

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Administration for Children and Families****45 CFR Part 1000**

RIN 0970-AC08

Office of Community Services; Individual Development Accounts**AGENCY:** Office of Community Services, ACF, HHS.**ACTION:** Final rule.

SUMMARY: This regulation implements a statutory requirement in the Assets for Independence Act under title IV of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998. The Act provides competitive demonstration grants for projects to establish, support, and evaluate individual development accounts for low income individuals and families. The purpose of the five-year Assets for Independence Program is to encourage low-income individuals to accumulate assets by matching an individual's savings with Federal and private funds in order to determine the effects of asset accumulation incentives on the well-being, savings behavior, and stability of low-income families and their communities.

The statute requires the Secretary of Health and Human Services to prescribe regulations that grantees must follow in accounting for amounts grantees deposit in the reserve fund. This final rule implements that provision of the legislation, and includes two changes from the Interim Final Rule published on February 25, 2000. Other factors in the legislation have been, or will be, addressed administratively, through other administrative policy issuances.

DATES: These regulations are effective September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Sheldon Shalit, Office of Community Services, (202) 401-4807, or Richard Saul, Office of Community Services, (202) 401-9341. Hearing impaired individuals may call the Federal Dual Party Relay Service at 800-877-8339 between 8:00 a.m. and 7:00 p.m. eastern time.

SUPPLEMENTARY INFORMATION:**I. Statutory and Regulatory Authority**

These rules implement section 407(b)(2) of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 (Pub. L. 105-285). Under this provision, the Secretary of Health and

Human Services is to prescribe by regulation the rules grantees must follow in accounting for monies in reserve funds, established under the Act, which are used for depositing grant funds; the non-Federal matching funds required for establishing individual development accounts; and the proceeds from any investment of such funds.

II. Background

The Assets for Independence Act (the Act), or title IV of Pub. L. 105-285, provides for the establishment of Individual Development Account (IDA) demonstration projects to determine how effective IDAs and "asset-building" strategies are in helping low-income people save earned income, acquire productive assets, and achieve economic self-sufficiency. The Act authorizes the Department of Health and Human Services to conduct a five-year Individual Development Account demonstration, through which grants are made to non-profit organizations on a competitive basis.

The statute provides specific and detailed requirements for establishing such programs and authorizes grants for projects to be awarded within 10 months of enactment of the Act (August 27, 1999). For these reasons, coupled with the Department's commitment to reduce regulatory burden, we have decided to limit regulating to the one area where the statute indicates regulations are required. Specifically, section 407(b)(2) of the Act requires grantees to maintain a reserve fund in accordance with accounting regulations prescribed by the Secretary. Responding to this legislative provision, these rules stipulate which Departmental uniform administrative requirements must be met in maintaining IDA reserve funds.

The statute requires that amounts in the reserve funds be used as matching contributions to individual development accounts for project participants; for expenses related to collecting and reporting project data and information required for the evaluation; for administration of the project including skill training necessary to achieve economic self-sufficiency; and for other project related expenses. Federal funds can only be drawn down after the match funds have been deposited.

With respect to provisions of the Act other than accounting for the amounts in the reserve fund, on January 27, 1999, the Department issued a Program Announcement in the **Federal Register**, "Program Announcement No. OCS-99-04" (64 FR 4258), announcing the availability of funds and requesting

competitive applications. This Program Announcement, and subsequent guidance, addressed other requirements of the legislation. On March 29, 1999, the Department published guidance, "Clarification of Program Announcement No. OCS 99-04" (64 FR 14923), in the **Federal Register** to assist interested applicants in understanding the law and the requirements for eligibility. Also, on July 2, 1999, a Second Round of Applications was published, "Program Announcement No. OCS-99-04" (64 FR 36184). Further information is made available to the grantees as part of Terms and Conditions at the time of the grant award.

An interim final rule was published in the **Federal Register** on February 25, 2000 (65 FR 10027). One set of comments was received. We have made a clarification in the final regulation after consideration of these comments.

Additionally, on December 21, 2000, the Assets for Independence Act Amendments of 2000 were signed into law which included an expanded definition of "qualified entities" that may receive a grant from the Department. The expanded definition adds credit unions designated as low-income credit unions by the National Credit Union Administration, and organizations designated as community development financial institutions by the Secretary of the Treasury (or the Community Development Financial Institutions Fund) that collaborate with a local community-based organization. Because the amendments were enacted after the interim final rule was issued, we have revised the definition of "qualified entity" in the final rule so that the definition is expanded consistent with the amendments. Since this revision is necessary in order that the rule is consistent with the amendment, a new interim final rule will not be issued. Rather, this regulation will proceed to final rule, incorporating the expanded definition, and applying the provisions of the rule to accounting amounts for all qualified entities as defined in the legislation. By proceeding with a final rule instead of a re-issuance of an interim final rule, we also are ensuring that current grantees will be bound by the final rule without further delay.

III. Description of Regulatory Provisions

We are adding a new Part 1000 in title 45 of the Code of Federal Regulations.

New Part 1000 of Chapter X, Title 45 of the CFR—Individual Development Account—Reserve Funds Established Pursuant to Grants for Assets for Independence

We are establishing requirements under new 45 CFR part 1000 regarding reserve funds established pursuant to the Assets for Independence Program. We are confirming that Departmental administrative requirements found in 45 CFR part 74 are applicable to reserve funds established by grantees that are not-for-profit organizations as defined by section 501(c)(3) of the Internal Revenue Code of 1986. We are also confirming that the Departmental administrative requirements found in 45 CFR part 92 are applicable to reserve funds established by State or local government agencies or tribal governments.

New § 1000.1 provides that this part applies to the Community Services Assets for Independence Program.

We are adding a definition of Individual Development Account at § 1000.2(a) to read:

Individual Development Account means a trust or custodial account created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, as defined in section 404(2) of Pub. L. 105–285, or enabling the eligible individual to make an emergency withdrawal, as prescribed in section 404(3) of Pub. L. 105–285. The written governing instrument creating the trust or custodial account must meet the requirements of Section 404(5) of Pub. L. 105–285, (section 404(5)(A)) and of the Project Eligibility Requirements set forth in the Program Announcement No. OCS–99–04 and any future announcements that may be issued.

We are adding a definition of qualified entity (which reflects the expanded definition of the Assets for Independence Act Amendments enacted on Dec. 15, 2000) at § 1000.2(b) to read:

Qualified Entity means one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or a State or local government agency; or a tribal government which has submitted an application under section 405 of Pub. L. 105–285 jointly with a 501(c)(3) organization that is exempt from taxation under 501(a) of the Internal Revenue Code of 1986; or an entity that is a credit union designated as a low-income credit union by the National Credit Union Administration (NCUA), or an organization designated as a community development financial

institution by the Secretary of the Treasury (or Community Development Financial Institutions Fund), and can demonstrate a collaborative relationship with a local community-based organization whose activities are designed to address poverty in the community and the needs of community members for economic independence and stability.

We are adding a definition of reserve fund at § 1000.2(c) to read:

(c) *Reserve Fund* means a fund, established by a qualified entity, that shall include all funds provided to the qualified entity from any public or private source in connection with the demonstration project and the proceeds from any investment made with such funds. The fund shall be maintained in accordance with section 407 of Pub. L. 105–285. At least 90.5% of the Federal grant funds in the Reserve Fund must be used as matching contributions for Individual Development Accounts.

In the last sentence of the definition, we have added the words “Federal grant” in response to a comment asking that we clarify the definition regarding the administrative cap and the use of funds.

Under § 1000.3(a), we are confirming that Reserve Funds under the Assets for Independence Program established by qualified entities, other than State or local government agencies or tribal governments, are subject to the Department of Health and Human Services’ uniform administrative requirements under 45 CFR Part 74.

Under § 1000.3(b), we are confirming which requirements are applicable to Reserve Funds by a qualified entity that is a State or local government agency or tribal government. While these entities are not required to establish reserve funds, reserve funds that are established by these entities are subject to the Department of Health and Human Services’ uniform administrative requirements under 45 CFR part 92.

IV. Comments Received on the Proposal

The comment period for the February 25, 2000 interim final rule expired on April 21, 2000. HHS received two comments from a State government commission addressing this proposal. Both comments addressed the definition of Reserve Fund. Below are the comments and our responses:

1. Comment: In order to be consistent with the Act, the definition of Reserve Fund should provide that the 9.5% limit on funds that can be used for purposes other than matching contributions, as specified in section 407(c)(3), applies to Federal grant funds only.

• Response: We agree that this revision is necessary in order for the definition to be consistent with section 407(c)(3). Therefore, the regulation is being revised to read, “At least 90.5 percent of the Federal grant funds deposited in the Reserve Fund must be used as matching contributions for Individual Development Accounts.”

2. Comment: Revise the definition of the Reserve Fund to include only the Federal grant funds and the required non-Federal matching contributions for individuals’ accounts.

• Response: We disagree that the Reserve Fund is limited to the Federal Grant funds and non-Federal matching contributions for individuals’ accounts. The statute states that the Reserve Fund is to include all Federal and non-Federal funds in connection with the demonstration project (section 407(b)(1)(A) of the Act) and any investment proceeds (407(b)(1)(B) of the Act). Therefore, we are not amending the regulation to address this comment.

VI. Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), the Regulatory Flexibility Act (Pub. L. 96–354), that this regulation does not result in a significant impact on a substantial number of small entities. The primary impact is on a limited number of grantees and the impact is not significant.

VII. Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. The rule implements the statutory provisions by specifying applicable rules grantees are subject to in meeting accounting requirements for reserve funds established for purposes of carrying out demonstration projects under the Assets for Independence Act. This rule has been reviewed by the Office of Management and Budget.

VIII. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most

cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small government that may be significantly or uniquely impacted by the proposed rule.

We have determined that this rule does not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year.

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Pub. L. 104-13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record keeping requirements inherent in a rule. This rule requires no new reporting or record keeping requirements.

X. Congressional Review

This rule is not a major rule as defined in 5 U.S.C., Chapter 8.

XI. Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a policy or regulation may affect family well-being. If the agency's conclusion is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These regulations do not have an impact on family well-being as defined in the legislation.

List of Subjects in 45 CFR Part 1000

Grant Programs/Social Programs.
(Catalog of Federal Domestic Assistance Programs No. 93.602, Individual Development Account/Assets for Independence)

Dated: May 9, 2001.

Diann Dawson,

Acting Principal Deputy, Assistant Secretary for Children and Families.

Approved: June 28, 2001.

Tommy Thompson,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, we are amending Chapter X of title 45 of the Code of Federal Regulations by revising part 1000 to read as follows:

PART 1000—INDIVIDUAL DEVELOPMENT ACCOUNT RESERVE FUNDS ESTABLISHED PURSUANT TO GRANTS FOR ASSETS FOR INDEPENDENCE

Sec.

- 1000.1 Scope.
- 1000.2 Definitions.
- 1000.3 Requirements.

Authority: 42 U.S.C. 604 nt.

§ 1000.1 Scope.

This part applies to the Office of Community Services' Assets for Independence Program.

§ 1000.2 Definitions.

Individual Development Account means a trust or custodial account created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, as defined in section 404(2) of Pub. L. 105-285, or enabling the eligible individual to make an emergency withdrawal as defined in section 404(3) of Pub. L. 105-385. The written governing instrument creating the trust or custodial account must meet the requirements of Section 404(5) of Pub. L. 105-285, and of the Project Eligibility Requirements set forth in Program Announcements.

Qualified Entity means one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or a State or local government agency; or a tribal government which has submitted an application under section 405 of Pub. L. 105-285 jointly with a 501(c)(3) organization that is exempt from taxation under 501(a) of the Internal Revenue Code of 1986; or an entity that is a credit union designated as a low-income credit union by the National Credit Union Administration (NCUA), or an organization designated as a community development financial institution by the Secretary of the Treasury (or Community Development Financial Institutions Fund), and can demonstrate a collaborative relationship with a local community-based organization whose activities are designed to address poverty in the community and the needs of community members for economic independence and stability.

Reserve Fund means a fund, established by a qualified entity, that shall include all funds provided to the qualified entity from any public or private source in connection with the demonstration project and the proceeds from any investment made with such funds. The fund shall be maintained in

accordance with section 407 of Pub. L. 105-285. At least 90.5% of the Federal grant funds in the Reserve Fund must be used as matching contributions for Individual Development Accounts.

§ 1000.3 Requirements.

(a) A qualified entity, other than a State or local government agency or tribal government, shall establish a Reserve Fund for use in the Assets for Independence program. Each reserve fund established by a qualified entity, other than a State or local government agency or tribal government, is subject to the Department of Health and Human Services' uniform administrative requirements under 45 CFR part 74.

(b) Any reserve fund established by a qualified entity that is a State or local government agency or tribal government is subject to the Department of Health and Human Services' uniform administrative requirements under 45 CFR part 92.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 01-2091]

List of Office of Management and Budget Approved Information Collection Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's list of Office of Management and Budget (OMB) approved public information collection requirements with their associated OMB expiration dates. This list will provide the public with a current list of public information collection requirements approved by OMB and their associated control numbers and expiration dates as of July 31, 2001.

DATES: Effective September 25, 2001.

FOR FURTHER INFORMATION CONTACT: Judy Boley, Office of the Managing Director, (202) 418-0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This document adopted on September 10, 2001 and released on September 18, 2001 by the Managing Director in DA 01-2091 revised 47 CFR 0.408 in its entirety.

1. Section 3507(a)(3) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(3), requires agencies to display