

<h1>ACF</h1> <b>Administration for Children and Families</b>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
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	<b>3. Originating Office:</b> Children’s Bureau	
	<b>4. Key Words:</b> Family First Transition Act, Family First Prevention Services Act, Title IV-B, Title IV-E	

### PROGRAM INSTRUCTION

**TO:** State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act

**SUBJECT:** Family First Transition Act Funding Certainty Grants

**LEGAL AND RELATED REFERENCES:** Public Law (P.L.) 116-94, the Family First Transition Act within Section 602, Subtitle F, Title I, Division N of the Further Consolidated Appropriations Act, 2020; the Family First Prevention Services Act within Division E, Title VII of the Bipartisan Budget Act of 2018 (P.L. 115-123); Sections 474 and 1130 of the Social Security Act (Act).

**PURPOSE:** The purpose of this Program Instruction (PI) is to provide guidance to title IV-E agencies that on September 30, 2019 were operating a title IV-E child welfare waiver demonstration project under the authority of section 1130 of the Act on the actions required to be considered for a Funding Certainty Grant.

**BACKGROUND:** The Family First Prevention Services Act (FFPSA) was enacted on February 9, 2018, as part of Public Law (P.L.) 115-123. The law amended many sections of titles IV-B and IV-E of the Social Security Act (the Act).<sup>1</sup> Overall, the law supports the use of evidence-based practices to promote the well-being of children, youth and families and to prevent unnecessary foster care placements. For children who enter foster care, the law encourages use of family-based care, and places limits on the availability of title IV-E foster care reimbursement for congregate care placements, unless they meet specific requirements.

<sup>1</sup> See Information Memorandum [ACYF-CB-IM-18-02](https://www.acf.hhs.gov/cb/laws-policies/policy-program-issuances) for a summary of major provisions of the law. All Children’s Bureau Information Memoranda and Program Instructions are available on the Children’s Bureau website at: <https://www.acf.hhs.gov/cb/laws-policies/policy-program-issuances>

The Family First Transition Act (henceforth, “Transition Act”) was enacted as part of P.L. 116-94 on December 20, 2019 to support implementation of FFPSA and further its goals. Among other provisions, the Transition Act authorized Funding Certainty Grants (out of any money in the Treasury not otherwise appropriated) for federal fiscal years (FFYs) 2020 and 2021.<sup>2</sup> The grants are available only to title IV-E agencies that operated title IV-E child welfare waiver demonstration projects (henceforth “demonstration projects”) through the end of the waiver authority on September 30, 2019. Funding Certainty Grants are intended to replace any shortfall in title IV-E Foster Care program federal financial participation (FFP) that may be identified for FFYs 2020 and 2021 as compared to specified funding available through the former demonstration project. The amounts of Funding Certainty Grants are to be determined based on title IV-E Foster Care program FFP provided for FFYs 2020 and 2021.

Funding Certainty Grants may be used for any purpose specified in title IV-B of the Act, the portions of the Act authorizing the Stephanie Tubbs Jones Child Welfare Services Program and the MaryLee Allen Promoting Safe and Stable Families Program. Funds may also be used for activities directly associated with implementation of FFPSA. In addition, the Funding Certainty Grants may be used for activities previously funded under former demonstration projects to reduce any adverse fiscal impacts associated with the end of these projects and the transitioning of project activities to other funding sources. The Funding Certainty Grants will be awarded after the completion of each FFY, for FFYs 2020 and 2021 only. The awarded funds, subject to adjustment based on any subsequently reported relevant title IV-E claims for these FFYs, will remain available to grantees through September 30, 2026.

All qualifying title IV-E agencies must follow guidance provided in this PI to assure consideration for Funding Certainty Grants. In determining how to use these funds, the Children’s Bureau encourages agencies to consider how the funding can be used strategically not only to meet short-term goals or fill funding gaps, but to help move child welfare in the United States to a more truly preventive system that works to strengthen families before child maltreatment occurs and that reduces unnecessary family disruption.

## **INFORMATION ON FUNDING CERTAINTY GRANTS:**

*Qualifying Agencies:* Title IV-E agencies with an approved demonstration project that was operational on September 30, 2019 qualify for consideration for Funding Certainty Grants. No application for funding is needed. However, funding consideration will only be provided to those otherwise qualifying agencies that elect to report applicable title IV-E claims separately as “post-demonstration costs” on the Form CB-496 title IV-E programs quarterly financial report. More information on this reporting requirement is contained in this PI and in another forthcoming PI addressing Form CB-496 reporting. Please direct any questions regarding qualifications to the appropriate Children’s Bureau (CB) Regional Office (RO) (see Attachment B).

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<sup>2</sup> See Information Memorandum [ACYF-CB-IM-20-01](#) for more information on other provisions of the Transition Act, including FFPSA Transition Grants for title IV-B, subpart 1 agencies. See Program Instruction [ACYF-CB-PI-20-04](#) for guidance on FFPSA Transition Grants.

*Funding Certainty Baselines:* To determine whether a title IV-E agency will receive a Funding Certainty Grant for either FFY 2020 or FFY 2021, the agency's applicable title IV-E claims will be compared to a baseline amount. In accordance with the Transition Act, the funding certainty baseline consists of the FFP available through the former demonstration project's capped allocation for FFY 2019, as specified in the demonstration terms and conditions that were in effect on August 31, 2019. Where a title IV-E agency did not use a capped allocation in the former demonstration project, the final cost neutrality limit for FFY 2018 is the funding certainty baseline. See Attachment A for funding certainty baseline amounts for all qualifying title IV-E agencies.

*Funding Certainty Levels:* The Transition Act establishes a separate guaranteed level of title IV-E funding, or "funding certainty level," for FFY 2020 and FFY 2021. The FFY 2020 funding certainty level equals the funding certainty baseline multiplied by 90 percent. The FFY 2021 funding certainty level equals the funding certainty baseline multiplied by 75 percent.

*Post-Demonstration Costs:* Title IV-E Foster Care program costs for applicable periods in FFYs 2020 or 2021 must be broken out to separately identify those amounts that would have been classified as demonstration project costs had payment been made in FFY 2019. Such costs are referred to as "post-demonstration costs." Specifically, post-demonstration costs include costs for performance of activities that would have been classified as within project operations chargeable or allocable to a former demonstration project in accordance with the approved terms and conditions (as in effect on August 31, 2019) for that project. All post-demonstration costs must be title IV-E allowable without consideration of any waivers that were in effect during the operational period of the former demonstration project.

For example:

*A title IV-E agency formerly operated a demonstration project in which the primary waiver intervention was a parenting program. The demonstration operated in only three counties in the state. For waiver demonstration cost neutrality purposes, all title IV-E foster care maintenance payments and in-placement administration costs for the three counties were included in a capped allocation. For this title IV-E agency, post-demonstration costs would include title IV-E foster care maintenance payments and in-placement administration costs from the three counties for FFY 2020 and FFY 2021 periods. Unlike during the demonstration project operational period, post-demonstration costs would not include the costs associated with the project intervention (the parenting program) or other costs that had been authorized during the demonstration project operational period as title IV-E claimable only through waivers granted.*

A title IV-E agency must separately identify and report post-demonstration costs for all FFY 2020 and FFY 2021 periods in accordance with Form CB-496 reporting instructions. A revised Form CB-496 and reporting instructions addressing post-demonstration costs will be issued through a separate PI.

*Calculation of Awards:* A Funding Certainty Grant will be calculated for each of the two FFYs (2020 and 2021) where funding is available. For each qualifying title IV-E agency, the calculation compares the funding certainty level for the specified FFY (either 2020 or 2021) to post-demonstration cost FFP claims for the same FFY reported on Form CB-496. If the funding certainty level exceeds the reported claims for that FFY, the difference will be awarded through a Funding Certainty Grant. Since the baseline includes a full FFY, the calculation requires the availability of CB-496 reports including post-demonstration cost claims for all four quarters of the involved FFY. Additionally, since title IV-E claims can be submitted as either current quarter or prior quarter adjustment amounts, after an initial Funding Certainty Grant calculation is performed, further calculations will be required to consider additional reported post-demonstration cost claims for each FFY. Specifically, the updated claiming data will be compared to the funding certainty level to determine the amount of any shortfall. This result will then need to be reconciled against any previously provided Funding Certainty Grant for the FFY.

The Transition Act establishes parameters for consideration of title IV-E claims in the Funding Certainty Grant calculation process as follows:

SEC. 602(c)(2)(E) Each State seeking a payment under this paragraph shall report expenditures pursuant to part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) in a manner determined by the Secretary and the Secretary shall account for any revisions to spending for fiscal years 2020 and 2021 after the end of the respective fiscal year that are reported by the State agency administering the State plan approved under such part, and received by the Department of Health and Human Services, within 2 years after the last day of the fiscal quarter in which the expenditure was made.

Therefore, any title IV-E prior quarter adjustment claims constituting post-demonstration costs for applicable periods in FFYs 2020 or 2021 must be considered for a period ending two years after the end of each calendar quarter. For example, for FFY 2020, this means that any claims for the applicable period ending September 30, 2020 that the title IV-E agency reports by September 30, 2022 must be considered in the calculation of any FFY 2020 Funding Certainty Grant.

The following is an example of how a Funding Certainty Grant would be calculated for FFY 2020:

1. *A qualifying title IV-E agency has a FFY 2020 funding certainty baseline of \$27,777,778 FFP.*
2. *This title IV-E agency's FFY 2020 funding certainty level is \$25,000,000 FFP (90% of the baseline).*
3. *The sum of this title IV-E agency's reported and accepted title IV-E foster care post-demonstration cost claims for FFY 2020 periods contained on Form CB-496 reports for each of the four quarters of FFY 2020 is \$20,000,000 FFP.*
4. *Based on this reporting, ACF will issue an initial Funding Certainty Grant of \$5,000,000 (\$25,000,000 - \$20,000,000).*

5. *The title IV-E agency's Form CB-496 reports submitted for FFY 2021 current quarter claiming periods identify that the title IV-E agency has reported \$2,000,000 FFP in title IV-E foster care post-demonstration cost net increasing prior quarter adjustment claims for FFY 2020 periods. These claims are accepted by ACF.*
6. *The updated total post-demonstration cost FFP claims for FFY 2020 (\$22,000,000) are compared to the FFY 2020 funding certainty level (\$25,000,000) resulting in a revised shortfall of \$3,000,000. Since the initial FFY 2020 Funding Certainty Grant award was \$5,000,000, the reconciliation results in the issuance of a negative \$2,000,000 (\$3,000,000 - \$5,000,000) adjustment award.*

*Timing of Awards:* Initial Funding Certainty Grants for FFY 2020 will be calculated and issued after the FFY 2020 4th quarter Form CB-496 (due on October 30, 2020) is submitted by each qualifying title IV-E agency and processed by the Administration for Children and Families (ACF). We anticipate that this action will be taken in January 2021. Similarly, initial Funding Certainty Grants for FFY 2021 will likely be calculated and issued in January 2022. At that time, a further calculation of the award for FFY 2020 will also be conducted and, if applicable, a revised award (increasing or decreasing) will be issued for that FFY. This process will then be revisited in subsequent years through January 2024 since the last reporting period for consideration of FFY 2021 title IV-E claims is September 30, 2023.

*Distribution of Awarded Funds:* Each state title IV-E agency that receives a Funding Certainty Grant must distribute the funds to jurisdictions in the state that were operating demonstration projects in a manner consistent with each sub-state jurisdiction's proportionate loss as compared with its proportion of the funding certainty baseline.

*Approved Activities:* FFPSA Transition Grant funds may be used for:

- Purposes allowable under title IV-B of the Act<sup>3</sup> including:
  - those under title IV-B, subpart 1, section 421 -
    - ... promoting flexibility in the development and expansion of a coordinated child and family services program that utilizes community-based agencies and ensures all children are raised in safe loving families, by –
      1. protecting and promoting the welfare of all children;
      2. preventing the neglect, abuse, or exploitation of children;
      3. supporting at-risk families through services which allow children, where appropriate, to remain safely with their families or return to their families in a timely manner;
      4. promoting the safety, permanence, and well-being of children in foster care and adoptive families; and

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<sup>3</sup> Certain funding limitations applicable to title IV-B programs, such as the limitation on the amount of funding that may be used for administrative costs, or the limitation for states on the use of funds for foster care maintenance payments under title IV-B, subpart 1, are not applicable to the Funding Certainty Grants. The Transition Act established no maximum or minimum funding thresholds for any allowable activity or category of cost.

5. providing training, professional development and support to ensure a well-qualified child welfare workforce.
- those under title IV-B, subpart 2, section 430 -
    - ... to develop and establish, or expand, and to operate coordinated programs of community-based family support services, family preservation services, family reunification services, and adoption promotion and support services to accomplish the following objectives:
      1. To prevent child maltreatment among families at risk through the provision of supportive family services.
      2. To assure children's safety within the home and preserve intact families in which children have been maltreated, when the family's problems can be addressed effectively.
      3. To address the problems of families whose children have been placed in foster care so that reunification may occur in a safe and stable manner in accordance with the Adoption and Safe Families Act of 1997.
      4. To support adoptive families by providing support services as necessary so that they can make a lifetime commitment to their children.
- Activities directly associated with implementing FFPSA; and
  - Activities previously funded under a child welfare waiver demonstration approved under section 1130 of the Act to reduce any adverse fiscal impacts associated with the end of these projects and the transitioning of project activities to other funding sources.

*Project Period:* The Funding Certainty Grant funds are available for expenditure starting in the FFY for which the award is made and continuing through FFY 2026. Any revisions to these awards made after the initial award will not change the project period.

The Funding Certainty Grant project periods are as follows:

- Funding Certainty Grant for FFY 2020: October 1, 2019 – September 30, 2026
- Funding Certainty Grant for FFY 2021: October 1, 2020 – September 30, 2026

*Matching Requirements and Limitations:* No title IV-E agency match (non-federal share) is required to receive Funding Certainty Grants, however Funding Certainty Grants may not be used to match Federal funds under any other program (section 602(c)(3)(B) of the Transition Act).

*Financial Reporting Requirements:* Title IV-E agencies are required to submit an electronic SF-425 for the Funding Certainty Grant through the Payment Management System (PMS). For more information on gaining access to and using the PMS system, please contact the PMS Help Desk at 1- 877-614-5533 or for more information see <https://pms.psc.gov>.

Title IV-E agencies must submit the SF-425 for expenditures under the Funding Certainty Grant (separate report for FFY 2020 and FFY 2021 period award, if applicable) at the end of each year (12-month period ending September 30) of the project period. Each report is due 90 days after the end of each federal fiscal year (December 30). A negative grant award will recoup any unobligated and/or unliquidated funds reported on the final SF-425 for the Funding Certainty Grant(s) which will be due on December 30, 2026.

**INSTRUCTIONS FOR CONSIDERATION FOR AND RECEIPT OF FUNDING CERTAINTY GRANTS:** Each qualifying title IV-E agency (listed on Attachment A) electing to seek for funds must take actions as follows:

- *Title IV-E Post-Demonstration Cost Reporting:* The title IV-E agency must complete quarterly Form CB-496 submissions to separately report title IV-E Foster Care program costs in applicable funding categories for post-demonstration costs. These claims must be reported for all periods in FFY 2020 and FFY 2021 in accordance with the form CB-496 instructions. The Office of Management and Budget (OMB) recently approved revisions to the CB-496, including changes associated with the Funding Certainty Grant calculation process. The CB will issue the revised CB-496 form and instructions through a separate PI. Since at least one FFY 2020 quarterly reporting period has already passed, this reporting will require review of title IV-E claims already submitted for applicable periods in FFY 2020 along with action to process any needed adjustment claims to properly separately identify claims for post-demonstration costs. Only those title IV-E agencies determined by ACF as providing reports for each quarter of the FFY (2020 and 2021) will be considered for calculation of Funding Certainty Grants.
- *Progress Reporting:* Section 602(d)(1) of the Transition Act requires agencies receiving Funding Certainty Grants to report on the use of these funds. Funding Certainty Grant recipients will be asked to provide program information and updates annually in the Annual Progress and Services Report (APSR) submitted beginning with the APSR due on June 30, 2021 and continuing through the last FFY in which these grants are expended. The Transition Act requires grantees to report:
  - how funds are used to implement each part of FFPSA, with a separate statement with respect to each such part;
  - all programs, services, and operational costs to which the grant is put;
  - the characteristics of the families and children served;
  - the amounts the agency uses for each FY to continue activities previously funded under a waiver provided under section 1130 of the Act;
  - the agency's plan to transition the activities so that needed activities can be provided under the agency's title IV-E plan, or, if expenditures for the activities would not be eligible for payment under title IV-E, the reason for it not being eligible and the funding sources the agency plans to use to cover the costs of needed activities; and
  - any additional information HHS requires.

Additional information on how to report information in the APSR will be provided in future program instructions.

**Paperwork Reduction Act:**

Under the Paperwork Reduction Act of 1995 (P.L. 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 Control Number for this OMB approved information collection is 0970-0426, approved through January 31, 2021.

**Inquiries To:** Children's Bureau Regional Program Managers

/s/

Elizabeth Darling  
Commissioner  
Administration on Children, Youth  
and Families

Attachment A:  
Qualifying Agency Funding Certainty Baselines

Attachment B:  
CB Regional Program Managers

## Attachment A

### Qualifying Agency Funding Certainty Baseline Table

Qualifying Title IV-E Agencies*1	Title IV-E Foster Care Demonstration Project FFY 2019 Capped Allocations - Federal Share*2			Funding Certainty Baseline*4
	Maintenance Payments*3	Administration	Training	
Arkansas	\$ 13,450,153	\$ 25,955,071	\$ -	\$ 39,405,224
Arizona	\$ 105,802,617	\$ 69,585,253	\$ -	\$ 175,387,870
California	\$ 280,887,586	\$ 495,829,761	\$ -	\$ 776,717,346
Colorado*5	\$ 21,347,635	\$ 30,841,703	\$ -	\$ 52,189,338
District of Columbia	\$ 18,375,865	\$ 21,634,717	\$ -	\$ 40,010,581
Florida	\$ 73,724,041	\$ 116,373,753	\$ -	\$ 190,097,794
Hawaii	\$ 4,853,592	\$ 15,913,670	\$ -	\$ 20,767,262
Illinois	\$ 56,814,001	\$ 94,161,206	\$ 3,139,354	\$ 154,114,561
Indiana	\$ 48,531,751	\$ 57,983,280	\$ 4,426,151	\$ 110,941,181
Kentucky	\$ 33,345,328	\$ 15,764,799	\$ -	\$ 49,110,126
Maryland	\$ 40,340,108	\$ 25,280,208	\$ -	\$ 65,620,316
Nebraska	\$ 8,935,794	\$ 8,274,433	\$ -	\$ 17,210,227
Nevada	\$ 14,150,410	\$ 17,746,607	\$ -	\$ 31,897,016
New York	\$ 138,987,515	\$ 123,738,770	\$ -	\$ 262,726,285
Ohio*6	\$ 73,023,044	\$ -	\$ -	\$ 73,023,044
Oklahoma	\$ 26,771,535	\$ 40,298,869	\$ -	\$ 67,070,404
Oregon	\$ 28,551,871	\$ -	\$ -	\$ 28,551,871
Pennsylvania	\$ 15,296,377	\$ 18,063,431	\$ -	\$ 33,359,808
Tennessee	\$ 43,142,472	\$ 15,440,696	\$ -	\$ 58,583,168
Utah	\$ 11,661,534	\$ 15,775,319	\$ -	\$ 27,436,853
Washington	\$ 28,798,394	\$ 65,497,925	\$ -	\$ 94,296,319
Wisconsin	\$ 25,042,615	\$ 40,919,897	\$ -	\$ 65,962,512
West Virginia	\$ 36,522,388	\$ 10,701,209	\$ -	\$ 47,223,596
Port Gamble S'Klallam Tribe	\$ 203,195	\$ 288,798	\$ -	\$ 491,992
<b>Totals</b>	<b>\$ 1,148,559,818</b>	<b>\$ 1,326,069,370</b>	<b>\$ 7,565,504</b>	<b>\$ 2,482,194,692</b>

\*1 Title IV-E agencies with a title IV-E foster care demonstration project that was operational through September 30, 2019.

\*2- Demonstration project capped allocations are identified as total computable amounts in each project's approved terms and conditions. Federal shares were calculated by applying the appropriate federal financial participation rate (based on funding category) to each capped allocation.

\*3- Calculated using FFY 2019 applicable Federal Medical Assistance Payment (FMAP) rates except for Ohio where actual FFY 2018 federal share cost neutrality limit was utilized. (See footnote #6).

\*4- The Funding Certainty Baseline equals the sum of all listed federal share amounts.

\*5- Colorado's capped allocations differ slightly from amounts in Table 1 of its approved terms and conditions since those amounts are shown by state fiscal year rather than as shown by federal fiscal year.

\*6- Ohio's project did not utilize a capped allocation. Therefore, per section 602(c)(2)(A)(i)(II) of the Family First Transition Act, the project's final cost neutrality limit for fiscal year 2018 was utilized. As per Ohio's approved terms & condition's, the state's FFY 2018 final computed allocation is displayed on this table.

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