal Agency(ies) at the same time they are delivered to the State or Tribal agency.

Section V: Operational APD

The final rule has significant changes for projects in operations and maintenance status. APD requirements are reduced, and prior approval requirements for most operations and maintenance acquisitions have been eliminated.

The rule also creates a new category of APD, an Operational APD, which is defined at § 95.605. The Operational APD is a new annual report required for all projects that are not operating under a Planning or Implementation APD. The Operational APD must be submitted annually:

- For operational systems not covered by an open Implementation APD; or
- For active development projects that also have operational expenditures.

The new APD rule requires that the agency begin submitting an Operational APD on an annual basis for each operational system being funded with Federal funds. As specified in the submission requirements enumerated at § 95.610(c)(3), the Operational APD must include:

- A summary of all project activities;
- A summary budget of annual funding by program and activity; and
- A list of planned acquisitions and a brief description of the acquisition methodology (if applicable) to support the identified project activities (e.g., hardware, training, project resources, services).

See Attachment A for an optional template and instructions for the Operational APD.

Prior approval requirements for <u>competitive</u> operations acquisitions (e.g., RFP, Invitation for Bids, contracts, contract amendments) have been eliminated. Activities that involve software development, hardware or COTS procurement will still be subject to the prior approval thresholds at § 95.611. Procurements that include multiple activities, such as a project that includes both development and operational activities, are subject to the lower thresholds, and thus in this example, the threshold for development projects would apply.

Project staff are encouraged to consult with their Federal analysts to determine a submission schedule for their Operational APD. Where multiple programs are used to fund a project, such as for an integrated income eligibility system, project staff should coordinate with analysts from all Federal funding agencies concerning the timing of the submission.

Section VI: Cost Benefit Analysis

The new rule eliminates the requirement that projects submit an annual cost benefit analysis update. However, please note that the cost benefit analysis does remain a required element of the Planning APD and Implementation APD. A feasibility study and alternatives analysis should be included in the Implementation APD, as noted in § 95.610(b)(3).

Section VII: Procurement Prior Approval Process

The final rule makes changes to the prior approval process, and the manner in which acquisition exemptions from prior Federal approval are granted.

The changes in § 95.611 provide for presumptive approval of a wider range of acquisitions, with approval based on risk rather than simply the cost of the acquisition. Previously, the cost of the acquisition was the primary trigger for the prior Federal approval requirements and exemptions were granted only if specifically noted by CB. Under the final rule, prior approval is granted for many procurement activities concurrent with the approval of an APD containing a complete acquisition summary. Note, however, that certain conditions may trigger prior approval reviews, such as a procurement for implementation services, a sole source acquisition, or a procurement for an IV&V review. Furthermore, the final rule grants CB the authority to require prior approval of procurements that might otherwise be exempted from the prior approval requirements.

Acquisition Summary

The final rule modifies the requirements of § 95.610 related to what should be included in the various APD documents, including the Planning, Implementation, Annual and As-Needed APD Updates. The final rule requires that an APD include an Acquisition Summary that describes the information needed on planned acquisitions in order to qualify for an exemption from the prior approval requirements of § 95.611. The Acquisition Summary must provide detail on all proposed procurements for the period covered by the APD submission. Just as the APD budget must contain all related costs (including those for county projects in county-administered States), the Acquisition Summary must cover acquisitions being undertaken at any of the submitting State‘s or Tribe‘s administrative levels.

The detailed information that must be included in the APD to qualify for an exemption from prior approval requirements is listed in § 95.610(c)(1)(viii), and is as follows:

> (a) Type and scope of contract—Examples of type of contract are: firm fixed price, labor hours, and time and materials. Examples of scope of contract are: maintenance and

operation, COTS software, application software development, service contract, licenses and blended services.

(b) Procurement strategy—Examples of procurement strategy are: full and open competition, limited competition (e.g. master service contract), and sole source procurement. If the procurement is sole source, the requesting agency must provide a justification, either separately or as part of the APD Update. The justification should also reference the procurement policies and procedures used by the State or Tribe to govern its procurements from non-Federal funds.

(c) Estimated cost or not to exceed amount—This describes the total cost of the acquisition, and if applicable, the annual cost.

(d) Timeframe of contract—The narrative description should indicate the timeframe of the initial contract. The estimated begin and end dates of the base contract should be detailed, with the number of option periods defined in the contract. This should include the length of each option period whether in months or years.

(e) A signed certification from the authorized agency official that the proposed acquisition will comply with all Federal and State or Tribal requirements, including access to system records specified in § 95.615 and the retention of software ownership rights specified in § 95.617. A statement that the acquisitions described in the APD will comply with all applicable State or Tribal procurement requirements as well as Federal requirements will be sufficient.

The narrative describing each of the components in the acquisition summary must be of sufficient detail for the Federal funding agency(ies) to understand the complete scope of the procurement.

Section 95.611(b)(1)(iii) specifies that the exemption request for acquisition documents is assumed to be approved concurrent with the approval of the Planning, Annual or As-Needed APD Update containing the Acquisition Summary, unless the Federal program office indicates in writing that a specific acquisition should be submitted for prior Federal review and approval. The conditions for assumed approval of an exemption, as included in § 95.611(b)(1)(iii) must be met. These include: 1) that the submittal provides sufficient detail on which to base an exemption; 2) no deviation occurs from the terms of the exemption; and 3) <u>that the acquisition is not for a high-risk activity, such as software application development</u>.

Outcomes that may result in failure to meet the first two conditions include but are not limited to the following examples:

- The exemption was based on an acquisition summary that indicated the procurement would pursue full and open competition, but the eventual acquisition was actually sole source.
- The summary indicated the acquisition will be a firm fixed price contract, but the eventual acquisition was modified to a time and materials contract agreement.

- The acquisition summary indicated that the scope of the contract will be maintenance and operation but the eventual acquisition was expanded to include software development.
- The acquisition summary specified that the acquisition was for a specific functional component, such as document generation, and the eventual acquisition was expanded to include other functionality, such as calendaring.

The third condition for assumed approval of an exemption is when the acquisition is not for a high risk activity, such as software application development. Situations that may prompt CB to refuse to grant an exemption request include but are not limited to the following examples:

- The acquisition is for high-risk activity such as software development, or the RFP and contract are related to developing a new or replacement system.
- The project has had cost overruns or implementation problems.
- The agency has a past pattern of limiting competition.
- The size of the acquisition does not appear to be commensurate with the size of the program or caseload.

The acquisition summary is not required for an Implementation APD because software development is not exempted from the prior approval process. However, a Federal program office may still choose to exercise existing regulatory authority and exempt acquisitions included in an Implementation APD. For example, CB may request prior approval of an RFP, but may exempt the resulting contract from prior approval if the State or Tribe keeps CB informed during the procurement process and submits an information copy of the signed contract.

In addition to the software development acquisition, the Implementation APD may summarize multiple procurements in the first year, such as IV&V, Quality Assurance, or Project Management. The acquisition for software development is considered high risk and thus subject to prior approval. The program office may exercise discretion and exempt the other acquisitions in an Implementation APD, so the submitting agency is encouraged to provide an Acquisition Summary, if applicable, in the Implementation APD.

Finally, if an agency has submitted an APD that does not include a summary of a procurement activity, submission of an As-Needed APD Update may be required. The update should include all of the procurement summary components listed above and as specified in § 95.610(c)(1)(viii). Failure to do so will result in the procurement being subject to prior approval.

Section VIII: Prior Approval Thresholds for ADP Projects

The new rules at § 95.611 adjust the dollar thresholds for prior approval of information technology projects. When an agency plans to design, develop and/or implement an ADP project with FFP and total costs of development will equal or exceed $5 million, the APD process must be initiated.

The rest of this section presents a summary of the thresholds requiring a prior approval submission as outlined in § 95.611.

Enhanced Funding Projects

Changes in the new rule that apply to project development activities funded at the enhanced match rate are summarized as follows:

- The threshold for review of acquisition documents or contracts for procurements undertaken for enhanced funded projects has been increased from $100,000 to $500,000 at § 95.611(b)(2)(iii); and
- Similarly, the threshold for review of contract amendments has been increased from $100,000 to $500,000 at § 95.611(b)(2)(iv).

Please note that if a project was initially developed with funding at the "enhanced" match rate, but is currently being completed or enhanced with funding at the "regular" match rate, then the submission thresholds for projects funded at the regular match rate, as described below, will apply. All project procurement activities must be described in an APD.

Regular Funding Projects – Development

Changes in the new rule that apply to project development activities funded at the regular match rate are summarized as follows:

- Sole source procurements over $1 million must be submitted for prior approval;
- A $6 million threshold applies for competitive software development;
- A $20 million threshold is established for competitive hardware and COTS procurements;
- Contract amendments do not have to be submitted if the total cumulative value of all amendments is less than 20 percent of base contract value and the new tasks are within original scope of work. Note that for purposes of tracking amendment costs, the APD budget must include separate line items for each procurement, detailing the value of the "base contract" as defined in § 95.605, the value of each amendment, and the cumulative value of all amendments in both absolute value and as a percentage of the base.

For hybrid or blended projects, such as those covering software development and the acquisition of hardware, the relevant lower threshold applies. Additionally, projects that include both regular and enhanced funding should follow the rules for enhanced funded projects. The following examples should help to illustrate the new rules; however, they are not intended to cover every possible scenario. **We strongly recommend that project staff contact ACF for guidance when questions arise about a particular procurement.**

Examples:

- An agency is preparing a hardware-only procurement for $2,500,000 using a sole source vendor selection.

The $1 million threshold and justification requirements apply and the procurement is subject to prior approval in this example. Even though the procurement is for hardware only (subject to the $20 million threshold for competitive procurements), the fact that it is a sole source acquisition results in application of the lower threshold.

- An agency is preparing a $10 million competitive procurement that includes both software development and hardware.

The $6 million threshold applies because the procurement contains a mix of both software development (subject to the $5 million project threshold and $6 million procurement threshold) and hardware (subject to the $20 million threshold) and thus the lower threshold applies in this example.

- An agency signs a contract for two years at a cost of $8 million with two $1 million option years. During the contract period, the agency initiates three contract amendments. Amendment one is valued at $1 million. Amendment two is valued at $900,000. Amendment three is valued at $150,000.

The first two amendments would not be subject to prior approval, but the third and any subsequent amendments would be subject to prior approval in this example. Recall that the definition of a base contract includes the value of all option years, in this case that sum is $10 million ($8 million plus two options at $1 million each). The prior approval threshold is a *cumulative* value that exceeds 20 percent of the base contract; which in this case is $2 million. Therefore, the first and largest amendment of $1 million is not subject to prior approval. The second slightly smaller amendment of $900,000 is still not subject to prior approval as the cumulative value is $1,900,000. The third small amendment of $150,000 is subject to prior approval as the cumulative total of all three amendments has reached $2,050,000, which exceeds 20 percent of the base contract. Any future amendments would also be subject to prior approval as the cumulative threshold has been met. Regardless of the prior approval requirements, the cost of all three amendments must be included in an APD Update.

Service Agreements

An amended definition of Service Agreements was included in the revised APD regulations. Changes to the definition of service agreements at § 95.605 clarify when they must be submitted for prior approval, stating in sub-section (f) of the definition:

> …when the human service **programs** may reasonably be expected to either: be billed for more than 50 percent of the total charges made to all users of the ADP equipment and services during the time period covered by the service agreement, or directly charged for the total cost of the purchase or lease of ADP equipment or services….

All Human Service programs are considered in calculating the 50 percent billing threshold cited above. Other programs such as Departments of Motor Vehicles or Public Works would not be counted. The amount used to calculate the 50 percent threshold includes both the Federal funds and Agency match.

Agreements and procurements that meet the conditions listed above may need to be submitted in accordance with the provisions at § 95.611(a).

Operations and Maintenance

Significant changes relative to operations and maintenance activities include the following:

- A new definition of –software maintenance" is contained in Section 95.605 (see also Section II above).
- Agencies are no longer required to submit acquisition documents for competitively awarded operational procurements for Federal prior approval unless they exceed identified thresholds or the Agency is expressly requested to do so (see § 95.611(e) and preamble at page 66329, col. 1).
- Agencies must submit acquisition documents for sole source procurements over $1 million for Federal prior approval.

Remember that hybrid projects are subject to the lower threshold. The following examples should help to illustrate the new rules; however, they are not intended to cover every possible scenario. **We strongly recommend that project staff contact ACF for guidance when questions arise about a particular procurement.**

- An agency with a project in maintenance and operations (M&O) mode plans to conduct a competitive procurement for operations support valued at $30 million.

  Since there is no prior approval threshold for maintenance-only activities on a project in M&O mode, the procurement would not be subject to prior approval. However, the procurement activity would have been discussed in an Operational APD.

- An agency with a project in M&O mode plans to conduct a hardware refresh valued at $15 million using a sole source acquisition method.

  The agency procurement would be subject to prior approval rules in this case. Even though the project is in M&O and the procurement is below the $20 million threshold for hardware acquisitions, any sole source procurement over $1 million must be submitted for prior approval and the agency must submit a justification for using a sole source method.

- An agency with a project in M&O mode is planning a competitive $10 million procurement that includes an operations support and new software development to meet new policy requirements.

The procurement would be subject to prior approval rules, because development work is included in this example. Although operational procurements for projects in M&O mode are not subject to prior approval, the inclusion of development activities makes this procurement subject to the $6 million threshold for competitive software development activities.

Section IX: Waiver of APD Requirements

The final rule allows States and Tribes to request a waiver of an APD requirement. Section 95.627 of the final rule allows an agency to apply for a waiver by presenting an alternative approach to all or a portion of the regulatory provisions. The waiver request must be submitted as part of the agency‘s APD or APD Update. The request must demonstrate why meeting the condition is unnecessary, diminishes the agency‘s ability to meet program requirements, or show that the proposed alternative approach provides more efficient, effective, and economical administration of the programs for which FFP is requested.

Approval of the request may be granted if the request demonstrates that the proposed alternative approach will safeguard the interest of the agency and the Federal government, and will simultaneously allow the agency to be in substantial compliance with the other APD requirements. If approved, the waiver becomes part of the State‘s approved APD.

Disapproval of the waiver request results in disapproval of the entire APD; this disapproval is not subject to an administrative appeal. Please note that if a waiver request is not approved, the agency does not forfeit FFP entirely, but can submit a new APD.

Section X: Reconsideration of Denied FFP Due to Lack of Submission

The final rule provides for reconsideration of FFP denied for failing to meet the prior approval requirements for a procurement document. Section 95.623 of the final rule codifies current policy as defined in OSSP-Action Transmittal-00-01, defining a process by which an agency may request reconsideration for FFP that was denied due to the agency‘s failure to request Federal prior approval. Requests must be made within 30 days of the initial disallowance. The elements that must be addressed in the request are laid out in § 95.623(b):

1. The acquisition must be reasonable, useful and necessary;
2. The agency‘s failure to obtain prior approval must have been inadvertent (i.e., the agency did not knowingly avoid the prior approval requirements);
3. The request was not previously denied by HHS;
4. The acquisition must otherwise meet all other applicable Federal and State or Tribal requirements, and would have been approved under Part 95, Subpart F had the agency requested prior approval;
5. The agency must not have a record of recurrent failures under any of the programs covered by the prior approval regulations to comply with the requirement to obtain prior approval of its ADP acquisitions (i.e., submissions under these procedures from agencies

that have failed in the past to acquire prior approval in accordance with Part 95 Subpart F may be denied).

Please note that Federal approval of such requests will now be provided by the head of the individual program offices with responsibility over the State project in question.

Section XI: Disallowance of FFP for Failed Projects

The final rule provides clear authority to recoup Federal funding from failed system projects. Section 95.635 provides for disallowance of all FFP for systems that fail to comply substantially with applicable requirements. Previous rules had allowed for recoupment of the difference between enhanced and regular rate FFP.

The authority in § 95.635 permits, but does not require, recoupment of all or part of any costs from system projects that have a major failure to comply with an APD. The Federal program offices will consider a variety of factors in determining whether a project has ‗failed‘‘ and the amount of funding subject to recoupment. As an example, this provision could be initiated if a project fails to complete the system as defined in the approved APD or the resulting system does not support program requirements related to the funding received from the Federal funding agency(ies).

Short of failure to meet program requirements or the complete failure to implant an operational system, the good faith efforts of the grantee and the operational benefits arising from the expenditure will be among the factors that are considered in the decision regarding project failure.

Section XII: Submission Date

The new rules at § 95.610(c) clarify the timeframe for submitting an Annual APD Update. The new rules clarify that an Annual APD Update must be submitted 60 days prior to the expiration of the approved funding granted in the previous APD Update, the regulations governing the new process may help States and Tribes avoid potential gaps in funding authority.

Section XIII: Electronic Submissions

The new regulations permit electronic document submissions and responses from CB. In the interest of providing for a more efficient and timely processing of submissions, the new regulations eliminate references to ―written" and ―in writing." The change does not alter the requirement that the State‘s or Tribe‘s request must be sent by an authorized requestor, but this requirement can be met by electronic submission of a scanned copy of the signed letter. Similarly, the Federal approval, disapproval, or request for additional information must still be issued by an authorized individual in the Federal program office. Oral communications or informal e-mail exchanges, including technical assistance or requests for additional information from other than authorized individuals, do not constitute a formal response from CB.

INQUIRIES: Director, Division of State Systems, Children‘s Bureau, Administration for Children, Youth and Families, Administration for Children and Families

/s/

Bryan Samuels
Commissioner
Administration on Children, Youth
and Families

Attachment
A - Operational APD Template

Attachment A

Operational APD Template

Operational Advance Planning Document

Part 1
Instructions

The Agency should provide a title containing the State or Tribe‘s Name, Project Name, and the time period covered by this Operational Advance Planning Document (APD) submission:

> Example: State of Nirvana, Nirvana Automated Child Welfare Information System (NACWIS) Operational APD for October 1, 2011 through September 30, 2012

Section 1 - Summary of Activities: This section should provide sufficient information for the Federal Agency reviewing the submission to determine if the activities described are in fact operations and maintenance activities, and not development. A new definition of software maintenance was provided in the final rule (45 CFR 95.605).

> Software maintenance means routine support activities that normally include corrective, adaptive, and perfective changes, without introducing additional functional capabilities. Corrective changes are tasks to correct minor errors or deficiencies in software. Adaptive changes are minor revisions to existing software to meet changing requirements. Perfective changes are minor improvements to application software so it will perform in a more efficient, economical, and/or effective manner. Software maintenance can include activities such as revising/creating new reports, making limited data element/data base changes, and making minor alterations to display screen images.

Please note that if the system‘s project has any software development activities, then CB will apply the thresholds at § 95.611(a) for determining whether a traditional Planning or Implementation APD is required. Otherwise, all below threshold development activities must be adequately described in the Operational APD.

> Examples of software development activities include system replacement or significant application software changes like the implementation of a provider management module or document generation module. Similarly, substantive redesign or replacement efforts include: new electronic interfaces; development of a graphical user interface (UI) to replace a character-based UI; rewriting a set of underlying business rules in system logic; installation of a document imaging component to the system; and application system migration from a mainframe-based to a client-server architecture, etc.

Section 2 - Summary of Acquisitions: This section should provide information on the type and scope of any contracts, procurements, and/or amendments to existing contracts that will be initiated over the next 12 to 15 months. The summary should note the estimated costs, expected timeframe, and provide a certification that the procurement(s) will meet all Federal and State or Tribal procurement standards. Since many operational contracts are multi-year, the OAPD should provide the details of the procurement when it is planned and a notation in subsequent years that the contract is in the X year of a Y year contract. For sole source/noncompetitive

contracts below threshold, an affirmative statement that this acquisition is justified under State or Tribal procurement law, regulation, or process is needed. Sole source procurements above the threshold must be submitted for prior approval.

Section 3a - Annual Budget for Operations: This section should provide sufficient information for the Federal program office to monitor FFP claims covered by the Operational APD.

The project budget details estimated operational expenditures by category, with cost projections summarized for the period covered by the Operational APD submission. These costs should be broken out by quarter and totaled for the year by program. The budget should provide cost for the following, at a minimum: State or Tribal personnel costs, contractor costs (by contract), hardware and software costs, training, overhead, and supplies.

Note: For contractor costs, only costs for the current year should be included in this section of the Operational APD. This differs from Section 2 where total contract cost is reported.

Section 3b – Cost Allocation (if applicable): Cost allocation for operational activities differs from system development cost allocation. States and Tribes should have received approval of their cost allocation percentages for operational activities from the cognizant agency. If the operational APD involves multiple programs, please note the percentage share of the operational costs in the required budget section of the OAPD for each program involved.

Operational Advance Planning Document

Part 2
Template

The following template is provided as guidance for developing and maintaining annual Operational APD submissions.

[State or Tribe] [Project Name] Operational Advance Planning Document for [Time Period]

Section 1: Summary of Activities

For each project activity provide the task name, a brief description of the task, identify the staff resources being used, the name of the vendor (if applicable), current status, start date and projected end date.

Section 2: Summary of Operational Acquisitions

[Name of individual authorized to submit APDs] certifies, in accordance with the standards at § 95.613, that these procurements comply with all Federal and State or Tribal requirements including access to system records specified in § 95.615 and the retention of software ownership rights specified in § 95.617.

Contract Name	Type	Scope	Procurement Strategy	Total Cost Est/Actual	Timeframe		
					Base Start	Base End	Option Years
Vendor Name (or ―TBD" if procurement not completed) and purpose.	Ex: Firm Fixed Price, Labor Hours, Time and Materials	Ex: M&O, COTS software, hardware, service contract, licenses	Ex: Full & Open Competition, Limited Competition, Sole Source				
Examples:							
Alpha Company – workstations for county office upgrades	Firm Fixed Price	Hardware	Non-competitive	$10 million	Est 2nd Quarter SFY 2011	Authority to use this contract ends 6/30/2011	NA
M&O (Vendor TBD)	Time and Materials	M&O	Master Services Agreement	Variable based on workload, not to Exceed $20 million	10/1/2008	9/31/2012	2

Contract Name	Type	Scope	Procurement Strategy	Total Cost Est/Actual	Timeframe		
					Base Start	Base End	Option Years
MS Office Upgrade	Firm Fixed Price	COTS	Sole Source license	$3.5 million	1/31/2011	NA	NA
Image Backfile Scanning - Vendor TBD **(Note 1)**	Fee Based – per page scanning fee	Service Contract	Full and open competition	Per transaction, estimated total cost of $7 million	In procure-ment – estimated start 7/1/2011	1 year – estimated 6/30/2012	Up to 3, exer-cised annual-ly

Note 1 *- IMPORTANT: While the service agreement to scan documents is considered M&O, the installation of a document imaging component is considered development and if under threshold should be documented in a separate section on development activities.*

Section 3a - Annual Budget for Operational Activities

Cost Category	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total for Year
State Personnel					
Contractor Personnel (by contract)					
Hardware purchases					
Hardware licenses					
Operational Software purchases					
COTS software licenses (by contract)					
Training					
Overhead					
Supplies					
Other (Explain)					
TOTAL					

Section 3b: Cost Allocation (Required only for multi-program APD submittals)

The table below provides cost allocation for operational activities as approved by the HHS/PSC/Division of Cost Allocation.

Programs	**Total Request**	**Percent Allocation**	**Federal Share %**	**Federal Share $**	**State Share $**
List of each program or agency applicable to this Operational APD	Total dollars requested by program	Percent allocation per program	Percentage of FFP paid by the Federal program	Dollar amount of Federal financial participation	Dollar amount of costs paid for by state dollars
Examples:					
IV-D	$3,000,000	15%	66%	$2,000,000	$1,000,000
TANF	$5,000,000	20%	N/A	N/A	$5,000,000
SNAP	$7,000,000	35%	50%	$3,500,000	$3,500,000
Child Care	$1,000,000	5%	N/A	N/A	$1,000,000
IV-E SACWIS	$1,000,000	5%	50%	$500,000	$500,000
Title XX	$0	N/A	N/A	N/A	N/A
Other (List each)	$0	N/A	N/A	N/A	N/A
State/Tribe Only	$3,000,000	15%	0%	$0	$3,000,000
Totals	$20,000,000	100%	N/A	$6,000,000	$14,000,000

Note 2 *– Sample dollars and percentages are for example purposes and not applicable to any specific project.*