

***TRIBAL CHILD SUPPORT ENFORCEMENT SYSTEMS
WORKGROUP***

Session II

Final Report

June 2005



U. S. DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for Children and Families
Office of Child Support Enforcement
Division of State and Tribal Systems

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1. INTRODUCTION

1.1 BACKGROUND

The Tribal Child Support Enforcement (TCSE) Systems Workgroup met for the first time in August 2002. The Workgroup was chartered to recommend guidelines to maximize the benefits of automating tribal child support enforcement programs while limiting the fiscal impact associated with design, development, and implementation of automated systems.

During the first series of four meetings, the Workgroup discussed issues with potential impact on the successful implementation of automation in Tribal Child Support Enforcement programs.

The final report for Session I meetings is available at:

www.acf.hhs.gov/programs/cse/stsys/dsts_tribal.html

The primary outcomes of the Session I meetings included:

- 1) Identification of the considerations involved in developing automated systems for TCSE programs, including acquiring and managing automated systems and services, and the related Federal funding processes.
- 2) Identification of high-level TCSE program automation needs, requirements, and constraints.
- 3) Definition of the high-level operational capabilities required for TCSE systems.

1.2 SCOPE

This report summarizes the activities and results of the second series of meetings of the TCSE Systems Workgroup. Session II meetings focused on functional requirements for automated TCSE systems and methods for procuring, implementing and operating these systems, in order to optimize tribal and Federal resources.

Session II of the TCSE Systems Workgroup included four meetings during 2004:

- March 29-30, 2004 in Milwaukee, Wisconsin
- May 6, 2004 in Washington, DC;
- July 7-8, 2004 in Denver, Colorado and
- August 18-19, 2004 in Seattle, Washington.

1.3 PARTICIPANTS

All Session II meetings were attended by key Federal and Tribal Workgroup members. Additional Federal and state representatives were invited to attend specific session meetings.

A majority of the individual Workgroup members have participated in both series of Workgroup meetings. Not all tribal representatives attended every meeting, but most participating tribes sent at least one representative to each meeting.

Federal participants represented organizational components of the Office of Child Support Enforcement (OCSE), including the Division of State and Tribal Systems (DSTS), the Division of Special Staffs (DOSS), and Administration for Children and Families (ACF) regional staff. Tribal participants represented the tribes operating Federally funded Tribal Child Support Enforcement programs, and one additional tribal organization.

For the final two meetings, the Federal support team was augmented by two members of its BAE Systems contract technical assistance support staff. BAE Systems staff provided technical assistance in defining and documenting technical and system requirements. As in the first series of meetings, State Information Technology Consortium (SITC) staff arranged travel and meeting accommodations for participants and documented the Workgroup's activities.

1.3.1 TRIBAL REPRESENTATIVES

All named tribes sent at least one representative to every meeting. Participants are listed in alphabetical order by tribe:

- Tami Lorbecke, Chickasaw Nation
- Jacqueline Pische, Forest County Potawatomi Community
- Frances Whitfield, Lac du Flambeau Band of Lake Superior Chippewa Indians
- Karen Burke, Lummi Nation
- Rosemund Hoffman, Menominee Indian Tribe of Wisconsin
- Janet Pribbernow, Menominee Indian Tribe of Wisconsin
- Kurt Nelezen, Menominee Indian Tribe of Wisconsin
- Pierette Baldwin-Gumbrecht, Navajo Nation
- Melody Bidtah, Port Gamble S'Klallam Tribe
- Sandra Starnes, Port Gamble S'Klallam Tribe
- Linda Tresaugue, Puyallup Tribe of Indians
- Keith Bowman, Tanana Chiefs Conference
- Jesse Fogleboch, Tanana Chiefs Conference

STATE REPRESENTATIVES

The following individual participated to provide the “state” perspective on CSE automation issues affecting the tribes:

- Wally McClure, Washington

1.3.2 FEDERAL

The following individuals provided a Federal perspective in one or all of the meetings:

- Jay Adams, HHS/ACF, OCSE
- Dennis Barton, HHS/ACF Region VIII
- Joseph Bodmer, HHS/ACF, OCSE
- John Cheng, HHS/ACF, OCSE
- Levi Fisher, HHS/ACF Region X
- Mary Gay, HHS/ACF Region IV
- James Hicks, HHS/ACF, OCSE
- Jan Jensen, HHS/ACF Region X
- Sally Kolanowski, HHS/ACF Region V
- Sherri Larkins, HHS/ACF Region VII
- Joseph Lonergan, HHS/ACF, Division of Mandatory Grants
- Doreen McNicholas, HHS/ACF Region VIII
- Carolyn Brady Meier, HHS/ACF Region VI, Dallas
- Carl Rich, HHS/ACF, Region VI
- Ellamae Williams, HHS/ACF, OCSE

1.3.3 SESSION II SUPPORT STAFF

The following individuals provided technical assistance or meeting planning support during Session II conferences:

- Paula Cottrell, SITC
- Jean Cost, BAE Systems
- Sheila Drake, SITC
- Tom Mahony, BAE Systems
- Suzanne Poe, SITC

1.4 PROCESS

As in the first series of meetings, tribal participants represented a range of perspectives and experience on automation issues. Some participants represented tribes that use extensive automation in TCSE programs, while others spoke for tribes operating TCSE programs using manual processes. In addition, Workgroup members contributed opinions and viewpoints that considered the larger tribal community.

At each meeting, Workgroup members addressed specific sets of issues. The group then strove for consensus, from all tribal representatives, on each issue and its associated sub-issues. Although several tribes, or tribal consortia, sent more than one representative, if a vote were necessary to determine a majority view, only one vote per tribe was permitted.

Meeting highlights were produced following each meeting to document the proceedings, the points of consensus and the outstanding issues. Meeting highlights were distributed to all Workgroup members prior to the next meeting, and reviewed by the meeting attendees.

A List Serve maintained by OCSE promoted ongoing dialogue among Workgroup participants.

2. MEETING SUMMARIES

2.1 KEY ISSUES FOR SESSION II

Key issues for discussion on the Workgroup's agendas included:

- Preparing for TCSE systems grant applications
- Tribal Advance Planning Document (TAPD) process
- Federal reviews
- TCSE system certification
- Consortia and model system alternatives
- Procurement / acquisition for TCSE systems
- Funding for TCSE systems
- Operations and maintenance
- Risk analysis, backup and security
- Defining high level software requirements for TCSE system
- TCSE system architecture

The Workgroup agreed to focus on selected issues at each of the meetings and to attempt to cover all the issues by the end of the meetings. The meeting summaries that follow briefly touch on the results of these discussions. Detailed meeting minutes were also distributed to members during the Session.

2.2 MEETING #1

Coincident with the first meeting, Federal regulations regarding the establishment of Tribal Child Support Enforcement programs were finalized at 45 CFR Part 309, known informally as the 'Final Rule.' The Workgroup agreed to base all Session II proceedings on the premises of the Final Rule. The Workgroup also acknowledged that Federal regulations and Federal policy guidance related to TCSE system requirements have not been formalized to date.

The Workgroup expressed reservations that any future system regulation not require all tribes operating a TCSE program to automate their programs. The Workgroup recommended that the choice of whether or not to automate remain a decision for each tribal program to make.

The group agreed to defer discussion of funding considerations until the second meeting, in Washington, D.C., to allow participation by staff from the OCSE Division of Mandatory Grants.

2.2.1 TRIBAL ADVANCE PLANNING DOCUMENT (TAPD) PROCESS

OCSE will create a template and examples of appropriate levels of detail for a Tribal Advance Planning Document (TAPD) process as technical assistance for tribes in applying for systems grants. The group agreed that for consistency, the template should approximate the structure and content of the current Advance Planning Document (APD) process for states.

The group discussed and agreed to a general content for Tribal APD documents to afford sufficient information for Federal review prior to approval of a grant request. Sections should include Project Organization and Executive Commitment, Project Management Plan (Including Tasks, Schedules, and Procurement Plan), Security Plan, Budget, and Cost-Benefit Analysis. Detail needed for the planning of a new or transferred automated system and for Federal review and approval would include:

- How and by whom the intended project would be organized and administered, including:
 - The types of personnel required
 - Staff reporting structures
 - A description of the interface with potential contractors
- The extent of tribal executive commitment to the project
- A project management plan, including:
 - A listing of discrete tasks to be performed
 - A project schedule
- The plan for security, including:
 - Systems security
 - Back up/disaster recovery
 - Physical security
- The project annual budget request, by quarter, including the following line items:
 - Direct Personnel
 - Contractor Services
 - System Hardware
 - System Software
 - Training
 - Supplies
 - Travel

- Overhead (optional)
- Other (with accompanying explanation)
- A high-level cost/benefit analysis. This would be more qualitative than quantitative, relative to the requirements imposed on states. A cost/benefit analysis would be submitted at the beginning and end of each project.
- The assurance that the project would be competitively procured. (Tribes may opt to submit a description or link to tribal competitive sourcing procedures/laws in the TAPD, or these procedures/laws could be listed in the contract and submitted to the Federal government for written approval prior to award).

States are required to resubmit APDs for their CSE projects annually, or whenever a project experiences an overrun or project plans change. The Workgroup discussed potential overrun thresholds, agreeing that overruns in excess of ten percent of total project cost or \$100,000 may be possible triggers for a TAPD Update.

The Workgroup agreed that Cost Allocation is not usually a part of Tribal automation projects.

TAPD submissions would be necessary for those projects involved with building or transferring a new system. Depending on final Federal regulations, projects below a threshold, possibly \$100,000, might also not be subject to the TAPD process.

2.2.2 FEDERAL REVIEWS

The Workgroup recommended that for consistency and understanding within and outside the tribal community, regulations and guidance for tribes should use the terminology similar to that currently in use for regulations and guidance to states. The group considered and discussed several levels of Federal review, including self-certification reviews, and on-site reviews for compliance, audit, or certification.

The Workgroup agreed to consider and make recommendations on appropriate dollar thresholds for Federal procurement reviews. The group acknowledged that recommendations will need to consider current regulatory thresholds for enhanced funding, and other efforts in progress such as APD reform efforts, and the unique cost justification environment faced by Tribal automation projects.

Apart from the consideration of dollar thresholds, below which Federal monitoring may be unnecessary, the Workgroup discussed possible “triggers” to ensure appropriate Federal monitoring and assistance for tribal system development efforts.

The “triggers” included:

- Systems that fail to meet a critical milestone, as identified in the TAPD.
- Systems in need of a total redesign.
- System development efforts determined “at risk” of failure, significant delay or significant cost overruns.
- A request from the tribal IV-D director or superior(s).

2.2.3 TCSE SYSTEM CERTIFICATION

As in the first series of meetings, the Workgroup grappled with balancing the sovereignty of tribes with the desirability of Federal oversight to ensure consistent quality. The Workgroup agreed that some form of tribal systems certification was desirable. Tribes considering the transfer of a TCSE system from another tribe or jurisdiction would need some assurance that certain functional capabilities were met by the system to be transferred.

The Workgroup discussed the Federal certification process used for state CSE systems. Since most TCSE systems are anticipated to have a smaller scale and less complex requirements than state CSE systems, the Workgroup recommended a streamlined certification process, including some combination of pre-certification and self-certification.

The group recommended that any “model” systems that OCSE might assist in building for tribes be considered as “pre-certified”. These, as well as any data standardization efforts, would benefit a broader base of tribes.

To self-certify, the Workgroup recommended that a checklist be provided by OCSE for tribes to submit with a report on their respective TCSE systems.

However, the Workgroup expressed a concern that future tribal system selection choices not be limited to the use of a state system or a TCSE model system. The Workgroup recognized that in that situation a higher level of justification and certification would be appropriate.

2.2.4 TRIBAL CONSORTIUM

Tribal members of the Workgroup discussed the feasibility of joining together to develop one or two scalable model systems for use by current grantees and future Tribal entrants to the CSE program. Since most Tribes are in rural areas, accessing Information Technology expertise will be a challenge. The Tribes present expressed interest in exploring the possibility of establishing a consortium with a group of Tribal IV-D directors acting as a steering committee, in order to shorten the timeframe for gaining access to automation. The Workgroup recognized there would be a number of logistical questions concerning how a Consortium might be administered.

Workgroup suggestions included:

- Use of the National Tribal Child Support Organization as a possible grantee with responsibility for building a system. (It was later learned that this approach was not allowable under current regulations).
- Joining of two or more Tribes together through intergovernmental agreements, with one Tribe taking the lead for purposes of administering procurements and contracts, etc.

The Workgroup agreed to continue discussion of the issues surrounding consortia at a future time.

2.3 MEETING #2

The Workgroup spent both days of this meeting focused on funding and security issues. Meeting participants included Joe Lonergan of the Division of Mandatory Grants, affording Workgroup the opportunity to discuss procedural questions about Federal funding for TCSE systems.

The Workgroup focused on how a request for a TCSE system would be conducted within the context of the Federal grant application process. The Workgroup examined Federal and state CSE program interactions, and discussed commonalities and differences in tribal and Federal procurement laws. The Workgroup hoped to identify processes and procedures that tribes and Federal government representatives could follow until Federal guidance and regulation for TCSE systems is available.

2.3.1 PROCUREMENT /ACQUISITION OF A TCSE SYSTEM

The Workgroup reviewed and discussed the alignment of tribal acquisition/procurement practices with Federal procurement practices.

Federal Financial Participation (FFP) cannot be granted unless procurements are to be conducted with “full and open competition”. Decisions to award sole source contracts need additional justification. The Workgroup used Title 45, Section 92.36 of the Code of Federal Regulations (FCR), which describes “full and open competition”, as a framework for discussing possible commonalities or differences between Federal and tribal procurement laws. Tribal Workgroup participants described similar procurement and competitive guidelines contained in their respective tribal laws. Some Tribes also “pass through” the standard Federal contractual clauses (see Part 95 of the FCR), such as the Davis Bacon lobbying clause, in their contracts.

The Workgroup recognized that Federal regulation does not permit expenditures on proprietary software. To meet program needs, the Workgroup noted that tribes can purchase off-the-shelf software, as long as it does not duplicate existing TCSE system functionality.

To understand Federal expectations for solicitation documents (such as Requests for Proposals (RFPs) or Invitations for Bid (IFBs)), the Workgroup discussed the components of a “typical” RFP. OSCE offered to supply a standardized template for an RFP, but most tribal representatives felt this would not hasten the procurement approval process within their tribal government; tribes preferred to use their own RFP formats. Also, most tribes expected multiple tribal departments to be involved in the approval process.

Some tribes noted that in previous acquisitions/procurements, preference, in the form of bonus evaluation points, was given to tribal member suppliers/vendors. Successful bidders might also be required to hire tribal members and/or to sign an agreement stating that they would use tribal courts, should disputes arise. Similar preferences appear in state RFPs.

The Federal government also requires a procedure for protests and appeals in procurements. A dispute resolution process should appear as a notice in the Request for Proposals (RFP) for a tribal system.

Discussions of the approval process, thresholds for tribal and Federal approval, and required documentation are ongoing, and tribal Workgroup participants will continue to supply feedback from their respective tribal organizations.

2.3.2 FUNDING FOR DEVELOPING NEW TCSE SYSTEMS

The Workgroup addressed procedures that tribes or tribal organizations should follow to successfully and efficiently request funding to develop automated TCSE systems.

The Workgroup discussed ways that the states currently request and receive funding for systems or software development projects. States typically receive funding based on the annual submission of a request. After reviewing the components of the Advance Planning Documents required of states, the Workgroup agreed that a streamlined, but similar, Tribal Advance Planning Document (TAPD) could serve to support requests for TCSE systems funding.

The Workgroup discussed the need to track expenditures for TCSE system development projects separately from TCSE program operations. The Workgroup agreed that TCSE system development would be funded through specific grant applications that would be separate from ongoing program or planning grants. As discussed in the prior meeting, projects below a threshold, possibly \$100,000, might not be subject to the submission of a separate grant request or TAPD.

2.3.3 FUNDING FOR OPERATING AND MAINTAINING EXISTING TCSE SYSTEMS

TAPDs would not be required for systems that are already developed and in use, including the use of state systems. Expenditures for the ongoing operations and maintenance of existing TCSE systems should be listed as individual line items in the overall grant application for program operations.

(Throughout the Session II meetings, Workgroup members had extended interactions with the Federal team to clarify and define the terms software development, operations, and maintenance, as apposed to office automation. A set of working definitions was subsequently incorporated into the draft *Guide for Tribes and Tribal Organizations*. See Meeting #4.)

2.3.4 RISK ANALYSIS, SYSTEM BACKUP, AND SECURITY

The Workgroup recognized that risk analysis is not currently prescribed by OCSE for tribes (as it is for states). However, Workgroup members discussed the importance of documenting and following strategies to mitigate risks to their operations and systems (ranging from floods to dishonest employees or environmental contaminants). Discussion included advantages of performing a risk analysis at least once every three years to ensure that back-ups and contingency plans provide for data recovery and uninterrupted program operations

2.4 MEETING #3

Both days of this meeting were devoted to assessing high-level functional software requirements for a core TCSE system. The discussion was scheduled as a four-day effort, beginning with Meeting #3 and continuing to conclusion during Meeting #4. Workgroup members envisioned and reached consensus on the basic components of an acceptable, effective TCSE system and considered additional data elements that might be needed by tribes in general.

2.4.1 METHODOLOGY FOR DEFINING REQUIREMENTS

The Workgroup used portions of the *Automated Systems for Child Support Enforcement: A Guide for States* as a guide tool for facilitating discussion. This guide is used in the certification of state systems and incorporates functional requirements from the *Family Support Act of 1988* and *The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)*.

During Session I meetings, the Workgroup made an initial assessment of the *Guide for States*, drafting a “tool” for future discussion by “graying out” language and sections as potentially not relevant to TCSE systems. During this meeting, the participants revisited these “grayed out” areas, to confirm their level of relevance.

As a larger effort, Workgroup members began a more detailed review of the *Guide for States*, to assess in turn each of the eight basic functional capability areas required by Federal regulation for state CSE systems. These are: “Case Initiation,” “Locate,” “Establishment,” “Case Management,” “Enforcement,” “Financial Management,” “Reporting,” and “Security and Privacy.” The Workgroup discussed each requirement and associated data elements in terms of its functionality in a TCSE system, and its relevance to the needs of individual tribes. The Workgroup gained consensus on changes to text and data elements. For example, the Workgroup agreed to define a case as “foreign” when it originated in another tribe or state (instead of terming the case as “intergovernmental” or “interjurisdictional”).

Using terms derived from IEEE standards terminology, the Workgroup classified requirements and data elements as:

- **“Essential”** – Necessary to a core TCSE system. Requirement is viewed as mandatory. No system would be acceptable without this functionality.
- **“Conditional”** – A TCSE system could be accepted without this functionality, but a tribe wishing to exercise this functionality would not need further justification to do so.
- **“Optional”** – Exceeds the actual requirements for a TCSE system. This requirement does not impact the successful operation of an automated TCSE system. Funding for this functionality requires additional justification.

The Workgroup completed discussion of six of the eight functional areas, deferring the final two areas for the next meeting. Subsequent to the meeting, Workgroup members received two draft versions of the document in process to review prior to Meeting #4. One version contained the full text of all requirements as discussed; the second contained the full text of all requirements classified by the group as “Essential.”

2.5 MEETING #4

Much of the effort during this last two-day meeting of Session II focused on the completing the initial assessment of requirements in the *Guide to States*. The Workgroup also completed a detailed review of the requirement changes completed in the prior meeting.

2.5.1 TCSE SYSTEM REQUIREMENTS

A result of this TCSE Workgroup effort is a draft document identifying the basic or “core” functional requirements for a TCSE system, the *Automated Systems for Tribal Child Support Enforcement: Guide for Tribes and Tribal Organizations, TCSE Requirements Definition Toolkit*. In the absence of enabling regulations, this document is not official, nor should it be interpreted as such. It will remain an internal working product for subsequent TCSE Workgroups until appropriate regulations are established. At that time, an updated document will be made available for use by tribes considering the development of a TCSE system, by contractors supporting the design and development of those systems, and by Federal staff providing regulatory and technical assistance to tribes.

A second, expanded version of the TCSE functional requirements will be made available in the future. The expanded document will identify, in addition to the essential or “core” system requirements, the additional conditional requirements and optional requirements that might be exercised by tribes working on more expansive or individualized TCSE systems.

By creating the document with “Essentials” components, the Workgroup intended to provide high level guidance concerning requirements definition for any basic TCSE system built in the future. The Workgroup recognized that more work will need to be done to detail the required data elements within these functional components.

The Workgroup expressed a need to determine how the design of one or more model systems could be leveraged across a significant subset of the tribes expected to operate TCSE programs. At the same time, the Workgroup recognized that any base or model system would need modification to meet the needs of specific tribes or tribal organizations.

The Workgroup was hopeful that Federal guidance and regulation on the TCSE system development would make Federal Financial Participation (FFP) available for all “essential” system requirements as outlined by the Workgroup. The Workgroup anticipated that requirements deemed “conditional” would also gain funding approval, and that “optional” requirements would require additional justification, including cost-reasonableness, in order to be funded through FFP.

2.5.2 TCSE SYSTEM ARCHITECTURE CONSIDERATIONS

The Federal team presented an overview of the technical considerations involved in developing TCSE systems. The team identified the key decisions that will need to be made, and the technical alternatives that exist in each area, starting with a high level view of system architectures and environments. These areas will be revisited in more substance and detail by subsequent working groups in later stages of the TCSE system design process.

2.6 WORKGROUP CONCERNS

Each concern raised by Workgroup members was discussed and addressed during the Session II meetings. Most were resolved to the satisfaction or agreement of the members. Some require additional action or thought at a future point in time, or should serve as cautionary guidance for future processes.

Some Workgroup members were concerned that the process of defining requirements would permanently limit the functionality that TCSE systems could contain, presenting difficulties for tribes needing larger solutions, as well as for tribes that otherwise might opt for simpler solutions.

Concern was expressed that future Tribal system choices should not be limited to the use of state systems or a finite choice of tribally-recognized model systems.

Concern was expressed that the use of automation could depersonalize customer service in TCSE programs.

Workgroup members recognized that an automated system may not always be appropriate for a TCSE program. Whether to automate TCSE processes should remain a choice for each tribe or tribal organization to make.

Existing Federal tribal regulations do not impose time restrictions on tribal intake procedures. However, tribes may have their own timeframe requirements that a TCSE system should support..

Some tribes do not print notices directly through the tribal child support office. Instead, tribal courts must issue these notices. Also, some TCSE program offices cannot take actions, until the custodial parent returns to court.

Since most tribes are in rural areas, accessing information technology expertise is challenging.

Ways that tribes address foster care requires study and definition.

2.7 NEXT STEPS

The Workgroup felt a key future goal should be to shorten the timeframes for TCSE programs to gain access to automation. To that end, the Workgroup discussed the feasibility of joining together to develop one or two scalable model systems for use by current grantees and future entrants to the TCSE program. If Federal funding becomes available, the Workgroup members agreed to act as a steering committee for the development of a general detailed design for these models. The Workgroup recommended that tribes that have not participated in the Workgroup to date, but that have submitted funding requests, also be considered for participation.

In the meantime, Workgroup members also recognized the viability of continuing to pursue other options, such as transferring and modifying an existing state system.

Clear definitions of such terms as “software development”, “enhancement”, “operations”, “maintenance” and “office automation” will be critical to effective planning for TCSE systems, to effective interaction between the tribes and OCSE, and to effective communication of written policies and regulations.

Workgroup members felt any upcoming TCSE system regulations should be “standalone”, self-explanatory, and all-inclusive; that is, the language should “spell out” and not cite existing FCR language relevant to whatever guidance is provided.

Dollar thresholds still need to be finalized and communicated concerning what will trigger Federal monitoring or a Federal review. Overruns in excess of ten percent of total project cost or \$100,000 were discussed as possible triggers requiring a TAPD Update. Projects below a \$100,000 threshold were discussed as possibly not being subject to the submission of a TAPD.

2.7.1 TRIBAL ACTIVITIES

Workgroup members agreed to review the data elements associated with requirements defined as “Essential” in the *Automated Systems for Tribal Child Support Enforcement: Guide for Tribes and Tribal Organizations, TCSE Requirements Definition Toolkit..* They will consider whether their TCSE programs currently collect the data, either by automated or manual means. They will also estimate the data collection effort that would be required to populate an automated system with this information.

2.7.2 FEDERAL ACTIVITIES

The issue was raised that initial tribal grantees would be penalized, if their Federal match rate dropped to 80% during the creation of tribal system models; while new tribes, just entering the program, will be able to realize 90% FFP for the first three years that they are in the program. This issue has been raised within OCSE, but Workgroup members requested that it receive continued monitoring and attention.