

<h1>ACF</h1> <p>Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
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PROGRAM INSTRUCTION

TO: State Public Assistance Agencies, State Information Technology Executives and Other Interested Parties.

SUBJECT: FEDERAL INFORMATION TECHNOLOGY POLICY – Requirements and Level of Federal Financial Participation (FFP) Based on Status of a State's Statewide Automated Child Welfare Information System (SACWIS) Project.

REFERENCES: 42 USC 674(a)(3)(C) and (D), 45 CFR Part 95, Subpart F; 45 CFR Part 92; 45 CFR Part 1355.50-57; Action Transmittals ACF-OISM-001 (February 24, 1995), ACF-OSS-05 (August 21, 1998), Program Instruction ACYF-CB-PI-01-05 (April 16, 2001) and ACF's SACWIS Assessment Review Guide (OMB Control No: 0970-0159).

PURPOSE: This Program Instruction (PI) provides guidance regarding the Federal requirements for Statewide Automated Child Welfare Information Systems (SACWIS) projects and the availability of Federal Financial Participation (FFP) based on the status of a State's project.

BACKGROUND: The Administration for Children and Families (ACF) has oversight responsibilities for State child welfare information technology projects that are supported with Federal funds. Projects of particular concern to ACF include the design, development, implementation and operation of automated information systems that support the programs under titles IV-B and IV-E of the Social Security Act. Most of these efforts have been identified by States as SACWIS projects.

The Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66) authorized SACWIS. While the legislation did not require States to develop a SACWIS, it did provide incentive funding and a favorable allocation of costs to develop and operate automated systems that meet all SACWIS requirements. The legislation also required the U.S. Department of Health and Human Services' (HHS) Secretary to determine if they are "likely to provide more efficient, economical and effective administration of the programs" administered under title IV-E. Through the *Federal Register*, 58 Federal Register 67939, dated December 22, 1993, the Department issued regulations at 45 CFR Part 1355.50-57 to implement the legislation.

Approved State SACWIS projects received enhanced title IV-E funding at the 75 percent rate of FFP from October 1993 through September 1997, to plan, design, develop and install a SACWIS-compliant system. In addition to this time-limited incentive FFP rate identified above,

States developing or operating SACWIS systems could also claim additional title IV-E FFP through separate enhanced cost-allocation methodologies approved for the development and operation of these types of systems.

DISCUSSION: During the time that SACWIS systems have been under development, several high profile child abuse and neglect cases have come to the attention of the United States Congress. Through the Government Accountability Office (GAO) (formerly known as the General Accounting Office), members of Congress have expressed concern regarding State automated system projects. Among the expressed concerns was the length of time it is taking some States to complete the development and installation of these systems and the effectiveness of these systems in helping State and local staff monitor the circumstances of children in State custody. In 2003, GAO released a 70-page study¹ that addressed these concerns by evaluating development timelines of such systems and their operational effectiveness in supporting ACF-mandated data collection.

Currently, States are at various stages of completing their SACWIS development projects, many of which began in the mid-1990s. ACF has authorized States to claim title IV-E reimbursement for the operational costs related to these systems in accordance with a SACWIS-level cost allocation, even though their systems were not fully SACWIS-compliant. This flexibility was provided by ACF based on the:

- Expected benefits States claimed they would accrue through the operation of partially developed systems and
- Department regulations at 45 CFR Part 1355.53(f) that allow a phased system implementation to support the expedited implementation of the AFCARS requirements.

This flexibility was never intended to convey a policy that guaranteed continued SACWIS-level funding for operational costs for all SACWIS projects irrespective of their ability to meet all objectives described in the approved Advance Planning Document (APD) or within the approved cost and schedule parameters. SACWIS-level funding for either development or operational costs is at risk should a project not result in a SACWIS-compliant system within the estimated costs or timeframes contained in the ACF-approved State APD.

Federal codified law at 42 USC 674(a)(3)(C)(iv) requires the Secretary to determine that the planning, design, development or installation of SACWIS systems will lead to a more efficient, economical and effective administration of the programs managed under titles IV-B and IV-E. As a result of ACF's fiduciary responsibilities and its assessment of States' progress in developing and implementing their automated systems, as well as Congress's expressed interest in the welfare of children and the quality of care they receive, ACF has determined that it is appropriate and necessary to reiterate current policy and provide additional guidance to States regarding implementation of their SACWIS.

This document further clarifies ACF's policy with respect to the allocation of costs as SACWIS operations prior to the completion of all required and approved SACWIS developmental functionality. The decision to grant and continue authorization of SACWIS-level funding for unfinished systems will be based on the project status and schedule for system completion.

INSTRUCTION: ACF strives to support State efforts to develop, implement and operate automated child welfare information systems. Such support has been provided through ongoing technical assistance from ACF staff, national resource centers, the system users group and regional and national conferences.

While supporting State information technology projects, ACF is also obligated to exercise its fiduciary responsibility in order to ensure State compliance with the requirements at 42 USC 674(a)(3)(C) and (D), 45 CFR Part 1355.50 et seq. and 45 CFR Part 95, Subpart F. In order for ACF to fulfill these obligations, it may be necessary to invoke the applicable provisions, provided through the Departmental regulations at 45 CFR Part 92.12, for States that ACF has determined to be “high risk” for one of five specified reasons. These include a history of unsatisfactory performance, financial instability or non-conformity to terms and conditions of previous awards.

1. Operational Costs and System Status

a. SACWIS Funding for Operations

42 USC 674(a)(3)(D) provides for funding the operation of systems that meet all SACWIS requirements. States may choose to implement a SACWIS in phases. In such cases, the State may allocate, through an approved Cost Allocation Plan (CAP), costs incurred in the operation of system components as SACWIS operational costs even though not all SACWIS functionality is implemented. This approach has been and will continue to be acceptable to ACF. States are, however, required to complete all development activities within the estimated costs and schedules they described in their approved Implementation Advanced Planning Documents (IAPD).

While ACF has been flexible in supporting States that are challenged by various risks and constraints, this flexibility should not be construed as a blanket waiver that excuses States from completing all system development within the originally estimated timeframes and project budgets. ACF’s fiduciary responsibilities require that it hold States accountable for the successful completion of these systems as described in their approved IAPD within the defined cost and schedule parameters.

Should ACF determine through an on-site review, evaluation of State documentation, or other sources of information that States have not met the system implementation objectives described in their IAPDs, including those regarding project cost and schedule, ACF will not reimburse costs associated with the operation of the partially completed systems and/or the systems infrastructures at the SACWIS-level funding rate. These operational costs must then be allocated to all benefiting programs, just as other non-SACWIS costs are, as a component of State and local agency administration. To the extent allocable to title IV-E, the costs would be claimed as a non-SACWIS administrative cost. In other words, the allocation benefits afforded in the Departmental regulations at 45 CFR Part 1356.60(e) will no longer be

operative and available for claiming against the title IV-E program. The results of having the State agency's SACWIS project costs being reclassified from SACWIS operational costs to non-SACWIS administrative cost has the following ramifications:

(1) The allocation benefits provided in 45 CFR Part 1356.60(e) for the State IV-E Foster Care and Adoption Assistance administrative activities that are delineated at 45 CFR Part 1356.60(c)(2) may no longer be claimed as SACWIS operational costs under the title IV-E Foster Care program. Rather, these administrative costs that benefit the State Foster Care and Adoption Assistance programs must be allocated to all benefiting programs, other than the title IV-E Foster Care program, consistent with the tenets of OMB Circular A-87.

Moreover, the administrative costs that benefit the title IV-E Foster Care and Adoption Assistance programs must be allocated to each respective title IV-E program and claimed under each respective program on the appropriate quarterly report of estimates and expenditures.

(2) The State agency must amend its CAP to reflect the changes articulated in (1) above.

After evaluating a State's business case, ACF has approved APD updates that request additional time and FFP for the completion of a system. However, the continued inability of any State to complete all SACWIS requirements within its self-imposed project time and cost limits will result in ACF finding that the State is "high risk" and that the operational system costs are non-SACWIS. Such a finding is appropriate in that a State automated child welfare information system missing one or more components specified at 45 CFR Part 1355.53 or in an approved APD does not constitute an operational SACWIS. ACF has authorized SACWIS operational-level funding for partially completed automated child welfare information systems with the understanding that all required functionality and development activities will be completed in the timeframe and cost level approved by ACF. Evidence, in accordance with the standards specified in this PI, that this expectation has not been realized will result in the withdrawal of this SACWIS-conditional operational status.

Upon notification by ACF that a State's automated child welfare information system operational costs are not to be claimed at the SACWIS level, the State will not receive Federal reimbursement for any title IV-E claims for costs allocated as SACWIS operational costs effective with the start of the first day of the fiscal quarter following the date of the notification. Therefore, the State's CAP should either provide for an alternative allocation of system operational costs to all benefiting programs, including those

for State-funded foster and adoptive children, or be amended to address such a change in circumstances.

The above language is intended to alert States to the need to address the possibility of a withdrawal of SACWIS-level funding in their CAPs. The timing of such an amendment is left up to the State. If it has not already done so, a State would be required to amend its CAP upon notification by ACF that its system costs for operations may not be claimed at the SACWIS level. This determination is based on Departmental regulations at 45 CFR Part 95.509(a)(4), which provide for submission of a CAP amendment to the Division of Cost Allocation (DCA) when "...changes occur which make the allocation basis or procedures in the approv[ed] cost allocation plan invalid." The key concept is that the incurred costs will not be IV-E reimbursable as SACWIS operations in the quarter following notice of ACF's withdrawn approval. Thus, if a State chooses to wait until this eventuality occurs to amend its CAP, it risks delayed reimbursement of the incurred costs.

For all active SACWIS projects beyond those in the planning phase, ACF will work with the States to establish target completion dates and budgets that will be used as triggers to change the cost-allocation classification for operational costs should the implementation dates or budgets exceed those targets. The budget and schedule targets will be established in either the initial IAPD or the next Annual APD Update submitted following the effective date of this PI, whichever is applicable. State submissions should clearly identify their plans with respect to whether, and the extent to which, any costs of operational components of the system will be classified as SACWIS operational costs. ACF may subsequently allow States to extend their schedules or increase their budget targets based on a sound business case approved by this Agency.

ACF will formally notify any State, in writing, as early as possible, of ACF's determination that the State does not meet Federal requirements for continuing to allocate operational costs at the SACWIS level. This notice will identify:

- i. The nature of the special conditions/restrictions;
- ii. The reason(s) for imposing them;
- iii. The corrective actions that must be taken before they will be removed and the time allowed for completing the corrective actions; and
- iv. The method of requesting reconsideration of the conditions/restrictions imposed.

Should ACF determine through an on-site review, evaluation of State documentation or other sources of information that any State has failed to meet its project objectives, stay within budget or meet its defined schedule to develop and/or implement its system, ACF may also exercise the authority outlined at 45 CFR Part 1355.56 to suspend its SACWIS APD and evaluate if any system development or operational costs are eligible for funding as non-SACWIS title IV-E administration.

b. Resumption of SACWIS-Level Operational Funding

Based on the process initiated through the Departmental regulations at 45 CFR Part 92.12, ACF will consider the prospective reinstatement of the SACWIS-level allocation of automated system costs for operational activities upon ACF's receipt and approval of a State's APD that presents a corrective action plan that:

- i. Defines a rational schedule by which all system functionality, including SACWIS-required functions, would be implemented;
- ii. Estimates the cost by functional component for completing the design, development and implementation of all remaining system functionality;
- iii. Updates the APD's cost-benefit analysis;
- iv. Identifies by functional component all key project milestones and deliverables and estimated dates of occurrence and/or delivery;
- v. Describes the project management methodologies, industry standards and/or best practices that would be implemented and followed throughout the system life cycle to improve the State's capacity to complete system development activities described in the project plan on time and within budget;
- vi. Identifies project risks and describes the State's risk-mitigation plan to address those risks; and, if required by ACF,
- vii. Initiates project quality assurance, quality control and/or independent verification and validation reviews that would provide oversight and information about project deficiencies and risks and makes recommendations regarding how to improve project processes and mitigate project risks.

Upon ACF's review and formal acceptance of the corrective action plan, and assuming that the project remains on schedule and within budget, a State would be able to apply the approved SACWIS-level allocation to future operational costs for the system. The effective date of the resumption of the SACWIS-level allocation for operational costs would be the beginning of the first day of the month following the date that ACF receives an approvable State corrective action plan or the effective date of the HHS DCA approved operational cost allocation plan for the system, whichever is later. It is possible for a State to avoid any ultimate loss of title IV-E SACWIS operational cost funding through the submission of an approvable corrective action plan within the quarter that the notice of ACF's determination of non-SACWIS status is issued.

Should ACF determine that a State (either through an on-site review, evaluation of State documentation, or other sources of information) has not fulfilled any of the elements of the approved corrective action plan, the project schedule, or the revised budget, the costs related to operations would again be considered non-SACWIS in nature, effective the first day of the quarter following the date of ACF's notification to the State.

2. Independent Verification and Validation (IV&V)

a. Special Conditions

Based on ACF's authority authorized under Departmental regulations at 45 CFR Part 92.12, there may be circumstances that could result in ACF requiring a State to obtain IV&V services for their project. These circumstances include situations where:

- i. The State fails to meet critical project milestones or schedules described in an approved APD in two successive Annual APD Updates;
- ii. ACF finds (through various reviews or other sources) that the system functionality is materially inconsistent with the plans described in the State's APD or SACWIS Assessment Review Report;
- iii. A State fails to submit an APD Update in a timely manner (e.g., annually, or on an as needed basis), as described in Chapter IV of the State Systems APD Guide);
- iv. A State proposes implementing a replacement automated system prior to reaching the end of the projected system life cycle for the current application or
- v. ACF otherwise determines that a project is at risk of failure, significant delay or significant cost overrun.

b. Scope of Review

For a project that meets one or more of these circumstances, ACF will carefully assess the State's system development efforts through State documentation, on-site reviews and/or other information that may be available to evaluate a State's progress towards developing a system that meets Federal SACWIS and other automation requirements. Based on this assessment, ACF will determine the type, scope and frequency of IV&V services that a State must use in order to continue to receive Federal funding and the date by when these services must be used. Depending on the focus of the IV&V review, the cost will be considered a project expense and should be included in the appropriate APD budget as a separate line item.

The IV&V service provider must be:

- i. Independent from the State agency(ies) responsible for the SACWIS project;
- ii. Subject to contract management by a State organization that is independent from the State agency(ies) responsible for the SACWIS project;
- iii. Experienced at conducting information technology IV&V project reviews of the scope and complexity consistent with one necessary for a SACWIS project;

- iv. Experienced at making recommendations to correct deficiencies, improve efficiencies and economies and/or align project processes with industry standards and best practices and
- v. Experienced at identifying project risks and recommending risk mitigation strategies.

The scope of IV&V reviews may include, but not be limited to:

- vi. Project management, including, but not be limited to, project management processes by the State and/or its vendor, performance metrics, quality assurance and control processes, project schedule and project budget;
- vii. The technical processes used and products produced by the project;
- viii. Risk management processes and the development and implementation of risk mitigation strategies;
- ix. System performance and capacity planning activities and
- x. System implementation strategies, including training, data conversion and on-site support.

All deliverables produced by the IV&V provider must be submitted electronically and in hard copy to ACF at the same time that they are submitted to the State component managing the IV&V activities. Additionally, the IV&V entity must notify ACF of, and facilitate ACF's remote participation during, any meetings or briefings it conducts with the State.

Should the IV&V provider be a private contractor, the acquisition of its services must be accomplished through an open and free competitive process. All solicitation and contractual documents are subject to the Departmental prior approval requirements at 45 CFR Part 95.611.

A State will be required to develop and submit a corrective action plan to ACF within 120 days of its receipt of the final IV&V report containing findings and recommendations. The corrective action plan must clearly identify each finding and the State's plan to correct the circumstance(s) described in each finding through the recommended action(s). The corrective action plan must also include the amount of time, staff resources, cost and schedule to complete the corrective and recommended actions.

c. **Failure to conduct the IV&V Review**

A State that is required to conduct an IV&V review must submit to ACF formal written acceptance of this requirement. Should a State fail to conduct a Federally required IV&V review to the prescribed extent and within the requisite time frame, ACF may suspend the State's IAPD under the authority granted by the Departmental regulations at 45 CFR Part 1355.56, effective with ACF's formal notification to the State no later than the day by which the review was expected to have been completed. The resumption of project

funding would become effective on the date of ACF's approval of the State's efforts to initiate the IV&V process.

3. Subsequent Changes, Findings and Reviews

a. System Changes

States should be aware that major changes to the design, functionality or use of their SACWIS may result in ACF conducting an assessment subsequent to the initial system assessment in order to determine if the modified system continues to meet all SACWIS requirements. ACF may become aware of such changes through an on-site review, evaluation of State documentation or other sources of such information. Situations that could trigger ACF's conduct of a subsequent assessment review include, but are not limited to, the following scenarios:

- i. A State has made significant changes to the application, functionality or user interface;
- ii. The SACWIS is not being used as described in the IAPD;
- iii. Manual processes continue to be used, or are newly implemented, in lieu of using the SACWIS;
- iv. A State is using other automated systems outside the SACWIS to perform child welfare-related activities;
- v. A SACWIS is modified such that different versions operate in different parts of the State or
- vi. A SACWIS is replaced by another application.

b. Other ACF Reviews

If other ACF assessments or reviews (e.g., AFCARS, title IV-E or Child and Family Services Review) reveal that the State's SACWIS does not capture necessary data or support functional requirements included in the approved system design or required by Federal regulations, ACF may determine that the application is not compliant with SACWIS requirements. If ACF determines that a system is no longer SACWIS-compliant, whether as a result of a program review or through some other means, ACF will notify the State of the finding. Once notified, the State will be required to submit a corrective action plan to ACF (as described in Section 1.b of this PI) within sixty (60) days.

c. Corrective Action Process

A corrective action plan must provide detailed information regarding the cost and level of effort required to bring the system into SACWIS compliance within a timeframe that is acceptable to ACF. Should the State not present an acceptable corrective action plan for resolving the identified issue(s), ACF will suspend an active IAPD. In the event that the State no longer has an active IAPD, ACF will reclassify the system as a non-SACWIS and adjust the cost allocation methodology accordingly. Both system development and operational costs would then be subject to funding at non-SACWIS title IV-E

administration levels beginning with the quarter following a State's receipt of ACF's notification.

d. **Voluntary Reclassification**

Alternatively, the State may notify ACF that it no longer wishes to have its system considered a SACWIS and change its cost allocation methodologies for the development and operation of the system. Accordingly, ACF will evaluate the State's business case for reclassifying the system as a non-SACWIS to determine if the State needs to adjust prior claims related to the development, implementation and operation of the system in accordance with the Department's regulations at 45 CFR Parts 95.612 and 1355.56.

INQUIRIES: HHS – Children's Bureau, Division of State Systems

/s/

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

¹ GAO-03-809 "Most States are Developing Statewide Information Systems, but the Reliability of Child Welfare Data Could be Improved." Back