ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6147–3]

Washington: Withdrawal of Immediate Final Rule for Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule withdrawal.

SUMMARY: Due to receipt of an adverse written comment, EPA is withdrawing the immediate final rule published on Tuesday, July 7, 1998 (63 FR 36587) for the approval of the State of Washington's authorization revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). As stated in the **Federal Register** document, if adverse written comments were received by August 6, 1998, a notice of withdrawal of the immediate final rule would be published in the **Federal Register**. EPA will address the comments received in a subsequent final action in the near future.

DATES: This withdrawal is effective on August 21, 1998.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, WCM–122, Seattle, WA 98101. Telephone: (206) 553–6502.

SUPPLEMENTARY INFORMATION: See the information provided in the immediate final rule located in the final rules section of the July 7, 1998 (63 FR 36587), **Federal Register**, and in the short document located in the proposed rule section of the July 7, 1998 (63 FR 36652) **Federal Register**.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and record keeping requirements, Water pollution control, Water supply.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 11, 1998.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 98–22544 Filed 8–20–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 302, 304 and 307

RIN 0970–AB70

Computerized Support Enforcement Systems

AGENCY: Office of Child Support Enforcement (OCSE), ACF, HHS.

ACTION: Final rule.

SUMMARY: This final rule implements provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), related to child support enforcement program automation. Under PRWORA, States must have in effect a statewide automated data processing and information retrieval system which by October 1, 1997, meets all the requirements of title IV–D of the Social Security Act enacted on or before the date of enactment of the Family Support Act of 1988, and by October 1, 2000, meets all the title IV–D requirements enacted under PRWORA. The law further provides that the October 1, 2000, deadline for systems enhancements will be delayed if HHS does not issue final regulations by August 22, 1998.

EFFECTIVE DATE: This rule is effective August 21, 1998.

FOR FURTHER INFORMATION CONTACT: Robin Rushton (202) 690–1244.

SUPPLEMENTARY INFORMATION:

Statutory Authority

This regulation is published under the authority of several provisions of the Social Security Act (the Act), as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). Sections 454(16), 454(24), 454A and 455(a)(3)(A) of the Act (42 U.S.C. 654(16), (24), 654A, and 655(a)(3)(A)), contain requirements for automated data processing and information retrieval systems to carry out the State's IV–D State plan. Other sections, such as section 453 of the Act (42 U.S.C. 653) specify data that the system must furnish or impose safeguarding and disclosure requirements that the system must meet.

This regulation is also published under the general authority of section 1102 (42 U.S.C. 1302) of the Act which requires the Secretary to publish regulations that may be necessary for the efficient administration of the provisions for which she is responsible under the Act.

Background

Full and complete automation is pivotal to improving the performance of the nation's child support program. With a current national caseload of 20 million, caseworkers are dependent on enhanced technology and increased automation to keep up with the massive volume of information and transactions critical to future success in providing support to children.

Under PRWORA, States must build on existing automation efforts to implement the programmatic enhancements the law included for strengthening child support enforcement, including new enforcement tools and a shift in child support distribution requirements to a family-first policy. By October 1, 2000, States must have in place an automated statewide system that meets all the requirements and performs all the functions specified in PRWORA.

These requirements include:

- Functional requirements specified by the Secretary related to management of the program (454A(b)).
- Calculation of performance indicators (454A(c)).
- Information integrity and security requirements (454A(d)).
- Development of a State case registry (454A(e)).
- Expanded information comparisons and other disclosures of information (454A(f)), including to the Federal case registry of child support orders and the Federal Parent Locator Service (FPLS) and with other agencies in the State, agencies of other States and interstate information networks, as necessary and appropriate.
- Collection and distribution of support payments (454A(g)), including facilitating the State's centralized collection and disbursement unit and modifications to meet the revised distribution requirements.
- Expedited Administrative Procedures (454A(h)).

We issued proposed rules in the **Federal Register** on March 25, 1998, (63 FR 14402) setting forth the framework for automation that State systems must have in place by the October 1, 2000, deadline. Thirty letters from State agencies and other interested parties were received as a result. While the vast majority of these comments did not

necessitate changes to the rule, we did make modifications in the preamble discussion and/or the regulation primarily in the following areas as a result of the comments received:

- Sec. 307.11(f), Federal Case Registry Data Elements.
- Sec. 307.15, Independent Verification and Validation.

These changes and several others of a clarifying nature are explained in detail in the following section, Regulatory Provisions. A discussion of all the comments received and our responses follows in the preamble under the Response to Comments section.

Regulatory Provisions

State Plan Requirements (Part 302)

To implement the statutory changes, we revised the regulations at 45 CFR 302.85, ''Mandatory computerized support enforcement systems.'' Current 45 CFR 302.85(a) provides that if the State did not have in effect by October 13, 1988 a computerized support enforcement system that meets the requirements of § 307.10, the State must submit an Advanced Planning Document (APD) for such a system to the Secretary by October 1, 1991, and have an operational system in effect by October 1, 1995.

Section 454(24) of the Act, as amended by PRWORA, provides that the State must have in effect a computerized support enforcement system which by October 1, 1997 meets all IV–D requirements in effect as of the date of enactment (October 13, 1988) of the Family Support Act of 1988. In addition, the State must have a Computerized Support Enforcement System (CSES) which by October 1, 2000, meets all IV–D requirements in effect as of the date of enactment (August 22, 1996) of PRWORA, including all IV–D requirements in that Act.

Section 302.85(a) of the final regulations reiterates the statutory requirements for mandatory automated systems for support enforcement. Section 302.85(a)(1) includes the requirement under existing paragraph (a) that the system be developed in accordance with §§ 307.5 and 307.10 of the regulations and the OCSE guidelines entitled ''Automated Systems for Child Support Enforcement: A Guide for States.'' In addition, § 302.85(a)(2) requires that, by October 1, 2000, a system meeting PRWORA requirements be developed in accordance with §§ 307.5 and 307.11 of the regulations and the OCSE guidelines referenced above.

Change in Federal Financial Participation (Part 304)

To make part 304 regulations consistent with the Act as amended by PRWORA, § 304.20 is amended at paragraph (c) to provide that FFP at the 90 percent rate for the planning, design, development, installation and enhancement of computerized support enforcement systems that meet the requirement of § 307.30(a) is only available until September 30, 1997.

Computerized Support Enforcement Systems (Part 307)

Computerized support enforcement systems is amended throughout to conform part 307 to the changes required by sections 454, 454A, and 455(a) of the Act, as amended by PRWORA and the revisions to 45 CFR 302.85, which were discussed earlier.

The title of § 307.10 is revised to read ''Functional requirements for computerized support enforcement systems in operation by October 1, 1997'', and to add titles for two new sections, ''Sec. 307.11 Functional requirements for computerized support enforcement systems in operation by October 1, 2000'' and ''Sec. 307.13 Security and Confidentiality of computerized support enforcement systems in operation by October 1, 2000'' to reflect these changes.

Section 307.0, ''Scope of this part,'' is revised to reflect the new requirements of sections 454, 454A, 455(a) of the Act, as amended, and section 344(a)(3) of PRWORA regarding statewide automated CSESs. New statutory language is referenced in the introductory section and a new paragraph (c) is added to refer to the security and confidentiality requirements for CSESs. Paragraphs (c) through (h) are redesignated as paragraphs (d) through (i).

In § 307.1, ''Definitions'', the definition of ''Business day'' has been added as defined in the new section 454A(g)(2) of the Act. Accordingly, paragraphs (b) through (j) are redesignated as paragraphs (c) through (k). In addition, in the redesignated paragraphs (d) and (g), the citation ''Sec. 307.10'' is replaced with the citations ''Secs. 307.10, or 307.11'' to reflect the regulatory changes made below.

Mandatory Computerized Support Enforcement Systems

Mandatory computerized support enforcement systems at 45 CFR 307.5 is amended as follows:

To reflect the amended section 454(24) of the Act, paragraphs (a) and (b) are eliminated in their entirety and a new paragraph (a) is added. Paragraphs (c) through (h) are redesignated as (b) through (g).

Paragraph (a)(1) provides that each State must have in effect by October 1, 1997, an operational computerized support enforcement system which meets the requirements in 45 CFR 302.85(a)(1) related to the Family Support Act of 1988 requirements and that OCSE will review the systems to certify that these requirements are met. Under paragraph (a)(2), each State is required to have in effect, by October 1, 2000, an operational computerized support enforcement system which meets the requirements in 45 CFR 302.85(a)(2) related to PRWORA requirements.

In addition, under paragraph (d), the reference to ''Section 307.10'' is replaced by ''Sections 307.10 or 307.11.''

Functional Requirements for Computerized Support Enforcement Systems

To reflect the statutory changes, the title of § 307.10 ''Functional requirements for computerized support enforcement systems.'' is revised to read ''Functional requirements for computerized support enforcement systems in operation by October 1, 1997.'' In the introductory language, the citation ''Sec. 302.85(a)'' is replaced by the citation ''Sec. 302.85(a)(1) to reflect changes made earlier in the regulations. The citation ''AFDC'' is replaced with the citation ''TANF'' (Temporary Assistance for Needy Families) in paragraph (b)(10).

Paragraph (b)(14) is deleted because the requirement for electronic data exchange with the title IV-F program (Job Opportunities and Basic Skills Training Program) is no longer operative since under PRWORA States had to eliminate their IV-F programs by July 1, 1997. Paragraphs (b)(15) and (16) are redesignated as paragraphs (b)(14) and (15).

A new § 307.11, ''Functional requirements for computerized support enforcement systems in operation by October 1, 2000,'' is added and reiterates the statutory requirements in sections 454(16) and 454A of the Act, as discussed below.

The introductory language of § 307.11 specifies that each State's computerized support enforcement system established and operated under the title IV–D State plan at § 302.85(a)(2) must meet the requirements in this regulation. Under paragraph (a), the CSES in operation by October 1, 2000 must be planned, designed, developed, installed or enhanced and operated in accordance

with an initial and annually updated APD approved under § 307.15 of the regulations. As explained in the proposed rule, if a State elects to enhance its existing CSES to meet PRWORA requirements, it has the option of submitting either a separate APD or combining the Family Support Act and PRWORA requirements in one APD update. If a State elects to develop a new CSES, a separate implementation APD must be submitted.

Under paragraph (b), the CSES must control, account for, and monitor all the factors in the support collection and paternity determination process under the State plan which, at a minimum, include the factors in the regulation. Under paragraph (b)(1), the system must control, account for, and monitor the activities in § 307.10(b) of the regulations which a CSES in operation by October 1, 1997, must meet, except those activities in paragraphs (b)(3), (8), and (11) of § 307.10. These reporting, financial accountability, and security activities are replaced by similar or expanded provisions discussed later in this preamble that reflect statutory changes from PRWORA.

Paragraph (b)(2) describes the tasks that the computerized support enforcement system must have the capacity to perform with the frequency and in the manner required under or by the regulations that implement title IV–D of the Act. Paragraph (b)(2)(i) requires the CSES to perform the functions discussed below and any other functions the Secretary of HHS may specify related to the management of the State IV–D program.

Under paragraph (b)(2)(i)(A), the system must control and account for the use of Federal, State, and local funds in carrying out the State's IV–D program either directly or through an interface with State financial management and expenditure information systems. States can meet the financial accountability requirements through an interface. This provision is intended to provide States flexibility to continue existing practices which may be in place including the use of an auxiliary system. We have added reference to the use of auxiliary systems in the regulatory language.

Paragraph (b)(2)(i)(B) requires that the system maintain the data necessary to meet Federal reporting requirements for the IV–D program on a timely basis as prescribed by the Office of Child Support Enforcement. This requirement is similar to the functional requirements at § 307.10(b)(3) that a system must meet by October 1, 1997.

Paragraph (b)(2)(ii)(A) requires the CSES to enable the Secretary of HHS to determine State incentive payments and penalty adjustments required by sections 452(g) and 458 of the Act through the use of automated processes to: (1) Maintain the necessary data for paternity establishment and child support enforcement activities in the State; and, (2) calculate the paternity establishment percentage for the State for each fiscal year. Under this requirement, the system must maintain the necessary data and calculate for each fiscal year the State's paternity establishment percentage under section 452(g) of the Act. The system must also maintain the data necessary to determine State incentive payments under section 458 of the Act. In addition, under paragraph (b)(1), the State will continue to be required to compute and distribute incentive payments to political subdivisions in accordance with § 307.10(b)(6) of the regulations.

Paragraph (b)(2)(ii)(B) requires the system to enable the Secretary to determine State incentive payments and penalty adjustments required by sections 452(g) and 458 of the Act by having in place system controls to ensure: (1) The completeness, and reliability of, and ready access to, the data on State performance for paternity establishment and child support enforcement activities in the State; and, (2) the accuracy of the paternity establishment percentage for the State for each fiscal year. Under this provision, the system controls apply to data related to the calculation of the State's paternity establishment percentage, and the calculation of incentive payments. Data regarding the paternity establishment percentage and incentive payments is reported to the Federal government in accordance with instructions issued by OCSE.

Paragraph (b)(2)(iii) requires the system to have controls (e.g., passwords or blocking of fields) to ensure strict adherence to the systems security policies described in § 307.13(a) of the regulations. Under § 307.13(a), the State IV–D agency must have written policies concerning access to data by IV–D agency personnel and sharing of data with other persons.

Under paragraph (b)(3), the system must control, account for, and monitor the activities in the Act added by PRWORA not otherwise addressed in this part. Paragraph (c) requires that the system, to the extent feasible, assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B of the Act. Under paragraph (c)(1), the system must transmit orders and notices to employers and other debtors for the withholding of income: (1) Within 2 business days after the receipt of notice of income, and the income source subject to withholding from the court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State, and (2) using uniform formats prescribed by the Secretary.

Paragraph (c)(2) requires the system to monitor accounts, on an ongoing basis, to identify promptly failures to make support payments in a timely manner. Paragraph (c)(3) requires the system to automatically use enforcement procedures, including enforcement procedures under section 466(c) of the Act, if support payments are not made in a timely manner. These procedures include Federal and State income tax refund offset, intercepting unemployment compensation insurance benefits, intercepting or seizing other benefits through State or local governments, intercepting or seizing judgments, settlements, or lottery winnings, attaching and seizing assets of the obligor held in financial institutions, attaching public and private retirement funds, and imposing liens in accordance with section 466(a)(4) of the Act.

Paragraph (d) requires that, to the maximum extent feasible, the system be used to implement the expedited administrative procedures required by section 466(c) of the Act. These procedures include: ordering genetic testing for the purpose of establishing paternity under section 466(a)(5) of the Act; issuing a subpoena of financial or other information to establish, modify, or enforce a support order; requesting information from an employer regarding employment, compensation, and benefits of an employee or contractor; accessing records maintained in automated data bases such as records maintained by other State and local government agencies described in section 466(c)(1)(D) of the Act and certain records maintained by private entities regarding custodial and non-custodial parents described in section 466(c)(1)(D) of the Act; increasing the amount of monthly support payments to include an amount for support arrears; and, changing the payee to the appropriate government entity when support has been assigned to the State, or required to be paid through the State disbursement unit.

Paragraph (e) requires the State to establish a State case registry (SCR) which must be a component of the computerized child support enforcement system. This registry is essentially a directory of electronic case records or files. Paragraph (e)(1)

contains definitions of terms used in this section.

Paragraph (e)(2) describes the records which the registry must contain. Under paragraph (e)(2)(i), the registry must contain a record of every case receiving child support enforcement services under an approved State plan. Under paragraph (e)(2)(ii), the registry must contain a record of every support order established or modified in the State on or after October 1, 1998.

Under paragraph (e)(3) each record must include standardized data elements for each participant. These data elements include the name(s), social security number(s), date of birth, case identification number(s) and other uniform identification numbers, data elements required under paragraph (f)(1) of this section for the operation of the Federal case registry (FCR), issuing State of an order, and any other data elements required by the Secretary. In response to comments on the proposed rule, we added ''the issuing State of the order.'' We made this change because as commenters correctly pointed out, information on the issuing State of the order is essential in processing interstate cases.

Under paragraph (e)(4), each record must include payment data for every case receiving services under the IV–D State plan that has a support order in effect. Under this provision, the payment data must include the following information: (1) Monthly (or other frequency) support owed under the order, (2) other amounts due or overdue under the order including arrearages, interest or late payment penalties and fees, (3) any amount described in paragraph (e)(4) (i) and (ii) of this section that has been collected, (4) the distribution of such collected amounts, (5) the birth date and, beginning no later than October 1, 1999, the name and social security number of any child for whom the order requires the provision of support, and (6) the amount of any lien imposed under the order in accordance with section 466(a)(4) of the Act.

Under paragraph (e)(5), the State using the CSES must establish and update, maintain, and regularly monitor case records in the State case registry for cases receiving services under the State plan. In the proposed rule, we invited public comment as to whether timeframes or other standards should be set for the monitoring and updating of records and if so what timeframes and standards would be applied. As noted in the response to comments found later in this preamble, while many commenters responded to this request, the responses varied widely. Therefore, we are not adding timeframes to this section of the regulation.

To ensure that information on an established IV–D case is up to date, the State must regularly update the record to make changes to the status of a case, the status of and information about the participants of a case, and the other data contained in the case record. This includes: (1) Information on administrative and judicial orders related to paternity and support, (2) information obtained from comparison with Federal, State or local sources of information, (3) information on support collections and distributions, and (4) any other relevant information. In the proposed rule, we included reference to ''administrative actions and proceedings'' under item (1) above. We have deleted this language in response to comments on the proposed rule pointing out that the information in orders is most useful and while relevant to the Statewide system, other information on actions and proceedings would not be meaningful for purposes of the case registry.

Under the paragraph (e)(6), the State is authorized to meet the requirement in paragraph (e)(2)(ii) of this section which requires the State case registry to have a record of every support order established or modified in the State on or after October 1, 1998, by linking local case registries of support orders through an automated information network. However, linked local case registries established in the State's computerized support enforcement system must meet all other requirements in paragraph (e) of this section.

Under paragraph (f), the State must use the computerized support enforcement system to extract information at such times and in such standardized format or formats, as required by the Secretary, for the purposes of sharing and comparing information and receiving information from other data bases and information comparison services to obtain or provide information necessary to enable the State, other States, the Office of Child Support Enforcement or other Federal agencies to carry out the requirements of the Child Support Enforcement program. The use and disclosure of certain data is subject to the requirements of section 6103 of the Internal Revenue Code and the system must meet the security and safeguarding requirements for such data specified by the Internal Revenue Service. The system must also comply with safeguarding and disclosure requirements specified in the Act.

Under paragraph (f)(1), effective October 1, 1998, the State must furnish information in the State case registry to the Federal case registry. To ensure the effective implementation of the Federal case registry, required data elements on IV–D cases must be reported by October 1, 1998, to be followed by initial non-IV–D submissions on or before January 1, 1999. States must furnish information to the Federal case registry, including updates as necessary, and notices of expiration of support orders, except that States have until October 1, 1999, to furnish certain child data. In the proposed rule, we invited public comment as to whether timeframes for the submission of data on new cases or orders and for the submission of updated information should be specified. While we clarified the above dates, with two exceptions we have not added additional timeframes because there was no indication that this would be helpful. With respect to the exceptions noted, commenters noted that it was especially important that the Family Violence indicator and the Federal case registry information be up-to-date and therefore, we have added a requirement that the Family Violence indicator and the Federal case registry information be updated within five business days of receipt by the IV–D agency of new or changed information, including information which would necessitate adding or removing a Family Violence indicator.

Sections 453(h)(2) and (3) of the Act requires the inclusion of child data in the Federal case registry and provide the Secretary of the Treasury with access to Federal case registry data for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on the support or residence of children, such as the Earned Income Tax Program.

Under this rule, States must provide to the Federal case registry the following data elements on participants: (1) State Federal Information Processing Standard (FIPS) and optionally, county code; (2) State case identification number; (3) State member identification number; (4) case type (IV–D, non-IV–D); (5) social security number and any necessary alternative social security numbers; (6) name, including first, middle, last name and any necessary alternative names; (7) sex (optional); (8) date of birth; (9) participant type (custodial party, non-custodial parent, putative father, child); (10) family violence indicator (domestic violence or child abuse); (11) indication of an order; (12) locate request type (optional); (13) locate source (optional), and (14) any other information as the Secretary may require.

With respect to domestic violence information identified in item 10 above and addressed under paragraph (f)(1)(x) of this rule, section 453(b)(2) of the Act states that no information in the Federal Parent Locator Service shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent. OCSE will not disclose any information on a participant in a IV–D case or non-IV–D support order to any person unless otherwise specified in section 453(b)(2), if the State has included a ''family violence'' indicator on such participant.

Section 453(b)(2) of the Act provides that a court may have access to information in a case when a participant in the case has been identified with a Family Violence indicator. This section provides that disclosure to a court or agent of the court, may occur if, upon receipt of the information, the court or agent of the court determines whether disclosure beyond the court could be harmful to the parent or the child and, if the court makes such a determination, the court or its agent shall not make such disclosure.

Accordingly, under paragraph (f)(2), the CSES must request and exchange information with the Federal parent locator service for the purposes specified in section 453 of the Act. As stipulated in the statute, the Secretary will not disclose information received under section 453 of the Act when to do so would contravene the national policy or security interests of the United States or the confidentiality of census data or, as indicated above, if the Secretary has received notice of reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent.

Under paragraph (f)(3), the CSES must exchange information with State agencies, both within and outside of the State, administering programs under title IV–A and title XIX of the Act, as necessary to perform State agency responsibilities under title IV–A, title IV–D and title XIX.

Under the paragraph (f)(4), the CSES must exchange information with other agencies of the State, and agencies of other States, and interstate information networks, as necessary and appropriate, to assist the State and other States in carrying out the Child Support Enforcement program.

Security and Confidentiality for Computerized Support Enforcement Systems

With the mandates of the Family Support Act of 1988, and most recently of PRWORA, State public assistance agencies have been given additional tools to locate individuals involved in child support cases and visitation and custody orders and their assets.

With the use of these automated data processing (ADP) systems, and the data they maintain and manipulate, come concerns about the security and privacy of the information resident in these systems. In order to protect this information, our regulations require that States must have policies and procedures in place to ensure the integrity and validity of their automated data processing systems.

This rule reiterates statutory requirements in section 454A(d) of the Act addressing security and privacy issues by adding new regulations at 45 CFR 307.13, ''Security and confidentiality for computerized support enforcement systems in operation after October 1, 1997.''

Paragraph (a) requires the State IV–D agency to have safeguards on the integrity, accuracy, completeness of, access to, and use of data in the CSES, including written policies concerning access to data by IV–D agency personnel and sharing of data with other persons. Under paragraph (a)(1), these policies must address access to and use of data to the extent necessary to carry out the IV–D program. This includes the access to and use of data by any individual involved in the IV–D program, including personnel providing IV–D services under a cooperative or purchase-of-service agreement or other arrangement.

Under paragraph (a)(2), these policies must specify the data that may be used for particular IV–D program purposes and the personnel permitted access to such data. This provision applies to all personnel who have access to data on the CSES.

In response to a comment, we have revised the language in the proposed rule under paragraph (a)(3) to cover the disclosure of information to State agencies administering programs under titles IV–A and XIX of the Act. Pursuant to section 454A(f)(3) of the Act, State IV–D agencies are required to exchange information with State IV–A and XIX agencies as necessary to carry out the title IV–A, and XIX programs. As drafted in the NPRM, this provision did not clearly identify the specific disclosures of information that were authorized and therefore, was confusing.

Paragraph (b) requires the State IV–D agency to monitor routine access and use of the computerized support enforcement system through methods such as audit trails and feedback mechanisms to guard against and identify unauthorized access or use. States have flexibility in meeting this requirement, so long as the IV–D agency monitors routine access and use of the system.

Paragraph (c) requires the State IV–D agency to have procedures to ensure that all personnel, including State and local staff and contractors, who may have access to or be required to use confidential program data in the CSES are: (1) Informed of applicable requirements and penalties, including those in section 6103 of the Internal Revenue Service Code, and (2) adequately trained in security procedures. Under this requirement, State procedures must address Federal and State safeguarding requirements and the security and safeguarding requirements for data obtained from the Internal Revenue Service.

Finally, paragraph (d) requires the IV–D agency to have administrative penalties, including dismissal from employment, for unauthorized access to, disclosure or use of confidential information. In the proposed rule we solicited comments on all areas of computer systems security and data privacy relative to these regulations. We received relatively little input on this section of the proposed rules. One commenter asked that timeframes be added so that nothing would be left to State discretion, another indicated that the level of rulemaking was adequate and a couple of others asked that we limit rulemaking to the statute. Given this array of positions, and the fact that we heard no strong reaction to this section we are not making changes to the language in the proposed rule.

Approval of Advance Planning Documents

The regulations at 45 CFR 307.15 speak to certain APD requirements specific to CSE automated system development. These rules make conforming amendments to address the changes made by PRWORA and to codify certain existing requirements and authorities related to APD and APDU oversight. We revised 45 CFR 307.15, ''Approval of advance planning documents for computerized support enforcement systems,'' to reflect new functional requirements the State must meet by October 1, 2000.

Prior to this final rule, paragraph (b)(2) required that the APD specify how the objectives of the system will be carried out throughout the State, including a projection of how the proposed single State system will meet the functional requirements and encompass all political subdivisions of the State by October 1, 1997. This paragraph is revised to require that the APD specify how the objectives of a CSES that meets the functional requirements in § 307.10 of the regulations, or the functional requirements in § 307.11 of the regulations, will be carried out throughout the State including a projection of how the proposed system will meet the functional requirements and encompass all political subdivisions of the State by October 1, 1997, or also meet the additional functional requirements and encompass all political subdivisions of the State by October 1, 2000.

States may submit a separate APD for each group of functional requirements. The State may also update its current APD for the development and implementation of a system to meet the October 1, 1997, requirements in order to address the functional requirements that must be met by October 1, 2000. We also replaced the citation ''Sec. 307.10'' with the citations ''Secs. 307.10, or 307.11'' where it appears in paragraphs (a), (b), and (c).

A number of States experienced difficulty in developing systems that complied with Family Support Act requirements and, as a consequence, failed to meet the October 1, 1997, deadline for having such systems in place. In response, we have made several changes in these regulations to strengthen the oversight and management of CSE systems development projects.

First, we will aggressively monitor State CSE development efforts and as stated in the proposed rule we intend to conduct on-site technical assistance visits and reviews in all States this year, as we did last year. States whose system development efforts are lagging will receive multiple visits. We are in the process of procuring the services of one or more contractors to augment our ability to monitor States progress and provide project assistance.

In addition, we will more closely review State APD and APDU submissions. One area of focus will be on the resources available to: (1) Monitor the progress of systems development efforts, (2) assess deliverables, and (3) take corrective action if the project goes astray. We will not approve a State's APD unless we are convinced that adequate resources and a well conceived project management approach are available for these purposes, as well as for the systems design and implementation processes.

Most States already retain Quality Assurance assistance, using either contractors or State staff. We will not approve a State's APD unless it evidences adequate quality assurance services. States with a history of troubled systems development efforts will have to rigorously demonstrate that such resources are available to the project and are integrated into the project's management. All reports prepared by a State's quality assurance provider must be submitted directly to OCSE at the same time they are submitted to the State's project management.

This rule provides for more systematic determinations and monitoring of key milestones in States' CSE systems development efforts, and more closely ties project funding to those milestones. Systems should be implemented in phased, successive modules as narrow in scope and brief in duration as practicable, each of which serves a specific part of the overall child support mission and delivers a measurable benefit independent of future modules. Specifically, we added language to § 307.15(b)(9) to clarify that the APD must contain an estimated schedule of life-cycle milestones and project deliverables (modules) related to the description of estimated expenditures by category. The regulation includes a list of milestones which must be addressed as provided in the September 1996 ''DHHS State Systems Guide''.

(OCSE will issue an addendum to the Guide to provide more information on milestones.) These life cycle milestones should include, where applicable: Developing the general and/or detailed system designs; preparing solicitations and awarding contracts for contractor support services, hardware and software; developing a conversion plan, test management plan, installation plan, facilities management plan, training plan, users' manuals, and security and contingency plans; converting and testing data; developing, modifying or converting software; testing software; training staff; and, installing, testing and accepting systems. Specifically, we are requiring that the APD must include milestones relative to the size, complexity and cost of the project and at a minimum address: Requirements analysis, program design, procurement and project management.

We will treat seriously States' failure to meet critical milestones and deliverables or to report promptly and fully on their progress toward meeting those milestones. We will approach these problems in several ways. States shall reduce risk by: Using, when possible, fully-tested pilots, simulations or prototypes that accurately model the full-scale system; establish clear measures and accountability for project progress; and, securing substantial worker involvement and user buy-in throughout the project.

With respect to funding, we will generally provide funding under an approved APD only for the most immediate milestones; funding related to achievement of later milestones will be contingent upon the successful completion of antecedent milestones. For States with proven track records in CSE systems development, we will continue our practice of providing funding approval on an annual basis. Since current regulations provide sufficient authority to limit funding in this way, we are not proposing any additional regulatory changes but rather reaffirming in this preamble management practices which we will follow under existing authority.

In addition, in § 307.15(b)(10) we have expanded the requirements for an implementation plan and backup procedures to require certain States to obtain independent validation and verification services (IV&V). These States include those: (1) That do not have in place a statewide automated child support enforcement system that meets the requirements of the FSA of 1988; (2) which fail to meet a critical milestone, as identified in their APDs; (3) which fail to timely and completely submit APD updates; (4) whose APD indicates the need for a total system redesign; (5) developing systems under waivers pursuant to section 452(d)(3) of the Social Security Act; or, (6) whose system development efforts we determine are at risk of failure, significant delay, or significant cost overrun.

With respect to this last item, we would point out that Year 2000 systems compliance is critical to State child support enforcement program automation efforts. Accordingly, the requirement above would apply to States which are not Year 2000 compliant and which do not have an existing assessment and monitoring mechanism in place. We would consider any such State at serious risk of systems failure.

Also with respect to this last item, OCSE will carefully review States' system development efforts, using States' APD and APDU submissions, other documentation, on-site reviews

and monitoring, etc., relating to States' efforts to meet PRWORA requirements. Based on this review, OCSE will determine the type and scope of Independent Validation and Verification (IV&V) services that a State must utilize and will so require such IV&V services as a condition of its approval of the State's APD and associated funding or contract-related documents. As indicated in the proposed rule, OCSE has obtained the services of a contractor to assist in making this determination.

Independent validation and verification efforts must be conducted by an entity that is independent from the State. We would only provide very limited exceptions to this requirement based on a State's request. For example, we would consider an exception in a situation where a State has an existing IV&V provider in place which is independent of the child support agency (or other entity responsible for systems development), which meets all criteria set forth in these rules and where the State's systems development efforts are on track as a result.

The independent validation and verification provider must:

- Develop a project work plan. The plan must be provided directly to OCSE at the same time it is given to the State.
- Review and make recommendations on both the management of the project, both State and vendor, and the technical aspects of the project. The results of this analysis must be provided directly to OCSE at the same time they are given to the State.
- Consult with all stakeholders and assess user involvement and buy-in regarding system functionality and the system's ability to meet program needs.
- Conduct an analysis of past project performance (schedule, budget) sufficient to identify and make recommendations for improvement.
- Provide a risk management assessment and capacity planning services.
- Develop performance metrics which allow tracking of project completion against milestones set by the State.

The RFP and contract for selecting the IV&V provider must be submitted to OCSE for prior approval and must include the experience and skills of the key personnel proposed for the IV&V analysis. In addition, the contract must specify by name the key personnel who actually will work on the project.

ACF recognizes that many States already have obtained IV&V services and as indicated in the proposed rule, OCSE will review those arrangements to determine if they meet the criteria specified above.

The requirement that a State obtain an IV&V provider if it significantly misses one or more milestones in their APD is intended to assist the State in obtaining an independent assessment of their system development project. The IV&V provider will make an independent assessment and recommendations for addressing the systemic problems that resulted in the missed milestones before the situation reaches the point where suspension of the State's APD and associated Federal funding approval is necessary. Any reports prepared by an IV&V provider must be submitted to OCSE at the same time they are submitted to the State's project manager. The responsibility, authority and accountability for successful completion of systems' projects rests with the designated single and separate State child support agency. OCSE also has a need to receive these independent validation and verification reports in a timely manner to fulfill their program stewardship and oversight responsibilities. As a general rule, OCSE will seek State reaction before acting upon any report submitted directly to us from a State-level IV&V contractor to avoid the possibility of acting upon misconceptions and erroneous data.

In addition, if a State fails to meet milestones in its APD, OCSE may fully or partially suspend the APD and associated funding. OCSE currently has authority under 45 CFR 307.40 to suspend a State's APD if ''the system ceases to comply substantially with the criteria, requirements, and other provision of the APD * * *'' This action may include suspension of future systems efforts under the APD until satisfactory corrective action is taken. In such cases, funding for current efforts, i.e., those not affected by the suspension, would continue to be available, although OCSE would closely monitor such expenditures. In more serious cases, suspension would involve cessation of all Federal funds for the project until such time as the State completed corrective action. In response to this proposal, several commenters recommended the use of a corrective action plan as an alternative reaction to a missed milestone. Another commenter raised the concern that a link between project funding and a missed milestone will further delay implementation. We believe the existing language provides sufficient flexibility to address these comments. As indicated above, funding would cease only in the most serious cases.

As indicated in the Response to Comments section of this preamble, we received a number of comments on this requirement. We continue to believe that IV&V services will be necessary in some instances to ensure efficient and timely program automation.

However, we also want to ensure that such assistance does not undermine or duplicate State efforts. When a trigger under these rules is reached pointing to the need for an IV&V provider, OCSE will, in close consultation with the States, assess the type and scope of IV&V services a State must utilize. The assessment will include whether OCSE through its Federal IV&V contracts can provide the independent review needed or whether the State will need to obtain its own IV&V services. Given OCSE's limited resources and the limited size of our IV&V contract, the independent reviews provided under the Federal IV&V contract are expected to be few in number and for smaller-scale, not lengthy IV&V reviews.

Review and Certification of Mandatory Automated Systems

We revised 45 CFR 307.25, ''Review and certification of computerized support enforcement systems,'' by replacing the citation ''Sec. 307.10'' with the citations ''Secs. 307.10, or 307.11'' in the introductory language to reflect other changes made in this document.

FFP Availability

We also revised § 307.30, ''Federal financial participation at the 90 percent rate for computerized support enforcement systems'', to reflect changes made to section 455(a)(3) of the Act by section 344(b)(1) of PRWORA regarding the limited extension of 90 percent Federal financial participation.

Paragraph (a) specifies that financial participation is available at the 90 percent rate for expenditures made during Federal fiscal years 1996 and 1997 for the planning, design, development, installation or enhancement of a CSES as described in §§ 307.5 and 307.10, but limited to the amount in an APD or APDU submitted on or before September 30, 1995, and approved by OCSE.

Paragraph (b) provides that Federal funding at the 90 percent rate is available in expenditures for the rental or purchase of hardware and proprietary operating/vendor software during the planning, design, development, installation, enhancement or operation of a CSES described in §§ 307.5 and 307.10.

Paragraph (b)(1) specifies that Federal funding at the 90 percent rate is available until September 30, 1997, on a limited basis in accordance with paragraph (a) of this section for such expenditures.

Similarly, under paragraph (b)(2), FFP is available at the 90 percent rate until September 30, 1997, for expenditures for the rental or purchase of proprietary operating/vendor software necessary for the operation of hardware during the planning, design, development, installation or enhancement of a computerized support enforcement system in accordance with the limitations in paragraph (a) of this section, and the OCSE guideline entitled ''Automated Systems for Child Support Enforcement: A Guide for States.'' FFP at the 90 percent rate remains unavailable for proprietary applications software developed specifically for a CSES. (See OCSE-AT–96–10 dated December 23, 1996 regarding the procedures for requesting and claiming 90 percent Federal funding.)

ACF is issuing regulations simultaneously to implement the provisions in section 455(a)(3)(B) of the Act, regarding the availability and allocation of Federal funding at the 80 percent rate for Statewide systems.

With respect to regular funding, we amended 45 CFR 307.35, ''Federal financial participation at the applicable matching rate for computerized support enforcement systems'', by replacing the citation ''Sec. 307.10'' with the citations ''Secs. 307.10, or 307.11'' in paragraph (a) to reflect other changes made in this document.

Suspension of APD Approval

Similar to the above, we are proposing to amend 45 CFR 307.40, ''Suspension of approval of advance planning document for computerized support enforcement systems,'' to make a conforming change to replace the citation ''Sec. 307.10'' with the citations ''Secs. 307.10, or 307.11'' in paragraph (a) to reflect other changes made in this document.

Response to Comments

We received comments from a total of 30 commenters on the proposed rule published in the **Federal Register** March 25, 1998 (63 FR 14462) from State agencies and other interested parties. Specific comments and our response follows.

General Comments

1. *Comment:* One commenter expressed concern that the regulation simply mirrored the statute and asked when States could anticipate further clarification.

Response: We believe the statute provides a clear and adequate framework within which to regulate. However, the certification guide provides further explanation of the statutory and regulatory requirements for States' CSES certification. This guide was shared with all States on April 8, 1998, via OCSE AT-98–13 and was distributed at three OCSE-sponsored systems conferences held in March, 1998. The guide may also be downloaded from OCSE's Internet site (ftp://ftp.acf.dhhs.gov/pub/oss/cse/csecert.exe).

2. *Comment:* The FSA 1988 requirements called for a description in the APD of a cost-to-benefit measurement methodology that the State intended to use in the project. A commenter suggested that a confirmation on what OCSE's expectations are in this regard for PRWORA system certification would be helpful.

Response: OCSE-AT–96–10 provides guidance in this area that may be helpful to the commenter. Specifically, the guidance explains that States that choose to enhance their existing FSA '88 certified system have the option of continuing to utilize that cost-benefit analysis, or to close out that project when the benefits exceed the cost and establish a new cost-benefit analysis for the PRWORA project.

State Plan Requirements (Part 302)

1. *Comment:* One commenter questioned why the Certification Guide is needed in light of the regulations and suggested that it be eliminated. A couple of other commenters agreed with this suggestion. The first commenter went on to say that if the Guide is published, it should be incorporated in the rules so that it is available at the time of rule promulgation. Another commenter urged prompt release of the Guide in final form.

Response: This rule does not initiate reference to the Guide in regulations but rather continues the procedures that have been in place since the Family Support Act automation requirements were implemented. As such, this rule merely updates the reference to speak to the Certification Guide which incorporates PRWORA requirements and recommendations made by a State/Federal workgroup established for this purpose. The Guide was disseminated to States (OCSE-AT–98–13) on April 8, 1998, and is posted on OCSE's Web site. It also was disseminated at the March 1998 Systems conferences. The Certification Guide for PRWORA will be finalized in conjunction with these final automation regulations.

2. *Comment:* One commenter noted that the preamble discussion of the State plan requirements incorrectly stated that section 454(24) of the Act provides that States have in effect by October 1, 1997 all IV-D requirements in PRWORA.

Response: The commenter correctly pointed out a mistake in the preamble which we have fixed. The reference should have cited the October 1, 1997, deadline in reference to the Family Support Act automation requirements, not the automation requirements added by PRWORA.

Computerized Support Enforcement Systems (Part 307)

Functional Requirements for Computerized Support Enforcement Systems (§ 307.11)

1. *Comment:* One commenter recommended that we limit any additional functional requirements to those required by statute or added by the Secretary after consultation with State IV–D Directors, noting that this would continue the collaborative, partnership process being promoted by OCSE.

Response: We will continue to consult with the States in developing additional functional requirements for child support automated systems. We appreciate the collaborative, partnership process evidenced by the Federal/State workgroup that developed the functional requirements for automated systems in the Revised Certification Guide and the workgroups associated with the Expanded Federal Parent Locator Service.

2. *Comment:* One commenter asked for clarification of the requirement that the system ''control, account for, and monitor the activities described in PRWORA not otherwise addressed in this part.''

Response: The State/Federal certification work group has reviewed the existing certification requirements and has determined that existing functional requirements in the Guide related to Family Support Act requirements are sufficient for PRWORA requirements. Specifically, the Guide provides for the system to update and maintain in the automated case record all information, facts, events and transactions necessary to describe a case and all actions taken with respect to a case. The system must perform case monitoring to ensure that case actions are accomplished within required time frames. The system must maintain information required to prepare Federal reports, must generate reports to assist in case management and processing, and must ensure and maintain the accuracy of data.

3. *Comment:* One commenter questioned the inclusion of language from section 454(16) of the Act and our

authority to regulate based on this language. The commenter asked that the first sentence of § 307.11(b) be deleted, recognizing that it derives from section 454(16) of the Act, ''State plan for child and spousal support,'' not from section 454A of the Act, ''Automated data processing'' and that the list of ADP tasks be limited to those under section 454A of the Act.

Response: The commenter is correct that this provision is from section 454(16) of the Act. However, that section speaks to the State plan requirement for automated systems for child support and thus is relevant to this rulemaking. The discussion of statutory authority for this rulemaking indicates that the rule implements new requirements found under sections 454(16), 454(24), 454A and 455(a)(3)(A) of the Act. We would also point out with respect to the first sentence, that this is not a new provision but rather is identical to the language in the prior rules for implementing the Family Support Act.

4. *Comment:* Two commenters expressed concern that the requirement that the system control and account for the use of Federal, State and local funds directly or through an interface with State financial management and expenditure information went beyond the statute and would be difficult to implement.

Response: The statute provides under section 454A(b) that the system perform functions including controlling and accounting for Federal, State and local funds and implies that this function is to be part of the statewide system. Our intent in regulating this provision is to provide maximum flexibility and permit States to continue to meet the financial accountability requirements through an auxiliary system. In fact, most of the systems we have seen do have this type of interface. However, we agree that an interface would not always be required and did not intend to require an interface when one wasn't necessary. We've modified the language in the regulation accordingly.

5. *Comment:* Two commenters asked whether the intent of the requirement that States maintain the necessary data for paternity establishment and child support enforcement activities in the State for each fiscal year is that the system maintain out-of-wedlock birth statistics?

Response: We do not require States to maintain out-of-wedlock birth statistics in the CSES. These statistics may be maintained by another State agency, such as State Vital Statistics agencies. However, the State IV–D agency must have access to this data to ensure accurate calculation of the paternity establishment standard and to meet Federal reporting requirements.

6. *Comment:* One commenter pointed out that the requirement for the system to ''allocate'' performance indicators should actually be that the system ''calculate'' the indicators.

Response: The commenter is correct and we have revised the regulation accordingly.

7. *Comment:* One commenter suggested that since the PRWORA incentive formula is still unknown, the requirement for the system to compute performance indicators be excluded from the October 1, 2000 deadline.

Response: The requirement that the system compute performance indicators used for incentives speaks to requirements for computing incentives under the existing incentive formula as well as the formula enacted by the Congress in Pub. L. 105–200.

8. *Comment:* One commenter asked for clarification of the reference to ''other benefits'' in the statute at section 466(c) which speaks to enforcement procedures including Federal and State income tax refund offset, intercepting unemployment compensation insurance benefits, intercepting or seizing other benefits through State or local governments.

Response: ''Other benefits'' as referenced in the statute merely refers to any other benefits that may be seized under State law to enforce child support beyond what is specifically referenced in the Act.

9. *Comment:* One commenter requested clarification of the requirement that the State case registry be a component of the statewide automated system.

Response: Section 454A(e) of the Act requires that the automated system of each State include a registry to be known as the State case registry and contain a record of each case in which services are being provided under title IV–D and each support order entered or modified on or after October 1, 1998. The section further provides that non-IV–D orders may be maintained on a linked registry of support orders. The IV–D agency is responsible for ensuring that the State case registry functionality for non-IV–D orders is met, regardless of whether the State opts to meet the non-IV–D order requirements through the Statewide automated system or through an automated network of local linkages.

10. *Comment:* We received a number of comments in response to our solicitation of views regarding whether time frames or other standards should be set for the monitoring and updating of records in the State case registry (SCR) and, if these should be set, what time frames and standards would be applied.

Commenters stated that factors such as the size of the caseload, the status of pending automation and the cost effectiveness of updating and monitoring may impact a States capability to update the State case registry. Many commenters suggested that present regulatory time frames were adequate to update and monitor the State case registry. Others noted time frames should be included in the Certification Guide.

Additional commenters recommended specific time frames pointing out that States may adopt varying approaches to updating and monitoring if these requirements are not specifically delineated in regulation.

Response: There was no clear preponderance of comments on this issue. In the absence of a distinct standard being recommended by those commenting on these regulations, no additional regulations will be promulgated with respect to time frames. Those time lines which are prescribed by the System Certification Guide will remain in effect.

11. *Comment:* Comments regarding updating and monitoring of the Federal case registry were also solicited. Comments ranged from requiring updates weekly, to no regulation whatsoever.

Response: Due to the great disparity of comments, we chose to allow States flexibility to determine when to update data in the State case registry. However, for national consistency and accuracy of Federal case registry data, we chose to impose the requirement of updating data in the Federal case registry within five (5) business days.

12. *Comment:* One comment recommended changing the definition of ''Participant'' to more clearly include paternity orders.

Response: We agree with this position and have amended the definition as follows: (i) Participant means an individual who owes or is owed a duty of support, imposed or imposable by law, or with respect to or on behalf of whom a duty of support is sought to be, established, or who is an individual connected to an order of support or a child support case being enforced.

13. *Comment:* One commenter recommended the definition of participant be amended by deleting the reference to custodial party and inserting in its place the word custodian, because of the legal implications the word party may have.

Response: The term custodial party is used to encompass not only parents, but

also others who may have physical custody of a child, but not necessarily legal custody. This term is defined in a variety of documents which have been issued with respect to the design and implementation of State case registries and the Federal case registry. To introduce another term at this point would be confusing and counterproductive.

14. *Comment:* We received a suggestion to amend the definition of ''locate request type'' to more accurately reflect that a locate may be used for paternity and support establishment purposes.

Response: We agree with this position and have inserted the words ''or support'' in the definition.

15. *Comment:* A comment was received requesting greater detail on what records must be included in the State case registry.

Response: The State case registry shall contain a record of: (i) Every case receiving child support enforcement services under an approved State plan and (ii) every support order established or modified in the State on or after October 1, 1998.

16. *Comment:* Several commenters expressed concern about gathering non-IV–D information for inclusion in State case registries. It was recommended the regulation provide a phase-in approach with regard to non-IV–D information.

Response: The Federal case registry will be operational on October 1, 1998, and capable of accepting information on all IV–D cases and all orders entered or modified on or after that date. In order to ensure the effective implementation of State case registries and the Federal case registry, the Secretary is planning a staggered schedule for the initial submissions to the Federal case registry. The reporting of the required data elements on IV–D cases will begin on October 1, 1998, to be followed by initial non-IV–D submissions on or before January 1, 1999. We successfully implemented the National Directory of New Hires by using a similar approach of staggering new hire and quarterly wage submissions.

17. *Comment:* One commenter requested guidance on the way in which non-IV–D information is to be added to a State case registry.

Response: The request for guidance on the manner in which non-IV–D information is to be added to the State case registry exceeds the purpose of these regulations. The purpose of these regulations is to provide the provisions necessary for implementation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as it relates to child support enforcement program automation. However, the Office of Child Support Enforcement is committed to providing technical assistance and guidance on collecting and maintaining of non-IV–D data. Information on this issue may be found in the Federal case registry Implementation Guide, Chapter 3—State case registry.

18. *Comment:* One commenter asked if Federal financial participation was available for gathering and maintaining non-IV–D case payment data if the State determines a unified system to maintain such data was determined to be economical.

Response: Section 454A(e)(4) of the Act provides that payment records shall be maintained for each case record in the State case registry with respect to which services are being provided under the State plan. The statutory language limits the necessity of maintaining payment information to IV–D cases. Therefore, we cannot provide Federal financial participation to extend this to the maintenance of this information on non-IV–D cases.

19. *Comment:* Many commenters were concerned with the statement that the State case registry and Federal case registry data elements include ''any other information the Secretary may require as set forth in instructions issued by the Office.'' Most of these commenters expressed the position that only those established data elements be included in the regulation. There was also concern that data elements be set prior to October 1, 1998.

Response: Those data elements presently delineated in the regulation are the only ones required on October 1, 1998, to be reported to the Federal case registry. Through working with States to identify their needs, additional data elements may become necessary to assist States in processing child support cases. The primary reason for allowing the Secretary to adopt additional data elements is to maintain flexibility to respond to States' requests for enhancements in the Federal case registry. If the Secretary requires additional data elements in the future, States will be given adequate notice of the changes and ample time to make the necessary system changes.

20. *Comment:* A couple of commenters asked for clarification of the minimum data elements necessary for support orders on both the State case registry and the Federal case registry.

Response: The data elements contained in the regulation at paragraphs (e)(3) and (f)(1) are required for IV-D cases and for support orders which are entered or modified on or after October 1, 1998. The data elements listed at paragraph (e)(4) are only required for IV-D cases with support orders in effect.

21. *Comment:* Commenters also suggested that in addition to the data element listing the existence of an order, that we should also include the State where the order was issued. Commenters generally felt the State where the order was issued was critical information for Uniform Interstate Family Support Act (UIFSA) and the Full Faith and Credit for Child Support Orders Act purposes. Many commenters also expressed the belief that federal legislation mandated the issuing State of an order be included as a data element on the Federal case registry.

Response: We agree that inclusion of the State where the order was entered is necessary in case processing for UIFSA and Full Faith and Credit for Child Support Orders Act purposes. We have added this to the list of required data elements which a State must maintain on the State case registry.

However, the Federal case registry serves as a pointer system to States and is not intended to contain all of the data with respect to a case or order maintained in the State case registry. Therefore, the Federal case registry will only carry an indication of whether an order exists and not the State where the order was entered. States will be expected to use the Child Support Enforcement Network (CSEnet) to ascertain any additional information on a participant that the State may need. By including a State case registry data element for the State that issued the order, we ensure that CSEnet will be able to quickly process automated transactions of order information for UIFSA purposes.

22. *Comment:* One commenter requested clarification of the distinction between the amounts of support arrears and the amount of a lien since by definition support arrears become liens by operation of law.

Response: We agree with the commenter that inclusion of both the amount of the arrears and the amount of a lien as data elements in the State case registry creates a degree of confusion since these amounts may be identical. However, pursuant to section 466(a)(4) of the Act, the amount of arrears in a case becomes a lien only if the non-custodial parent owns real or personal property in the State or resides in the State. Thus, where a non-custodial parent does not reside or own property in the State enforcing the support obligation or if the value of real property owned in the State is less than the amount of arrears owed, the amount of arrears will differ from the amount of

liens. Section 454A(e) requires both amounts to be listed as State case registry data elements.

23. *Comment:* One commenter requested that the list of standard data elements for the State case registry include administrative and judicial orders, rather than administrative and judicial proceedings. The commenter was of the opinion that it is more useful to limit the information on the case registry to this data.

Response: We agree with the commenter. The data elements have been amended to reflect that information on administrative and judicial orders related to paternity and support be included as a data element in place of information on administrative actions and administrative and judicial proceedings and orders related to paternity and support.

24. *Comment:* A commenter requested clarification of the distinction between disbursement and distribution.

Response: Distribution is the allocation or apportionment of a support collection. Disbursement is the actual dispensing or paying out of the collection. Action Transmittal 97–13 provides a more detailed discussion of the distinction between disbursement and distribution.

25. *Comment:* A comment was received requesting clarification of the meaning of ''sharing and comparing with and receiving information from other data bases and information comparisons services to obtain or provide information necessary to enable the State, other States, the Office or other Federal agencies to carry out this chapter.'' The assumption is this section expands the base of agencies and individuals with access to information.

Response: The intent of the introductory language of § 307.11(f) is to ensure the automated system has the capacity to share, compare and receive information from other data bases as expressly authorized by title IV–D of the Act. *See,* for example, sections 454A(f) and 466(c)(1)(D) of the Act. Except as provided under sections 454A(f)(3), 453 and 463, these exchanges are for the purposes of obtaining information necessary to carry out the Child Support Enforcement program under title IV–D of the Act. As a result of these comparisons, the IV–D agency is obtaining information, not releasing information. Thus, this section does not generally expand the base of agencies or individuals with access to information. Information sharing activities in the statewide automated system must be conducted in full compliance with the safeguarding provisions of § 307.13, section 453 of the Act, and section 6103 of the Internal Revenue Code of 1986.

26. *Comment:* We received a comment asking for clarification of the requirement that information be exchanged with State agencies both within the State and with agencies in other States. More particularly, the commenter asked whether the requirement for an exchange of data with agencies in other States was a CSEnet transaction or a direct exchange from the IV–D agency in one State with the IV–A agency or XIX agency in another State.

Response: States' systems must be able to use CSEnet to exchange data with IV–D agencies in other States. CSEnet may not be used to exchange data with IV–A or XIX agencies in other States. Such exchanges may be accomplished through direct exchanges or through their-in-State title IV–A and XIX agencies.

27. *Comment:* We received a comment requesting explicit detail be provided with respect to the requirement that certain data was subject to the requirements of the Internal Revenue Code of 1986.

Response: The term ''certain data'' refers to taxpayer return information obtained from the Internal Revenue Service. That information is subject to the prohibitions contained in section 6103 of the Internal Revenue Code of 1986. Return information is defined as ''a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over assessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and any part of any written determination or any background file document relating to such written determination which is not open to public inspection.''

28. *Comment:* It was recommended by one commenter that all references to IRS publications be eliminated and the regulation reflect that security standards will be set following consultation between the Secretary and the IRS.

Response: We do not agree with this recommendation. IRS Publication 1075 entitled ''The Information Security Guidelines for Federal, State and Local Agencies'' was referenced to assist States in ensuring compliance with IRS requirements.

29. *Comment:* Commenters requested greater detail be provided with regard to updating information reported by a State to the Federal case registry, particularly as it relates to the notice of expiration of a support order.

Response: The definition of expiration of a support order is determined under State law. States are required to notify the Federal case registry when an order expires pursuant to State law. It is critical to keep data current in both the State case registry and the Federal case registry. The primary intent of the Federal case registry is to act as a ''pointer'' system in notifying States of other States which may have an interest and/or information on a participant.

30. *Comment:* We received a number of comments on the need for greater detail and guidance to States on the issue of a Family Violence indicator as a data element. Commenters suggested criteria be established to guide States on the placement of this indicator and to offer courts guidance on the process whereby they can release information despite the presence of a Family Violence indicator on a person contained within the Federal case registry. One commenter suggested there was a need to provide direction on how and when to update the Family Violence indicator.

Other commenters requested a definition be provided for what constitutes reasonable evidence of domestic violence as that phrase is used within the statute and this regulation. One commenter also expressed the difficulty States would have in collecting Family Violence indicators on orders or cases which are not receiving services under the State plan. One commenter also suggested adding the Family Violence indicator as a data element to the State case registry.

Response: The purpose of these regulations is to provide the provisions necessary for implementation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as it relates to child support enforcement program automation. The request for additional guidance with respect to a Family Violence indicator is beyond the scope of these regulations. A definition of reasonable evidence will depend primarily on State law. However, the Office of Child Support Enforcement is committed to providing technical assistance and guidance on the issue of the Family Violence indicator. An Action Transmittal on the issue is forthcoming. It will assist States

in addressing outstanding questions such as placement of the Family Violence indicator, the process for court access to Federal case registry information on a person to whom a Family Violence indicator has been attached and the necessity for updating a case when the circumstances for the placement of the indicator changes. In addition, OCSE is preparing a compilation of State laws and policies regarding the criteria and placement for the Family Violence indicator. OCSE is also participating in the Department of Health and Human Services Violence Against Women Act Steering Committee and has disseminated multiple resources to States regarding family violence. OCSE's Domestic Violence liaison, Susan Notar, may be contacted for further information on this subject at (202) 401–9370.

We agree that it is appropriate to include the Family Violence indicator as a data element within the State case registry for purposes of reporting the Family Violence indicator to the Federal case registry. This data element is already required pursuant to § 307.11(e)(3)(vi) which states that the State case registry shall contain all data elements required under § 307.11(f)(1) of this section for the operation of the Federal case registry.

31. *Comment:* We received comments expressing concern over the lack of access to information by a court when a Family Violence indicator is present. The comment also suggested updates to the Family Violence indicator occur every two (2) days.

Response: Sections 453(b)(2)(A) and (B) of the Act provide that a court may have access to information as permissible under 453 and 463 of the Act, in a case when a participant in the case has been identified with a Family Violence indicator. These sections provide that disclosure to a court, as defined in 453(c)(2) and 463(d)(2) of the Act, or the agent of the court, may occur if upon receipt of the information the court, or agent of the court, determines whether disclosure beyond the court could be harmful to the parent or the child and, if the court makes such a determination, the court and its agents shall not make such disclosure. At the time of the disclosure of this information to the court, the court making the request shall also be notified of the State which placed the Family Violence indicator on a participant. The State which made the determination that caused the indicator to be placed on a participant shall also be informed that another State's court has requested the Family Violence indicator be overridden.

While we agree the Family Violence indicator is of such a sensitive nature that it requires regular updating, we believe that updating this every two (2) days is unrealistic. To accommodate the necessity of updating this data element, we have added a requirement in § 307.11(f)(1)(x) requiring the Family Violence indicator be updated within five (5) business days of receipt by the IV–D agency of information which would cause the IV–D agency to add or remove a Family Violence indicator.

32. *Comment:* Several commenters requested clarification of the definition of a support order and the order indicator.

Response: A support order is defined in section 453(p) of the Act as ''a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or of the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorney fees, and other relief''.

The order indicator data element will be marked ''Yes'' if a State knows of the existence of an order (as defined above), whether the order was issued by the reporting State or another State.

33. *Comment:* A comment was received suggesting that if the purpose of the Federal case registry was to act as a pointer system to quickly notify States of other States that have an interest and/or information on a participant, the regulations clarify that only interstate cases are to be submitted to the Federal case registry.

Response: Section 453(h) of the Act provides that the Federal case registry shall include abstracts of support orders and other information with respect to each case and order in each State case registry. The State case registry is required by the Act to contain records with respect to each case in which services are being provided by the State agency under the approved State plan and each support order established or modified in the State on or after October 1, 1998. The reporting requirements of the Act clearly indicate all cases and orders entered or modified on or after October 1, 1998, be included in the State and the required data elements on each be reported to the Federal case registry. There is no stipulation that this only be interstate cases.

Security and Confidentiality for Computerized Support Enforcement Systems (§ 307.13)

1. *Comment:* One commenter supported the need for adequate safeguards for security data but was concerned that the use of employee dismissal is subject to collective bargaining agreements and other constraints and recommended allowing States to determine for themselves what the administrative penalties should be.

Response: We believe the regulatory reference to administrative penalties provides wide State flexibility for identifying appropriate State sanctions. However, security and confidentiality of the information is paramount to the integrity of the system and as such administrative sanctions must include dismissal of employees in appropriate cases.

2. *Comment:* One commenter expressed the view that the section on privacy and confidentiality was difficult to follow and questioned the intent of § 307.13(a)(3), limiting access and disclosure to non-IV–D personnel or for Non-IV–D program purposes as authorized by Federal Law.

Response: We have reviewed the language identified by the commenter and agree that it is confusing. Paragraph (a)(3) was designed to cover the disclosure of information to State agencies administering programs under titles IV–A and XIX of the Act which is authorized under section 454A(f)(3) of the Act. We have revised paragraph (a)(3) to more closely track the language of the statutory provision. Information disclosures to State agencies administering title IV–A or XIX programs are subject to the safeguarding provisions of section 453 of the Act to the extent that the disclosure involves information obtained from the FPLS and section 6103 of the Internal Revenue Code of 1986. The following table clarifies access to FPLS information as specified in sections 453 and 463 of the Act:

ACCESS TO FPLS INFORMATION

Who	Why	How	What	Exceptions
Agent/Attorney of a State who has authority/duty to collect child support and spousal support, which may include a State IV–D agency. Resident parent, legal guardian, attorney or agent of a child not receiving IV–A benefits. 453(c)	Establish paternity, establish, modify or enforce child support obligations. § 453(a)	Request filed in accordance with regulations, 45 CFR § 303.70. Only SPLS can request information from FPLS. —Must contain specified information including attestation. —Fee must be paid. § 453(d)	Information (including SSN, address, and name, address and FEIN of employer) on, or facilitating the discovery of, the location of any individual— —Who is under an obligation to pay child support, —Against whom a child support obligation is sought, —To whom a child support obligation is owed, —Who has or may have parental rights with respect to a child. Information on the individual's wages, other income from, and benefits of employment (including health care coverage). Information on the type, status, location and amount of any assets of, or debts owed by or to, the individual. § 453(a)	Disclosure would contravene national policy or security interests of the US, or confidentiality of census data. Notification from State of reasonable evidence of child abuse or domestic violence. § 453(b)
State Agency that is administering a program operated under a State Plan under subpart 1 of part B or a State plan approved under subpart 2 of part B or under part E. § 453(c)	To administer such program. § 453(a)	Same as above. § 453(d)	Same as above. § 453(a)	Same as above. § 453(b).
Court (or agent of the court) with authority to issue an order against an NCP for child support, or to serve as the initiating court in an action to seek a child support order. § 453(c)	Establish paternity, establish, modify or enforce child support obligations. § 453(a)	Request filed in accordance with regulations. § 453(b) Request must be processed through the SPLS, 45 CFR § 303.70 SPLS may process request from court to FPLS. 45 CFR § 302.35(c)(2)	Same as above, except can get it despite child abuse or domestic violence notification. § 453(b)	However, upon notification that FPLS has received notice of child abuse or domestic violence, court must determine whether disclosure of the information to any other person would be harmful. § 453(b) Above restrictions on information that would compromise national security etc. still apply.
Agent/Attorney of a State who has the authority/duty to enforce a child custody or visitation determination. Agent/Attorney of the US or a State who has authority/duty to investigate, enforce or prosecute the unlawful taking or restraint of a child. § 463(d)(2)	Make or enforce a child custody or visitation determination. Enforce any federal or State law regarding taking or restraint of a child. § 463(a)	Request filed in accordance with regulations. State agency receives request and transmits it to Secretary. § 463(b)–45 CFR § 302.35 SPLS made request to FPLS in standard format. SPLS shall identify these cases to distinguish them from other requests. 45 CFR § 303.15	Most recent address and place of employment of parent or child. § 463(c)	Disclosure would contravene national policy or security interests of the US, or confidentiality of census data. Notification from State of reasonable evidence of child abuse or domestic violence. § 463(c)

ACCESS TO FPLS INFORMATION—Continued

Who	Why	How	What	Exceptions
Court (or agent of court) with jurisdiction to make or enforce a child custody or visitation determination. § 463(d)(2)	Same as above. § 463(a)	Request filed in accordance with regulations. § 463(c) Request must be processed through the SPLS. 45 CFR § 303.70 SPLS may process request from court to FPLS. 45 CFR § 303.35 SPLS makes request to FPLS in standard format. SPLS shall identify these cases to distinguish them from other requests. Upon receipt of response from FPLS, SPLS shall send information directly to the requester, then destroy information related to the request. 45 CFR § 303.15	Same as above, except can get it despite notice of child abuse or domestic violence. § 463(c)	However, no disclosure shall be made to anyone else. However, upon notification that FPLS has received notice of child abuse or domestic violence, and receipt of information the court must determine whether disclosure of the information to any other person would be harmful. § 463(c) Above restrictions on information that would compromise national security still apply.
US Central Authority (under the Hague convention on international child abduction). § 463(e)	Locate any parent or child on behalf of an applicant to central authority in a child abduction case. § 463(e)	Upon request, pursuant to agreement between Secretary of DHHS and the central authority. No fee may be charged. § 463(e)	Most recent address and place of employment. § 463(e)	Restrictions under § 453 (national security etc., domestic violence). § 453(b) and § 463(c)
Secretary of the Treasury § 453(h)(3) and (i)(3)	Administration of federal tax laws. § 453(h)(3) and (i)(3)	Pursuant to procedures developed between the Secretary of Treasury and DHHS.	FCR data and NDNH data. § 453(h)(3) and (i)(3)	
Social Security Administration § 453(j)(1) § 453(j)(4)	Verification. § 453(j)(1) For any purpose. § 453(j)(4)	Pursuant to procedure developed between the Social Security Administration and DHHS.	FPLS data. § 453(j)(1) NDNH data. § 453(j)(4)	
State IV–D agencies § 453(j) (2) and (3)	Location of individual in paternity or child support case. § 453(j)(2) Administration of IV–D program. § 453(j)(3)	Every 2 business days information comparison in NDNH with the FCR and report back to States within 2 business days after a match is discovered. This would be an automatic match with the statewide automated system. § 453(j)(2)(A & B) When the Secretary determines a data match would be necessary to carry out the purposes of the IV–D program. § 453(j)(3)	FPLS matches. § 453(j) (2) and (3)	Disclosure would contravene national policy or security interest of the US, or confidentiality of census data. Notification from State of reasonable evidence of child abuse or domestic violence. § 453(b)
Researchers. § 453(j)(5)	Research purposes found by the Secretary to be likely to contribute to achieving purposes of IV–A or IV–D programs. § 453(j)(5)	At Secretary's discretion. § 453(j)(5)	Data in each component of the FPLS.	Personal identifiers removed. § 453(j)(5)
State IV–A agencies. § 453(j)(3)	Administration of IV–A program. § 453(j)(3)	When the Secretary determines a data match would be necessary to carry out the purposes of the IV–A program. § 453(j)(3)	FPLS matches. § 453(j)(3)	Disclosure would contravene national policy or security interests of the US, or confidentiality of census data. Notification from State of reasonable evidence of child abuse or domestic violence. § 453(b)

Approval of Advance Planning Documents (§ 307.15)

1. *Comment:* One commenter asked for clarification of the phrase, ''how the single State system will encompass all political jurisdictions in the State by October 1, 1997, or October 1, 2000, respectively.'' The commenter asked for clarification of how all political subdivisions in the State are to be included and, with respect to the date, whether this means that as long as States have IV&V consultants in place and comply with the APD requirements there will not be a federal review until after October 1, 2000?

Response: The requirement that the system cover all political subdivisions of the State was part of the Family Support Act automation rules published October 14, 1992; this is not a new requirement. With respect to the October 1, 2000 date, this is a reference to the date when the State must meet the new automated system requirements of PRWORA. We reserve the right to conduct at any time reviews of CSE systems funded by FFP and plan to increase on-site technical assistance related to automated CSE systems.

2. *Comment:* One commenter suggested that we eliminate the requirement that ''adequate resources'' be provided in line with the Federal resource limitation, i.e., the cap on enhanced funding.

Response: While PRWORA did cap the amount of FFP reimbursable at the 80 percent matching rate at $400 million, FFP at the regular 66 percent rate continues to be open-ended. The investment by both the Federal and State government necessitates the need for States to allocate sufficient resources to properly manage a project of this size, complexity and importance; we are making no change to this requirement.

3. *Comment:* A couple of commenters questioned the APD approval process and recommended that the process be eliminated and that a new approach be adopted. One of these commenters suggested a State-Federal partnership to examine and develop an effective new process. The other comment suggested we substitute a very limited planning section to the State plan describing how Federal funding will be used to support the statutory requirement.

Response: The Advanced Planning Document procedures are not limited to automated systems for Child Support Enforcement. The child support systems requirements are based on the APD requirements of 45 CFR part 95 and are used by Food and Nutrition Service for Food Stamps, HCFA for Medicaid, and ACF for IV–A (prior to TANF), Child Welfare and Child Care programs.

Since 1981, of the $3.2 billion expended on developing and implementing child support automated systems over the last 17 years, the Federal government has provided $2.5 billion for development of child support automated systems, a considerable investment. While the amount of enhanced (80%) funding is capped, there is no limitation on the amount of expenditures for systems development at the 66 percent rate, still a considerable investment by the Federal government. The other Federal programs which have no enhanced funding and whose level of regular rate FFP is 50 percent still require States to adhere to APD procedures and certification reviews.

We believe we have a fiduciary responsibility to oversee and monitor this considerable financial investment in automated systems for child support. The commenters blamed APD procedures for past systems development failures, but various independent entities, including the General Accounting Office during their evaluation of CSE systems development, have cited the need for more, not less, monitoring and oversight of the States by the Federal government through the APD process. The importance of automation to child support enforcement cannot be over emphasized.

4. *Comment:* One commenter expressed appreciation for Federal efforts to have a more substantial presence in assisting and monitoring State's development projects. An automated system is a major tool in tracking and enforcing child support and must be efficiently developed. The commenter agrees with the proposal to require a State to obtain IV&V when certain APD requirements are not met, stating that a well organized work plan and schedule based on the critical path method must be used in development of an automation effort of this size and complexity.

Another commenter, commenting as a State with a proven successful track record, indicated that they understand the intent of the quality assurance process, backup procedure, and IV&V as outlined but raised concerns that it may prove to be process-intensive and distracting if too hard a line is taken requiring proven states to provide this level of detail. The commenter raised concern that the potential repercussions include causing disruption to management of the project, escalation of development costs and delay.

Other commenters asked what was meant by projects going astray and in what form corrective action will take place? Other commenters were also concerned about the requirement that quality assurance providers reports be submitted directly to OCSE because they believe State project management should have an opportunity to correct misperceptions or erroneous data prior to submittal. These commenters and another were concerned that this approach will delay State's progress while awaiting approval and additional funding and strongly recommend that steps be taken to ensure this does not occur. They further recommended that if a time period is necessary for OCSE to receive the report, it be 30 days after the State has received the report from the QA vendor.

Still another commenter suggested a collaborative approach between the State and the IV&V to ensure progress is not impeded due to miscommunication between the vendor and the State. Such collaboration could ensure that Federal needs of monitoring and validating system development efforts are met, while State's efforts at timely completion of automation requirements are not impeded.

Response: Independent validation and verification efforts must be conducted by an entity that is independent from the State. We would only provide very limited exceptions to this requirement based on a State's request. For example, we would consider an exception in a situation where a State has an existing IV&V provider in place which is independent of the child support agency (or other entity responsible for systems development), which meets all criteria set forth in these rules and where the State's systems development efforts are on track as a result.

The requirement that OCSE receive the QA and IV&V reports simultaneous with a State should have no impact on State systems development progress since funding approval is not tied to these reports. Further, the State is free to correct any misconceptions or erroneous data in the QA or IV&V reports submitted, but delaying the reports for 30 days or editing them before submittal to OCSE defeats the purpose of OCSE's receiving the reports, i.e., early identification of problems. We would clarify that while we require quarterly progress reports, we encourage more frequent communication, especially during critical system development phases.

5. *Comment:* One commenter raised concerns about the statement in the preamble that States will be required to reduce risk by using, when possible,

fully tested pilots, simulations or prototypes. The commenter expressed the belief that each of the items were key factors in the delay of State's ability to finalize system development under the Family Support Act and led to significant cost overruns.

Other commenters expressed the view that these regulations are an unnecessary burden on States and will not enhance either the system development or system quality assurance process. In fact, the commenters said, this requirement may even delay systems implementation.

We received one recommendation that the requirement for an independent validation and verification (IV&V) provider not be tied to past project performance. The commenter stated that a more efficient use of resources is to concentrate the IV&V review on the merits of the existing APD and related project plans.

Another commenter shared the view that if sufficient time is given, the IV&V requirement is not overly burdensome.

Several commenters were concerned that the cost of this item was never considered in the allocation of the enhanced funding and States required to procure these services will have an unexpected financial burden placed on them. One of these commenters went on to suggest that it should be up to the State to determine the appropriate corrective action, where an IV&V would be only one option.

Reponse: The suggestions enumerated in the preamble are common best practices recommended by all successful information technology efforts. We are concerned that commenters believe that ''establishing clear measures, worker involvement and buy-in'' are delaying factors. They should be an essential part of any information technology system development effort. Without these procedures, the systems project has a high probability of failure and delay.

However, we recognize that many States have already obtained IV&V services or conducted the type of review that the proposed IV&V requirement was intended to address. We also recognize that the IV&V services requirement must be structured to avoid delaying the project. When a State's action or inaction triggers the need for IV&V services as specified in § 307.11, we will, in close consultation with the States, assess the value, need for, and type of IV&V services.

OCSE has recently acquired an IV&V service contract. While this contract is not meant to substitute for effective State IV&V reviews, the Federal IV&V contractors may be utilized in some situations. The assessment will include whether OCSE through its Federal IV&V contractors can provide the independent review needed or whether the State will need to obtain its own IV&V services.

6. *Comment:* One commenter questioned why States already under penalty for missing certification, i.e. the States that have lost all Federal funding, need APD approval since they have no further Federal dollars to lose. The commenter believes this would result in such States being penalized twice.

Response: While several States have received letters of intent to disapprove their State plans because of their failure to meet the October 1, 1997 statutory deadline for State automated system certification, all States receiving such notices have requested a predecisional hearing. Until such time as a hearing is concluded and HHS reaches a final decision, those States will continue to receive Federal funds for child support, including funds for system development to complete those CSE systems. While those States continue to receive Federal funds for systems development and other APD services, Federal APD requirements continue to apply.

7. *Comment:* one commenter pointed out that there are various reasons for missing milestones, citing policy changes as a major factor. Another factor is that PRWORA included enormous automation requirements, yet the resource allocation is diminishing almost simultaneously. The commenter suggests that the best action for missed milestones is a corrective action plan agreed upon by State and Federal representatives.

Related to this, another commenter suggested this requirement be changed to require the submittal of a revised APDU, as soon as the State is ''off-plan'' if it has missed milestones. Further, OCSE should work with the State and their QA service provider to reach agreement on the corrective actions necessary to assure continued progress and continued funding. If the Federal agency review of this new APDU does not result in approval of the revised approach, then funding could be reduced or eliminated.

Response: Current regulations require States missing significant milestones to submit to ACF for approval a revised schedule and budget in an As-Needed APDU. Current regulations also provide that OCSE may suspend system development funding when a State ceases to comply substantially with its APD. The rule adds additional tools and flexibility to assist States whose systems development efforts are experiencing difficulty, such as obtaining IV&V services, short of cutting off all funding.

8. *Comment:* One commenter questioned the need for IV&V when determining the need for system redesign, stating that the decision is based on State administration and operational needs and APD approval is already required.

Response: The final rule cites as a trigger for an IV&V a total redesign of the automated CSE system (i.e. replacing existing automated system with new system). We believe that an independent assessment of the system project can bring valuable new insight into the process.

9. *Comment:* One commenter thought the language on Federal oversight was confusing. The commenter noted that it appears that OCSE may be requiring States to acquire IV&V in addition to their QA service provider and questioned the requirement that OCSE has approval authority over the contract and the contractor's key personnel. While several commenters agreed with the requirement for the acquisition of a QA service provider and the need to share specified QA status reports, they do not agree that another layer of review should be added.

Response: Current regulations require prior Federal approval of contracts or contract amendments over certain thresholds. Because of the importance of this activity to system development, the proposed regulations provide for prior approval for IV&V contracts regardless of threshold, if the need for IV&V is triggered by one of the events cited in the regulation.

The final rule enumerates what the IV&V contract the State enters into should have regarding key personnel. That information is intended to assist the State in maintaining those key personnel bid by the vendor on the contract; there is no intent for the Federal government to judge the key personnel proposed in the State's IV&V contract.

10. *Comment:* One commenter raised concerns about the requirement that the IV&V vendor consult with all stakeholders and assess user involvement and buy-in and recommended eliminating the word ''all.'' The commenter indicated agreement that buy-in is critical to success, but stated that attaining consensus from ''all'' interested parties in any process that involves as many divergent stakeholders as child support does is not possible. The commenter suggested that removal of the word all makes this requirement something that can be done.

Response: We have not changed the language because we believe that the regulation is clear that the IV&V provider must consult with all stakeholders, but not necessarily consult with each and every member of a stakeholder group (i.e. every clerk or the court, or every caseworker) nor does it require the IV&V provider to achieve consensus among ''all'' stakeholders.

11. *Comment:* One commenter asked how States will be evaluated to determine significant delay or cost overruns? The commenter suggested that we specify the measure to avoid arbitrary measures.

Response: We recognize that all system development projects require some level of schedule and budget revisions. The Implementation Advance Planning Document addresses these topics and requires an estimated schedule and budget which is revised annually or requires an as-needed update. A significant delay is one which affects a State's ability to meet the statutory deadlines in PRWORA. Current regulations at 45 CFR 95.611(c)(2)(ii) require an explanation for significant (10%) cost increases from the previous year and also require States to explain slippage in terms of causes and effect on the overall implementation schedule. For example, for enhanced FFP, § 95.611(c)(2)(ii) requires States to submit an as-needed APDU when there is a projected increase of $100,000 or 10 percent of the project costs, whichever is less, or a schedule extension of more than 60 days for major milestones.

12. *Comment:* Two commenters pointed out that milestones can be missed due to circumstances beyond the control of the State (i.e. delayed issuance of requirements, changes in requirements, underestimation of changes required due to unknown factors). One of the commenters recommended that States be allowed to correct project plans to modify milestone due dates within reason. The commenter asked for clarification of the procedures that will be used to monitor the completion of milestones and be assured that progress will not be impeded by the monitoring and approval process. The commenter encouraged that funding loss not be threatened without first allowing some room for corrective action by the State.

Response: We believe the APD process and the As-Needed APDU process already provide the State with the opportunity for corrective action. The procedures that will be used to monitor include reports from the State, quarterly reports from the State's QA vendor, ongoing communications, and on-site monitoring from OCSE staff.

13. *Comment:* One commenter suggested that the list of milestones be a guide or recommendation and that the actual milestones and deliverables to be included in the APD should be negotiable and based on individual State needs and current status.

Response: We agree with this position. Traditional life cycle methodologies will form the basis of milestones for any State, but we are open to negotiating modifications with States to address individual State needs and circumstances.

14. *Comment:* Several commenters charged that the APD and APDU process as it currently exists is extremely burdensome and will become more so with the implementation of this rule. The record keeping which is necessary to annually update the APD is very complex. The commenters indicated that the data needed for the APD is not usually part of the normal operations of the IV–D agency, especially after system implementation, and keeping up with all the data needed for the update requires staff who are dedicated to this type of recording. Since enhanced funding is no longer available for operation of a certified system, a couple of these commenters thought it unreasonable to continue to require an annual update of the APD. One commenter suggested that while elimination of the process would be ideal, at best the APD should be simplified.

Response: Enhanced funding is not the trigger for annual update of the APDU. This requirement applies to all State automated systems development activities, including those funded at the regular matching rate. However, we are in full agreement with the goal to simplify the approval process where possible and appropriate. As mentioned in the preamble, revisions to the APD process affect other programs. We will continue to work with our Federal and State partners to develop innovative ideas and approaches and plan to convene meetings to address this issue.

15. *Comment:* A couple of commenters asked how suspending the APD and associated funding assists States in achieving the goal of systems development. The commenter suggested that a more productive approach might be to provide States experiencing difficulties with technical assistance.

Response: One purpose of the rule is to give us and States additional tools and options for dealing with systems development efforts which are experiencing difficulties. We would agree with the commenter that suspending funding would not always be the most productive course of action. We certainly agree that technical assistance can be productive in assisting States experiencing difficulties and we are committed to providing such assistance.

The rule also gives us and States a better framework for designing and monitoring system development efforts and facilitates the early identification of difficulties. This should assist us and States in taking appropriate corrective action before more punitive measures, such as suspension of funding, become necessary. However, this rule leaves in place the current regulatory provision that if OCSE finds a State substantially out of compliance with its APD, it must totally suspend all associated funding. The proposal refers to ACF's approval of funds under an approved APD and the intent is to continue to provide some funding for limited, specific functions under the APD to assist the State in addressing the areas of the APD that are out of compliance.

16. *Comment:* Commenters also thought it unclear how a State can identify a failure and a backup procedure since there is no explanation defining at what point a situation becomes a failure, or at what point a backup procedure is to be implemented, and who makes those determinations. The commenter further questioned how a State can account for failures and backup procedures in its projected timetable when the State does not know what failure may occur and when that failure may occur.

Response: The State, in planning an information technology project of the size and complexity of most CSE projects, develops risk management factors that help in identifying possible risks of failure. Current regulations require the inclusion of backup procedures in a State's APD. The final rule expands on that requirement by listing six circumstances that would trigger the need for a specific type of backup procedure, viz, obtaining IV&V services. The first five trigger points are self-explanatory. The sixth trigger point is based on ACF's traditional oversight and monitoring role over ACF-funded State automated systems.

17. *Comment:* Several comments pointed out that the statute does not require an IV&V and questioned whether this wasn't an unfunded mandate. These commenters and others suggested that the provision be eliminated. One commenter stated that although the States are being required to obtain IV&V, it appears that the State-level IV&V will be doing Federal monitoring, that the so-called State-level

IV&V will actually be controlled at the Federal level. The commenter asked if this was the intent.

Response: Obtaining IV&V to review a troubled system is good business practice and has been utilized by numerous State systems as they encountered the very problems enumerated in this proposed regulation. OCSE will obtain its own IV&V contractor which will be assisting the Federal government in its oversight and monitoring role. The State IV&V is not intended to substitute for Federal monitoring. Rather, it is a mechanism whereby a State, and by extension the Federal government, can obtain objective analysis and recommendations to deal with serious system development issues. Funding for IV&V services is available to States at the applicable (66%) FFP rate.

18. *Comment:* One commenter noted that CSES are the only mandated, automated state systems that must pass certification requirements which not only detail what the systems should do, but in many cases, how they should do it. The commenter went on to say that the certification requirements do not take into account the business practices of the States, or successful program performance. The commenter and several others suggested that the systems certification process needs to be more flexible, less focused on systems detail and take into account overall program performance of the State.

Response: Child support differs from other Federally funded programs in at least two respects. The first is that OCSE reimburses States for a higher share of costs—both systems development and administrative costs, than do other Federal programs. With the Federal government funding 66 to 80 percent of costs, one of OCSE's objectives is to ensure that States use automation to the greatest extent practicable in order to keep program costs in line. The second distinction is that approximately one-third of child support cases involve more than one State. Having some consistency in terminology and practices across State automated systems is critical if this portion of the caseload is to be handled efficiently and effectively. The specificity of automation requirements is a reflection of the programmatic provisions of the CSE authorizing statute; and under current financing arrangements, States in the aggregate reap a substantial financial return from the Program and stand to gain even more as effectiveness and efficiency improve due to automation.

In developing the certification guide for PRWORA requirements, OCSE heavily involved States early on in the process via a Federal/State work group. One of the guiding principles followed by this Federal/State work group was to avoid prescriptive requirements and micro-management of the functionality of the State's CSE system. Comparison of those sections of the certification guide related to PRWORA with those sections related to Family Support Act requirements will show that we've substantially reduced the prescriptiveness and detail.

19. *Comment:* One commenter recommended that States be permitted to have flexibility in plan development for projects rather than be restricted to phased successive models as narrow in scope and brief in duration as practicable.

Response: Use of life cycle methodology for system development is considered good business practice. However, we agree that the process should be commensurate with the size and scope of the development effort. OCSE recognizes, for example, that for States that choose to enhance their existing Family Support Act certified CSE systems to meet the new PRWORA system requirements, the milestones and project methodologies may differ from traditional life cycle methodologies associated with building entirely new systems. The utilization of the traditional life cycle methodologies should be commensurate with the size, scope, complexity and risk of the enhancement. If a State feels that using traditional life cycle methodologies is inappropriate to its project, it should contact OCSE and discuss alternatives.

20. *Comment:* One commenter suggested that it might help if the Federal government had a group of State resources that were familiar with these projects and they groomed them as a team to go into a State, do the evaluation, etc., at Federal expense.

Similarly, another commenter suggested that we consider the practicality of developing a mentoring or coaching arrangement where the more proven States would be joined with other States which may be struggling with their system development effort to share ideas and brainstorm solutions to obstacles.

Response: OCSE has been supportive of the ''peer-to-peer'' assistance approach and will consider funding State systems experts to assist other States in system development. For example, West Virginia, Puerto Rico, Virginia, Iowa and Washington State have all lent the expertise of their CSE systems staff to assist other States. ACF intends to follow-up on the suggestion for a resource directory and specialized training as a method of improving technical assistance to States. State staff certainly would bring a practical hands-on expertise and experience to the project. However, with all States working to meet the same statutory deadlines, OCSE does not believe that the States can spare the time and resources needed to substitute entirely for independent validation and verification of State systems development.

21. *Comment:* One commenter noted that the automation requirements of PRWORA require significantly more data sharing between the States and with DHHS but that unfortunately, the Family Support Act of 1988 mandated that all States IV–D systems have certain functionality, it did not require that these systems have common protocol and data structures. According to the commenter, this first became a problem as States brought up CSENet and experienced numerous errors in exchanging case information and will continue to be a significant problem with the Federal case registry process. In addition, there are no common definitions for some of the basic data elements involved: e.g., case, Family Violence indicator, etc. Common definitions must be established and adhered to by all States for effective communication between the disparate systems.

Response: We acknowledge that PRWORA requires increased data sharing between States and that neither the statute nor regulations require that statewide CSE systems have common protocols and data structures. In these rules, we have attempted to strike a balance between providing common definitions, standardized data elements, and uniform transmission protocols and maintaining States' flexibility in designing systems that meet their business needs. OCSE, as required by statute, has recently specified common definitions and data reporting forms for Federal reporting purposes that will become effective October 1, 1998. In both CSENet and FCR, we are working with State work groups to develop valid transaction tables, ''Good Manners Guides,'' and implementation and interface guidance documents to assist States in exchanging data without intruding on a State's prerogative to design its statewide CSE systems to best meet its needs.

FFP Availability (§ 307.30)

1. *Comment:* One commenter requested clarification on whether the 80 percent match includes costs of developing policies and procedures and training. The commenter recommended

that if the response is affirmative that this be made explicit in guidance.

Response: Training is not eligible for enhanced Federal financial participation. This funding limitation was applicable to 90% enhanced funding and did not change under PRWORA for 80% funding. Only training for trainers is eligible for enhanced matching; training of staff is reimbursable at the normal 66 percent matching rate.

2. *Comment:* One commenter asked that we modify software and ownership rights regulations so ownership rights are option. The commenter suggested that we should act as a model to ''* * * test a more flexible approach that is used widely in other areas of government * * *.''

Response: This is not a new requirement, nor is it unique to child support enforcement. It is a restatement of current regulations that apply to all automated systems, not just CSE. Over the course of the last few years, through various interagency workgroups and research efforts and public-private partnerships (such as the Human Service Information Technology Advisory Group), we have examined the issue of Federal software rights in licenses, and State and local government software ownership. Our conclusion consistently has been that the Federal policy in this area, as stated in Federal regulations at 45 CFR 95.617, and as restated in our child support automation regulations at 45 CFR 307.30, is appropriate and best protects the Federal interest in CSE and other Federal systems development efforts. We are unfamiliar with any other, ''* * * approach that is used widely in other areas of government * * *'' as stated by the commenter.

This policy does not apply to ''* * * proprietary operating/vendor software packages (e.g., ADABASE or TOTAL) which are provided at established catalog or market prices and sold or leased to the general public * * *'', nor is it applicable to commercial off-the-shelf software because these types of software are not unique to public assistance programs.

Executive Order 12866

Executive Order 12866 requires that regulations be drafted 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 changes in this rule include IV–D State plan amendments, new functional requirements for CSESs, and limited extension of 90 percent Federal funding.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small entities. The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities because the primary impact of these regulations is on State governments.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Pub. L. 104–13, all Departments are required to submit the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule.

When an OMB control number is issued, it will be published in the **Federal Register** as required by law. This final rule contains information collection requirements in §§ 302.85(a)(1) and (2), 307.11 (e) and (f), 307.13 (a) and (c), and 307.15(b)(2) which the Department has submitted to OMB for its review.

More specifically, §§ 302.85(a) (1) and (2) include IV–D State plan amendments; §§ 307.11 (e) and (f) include procedures for establishing a State case registry (SCR) and for providing information to the Federal case registry (FCR), § 307.13(a) includes written policies concerning access to data by IV–D agency personnel and sharing of data with other persons to carry out IV–D program activities, § 307.13(c) includes procedures that all personnel with access to or use of confidential data in the CSES be informed of applicable requirements and penalties, and receive training in security procedures, and § 307.15 describes several requirements for an advance planning document for a Statewide computerized support enforcement system.

The respondents to the information collection requirements in this rule are the State child support enforcement agencies of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. The respondents also include the courts that handle family, juvenile, and/or domestic relations cases within the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. The Department requires this collection of information: (1) To determine compliance with the requirements for a Statewide computerized support enforcement system; (2) to determine State compliance with statutory requirements regarding informing IV–D personnel of integrity and security requirements for data maintained in the CSES; and (3) for States to make funding requests through advance planning documents, and APD updates.

These information collection requirements will impose the estimated total annual burden on the States described in the table below.

Information collection	Number of respondents	Responses per respondent	Average burden per response	Total annual burden
302.85 (a)(1) and (2)	27	1	.5	13.5
307.11(f)(1)	54	.....	114.17	6,165
307.11(f)(1)	54	1	46.27	2,499
307.11(f)(1)	54	162,963	.083	730,400
307.11(f)(1)	54	52	1.41	3,959
307.11(e)(2)(ii)	54	25,200	.046	62,597
307.11(e)(1)(ii)	3,045	447	.029	39,472
307.13(a) and (c)	27	1	16.7	451
307.15 (APD)	9.33	1	240	2239
307.15 (APDU)	62.33	1	60	3740
Total	.....	.....	.....	851,535.5

The Administration for Children and Families invited comments by the public in the proposed rule on the information collection in:

- Evaluating whether the proposed collections are necessary for the proper performance of the functions of ACF, including whether the information will have practical utility;
- Evaluating the accuracy of ACF's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who have to respond, including the use of appropriate automated, electronic, mechanical, or other technology to permit electronic submission of responses.

No comments were received on this information collection on the associated estimated burden hours. 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.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes and 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.

We have determined that this rule will not impose a mandate that will 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. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small government.

Congressional Review of Rulemaking

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

List of Subjects

45 CFR Part 302

Child support, Grant programs—social programs, Reporting and recordkeeping requirements, Unemployment compensation.

45 CFR Part 304

Child support, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Unemployment compensation.

45 CFR Part 307

Child support, Grant programs—social programs, Computer technology, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No. 93.563, Child Support Enforcement Program)

Dated: June 30, 1998.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: July 28, 1998.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR parts 302, 304, and 307 are amended as set forth below.

PART 302—STATE PLAN REQUIREMENTS

1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1302, 1396(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

§ 302.85 [Amended]

2. Section 302.85 is amended by revising paragraph (a) to read as follows:

* * * * *

(a) *General.* The State plan shall provide that the State will have in effect a computerized support enforcement system:

(1) By October 1, 1997, which meets all the requirements of Title IV–D of the Act which were enacted on or before the date of enactment of the Family Support Act of 1988, Pub. L. 100–485, in accordance with §§ 307.5 and 307.10 of this chapter and the OCSE guideline entitled ''Automated Systems for Child Support Enforcement: A Guide for States.'' This guide is available from the Child Support Information Systems Division, Office of State Systems, ACF, 370 L'Enfant Promenade, SW., Washington, DC 20447; and

(2) By October 1, 2000, which meets all the requirements of title IV–D of the Act enacted on or before the date of enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, in accordance with §§ 307.5 and 307.11 of this chapter and the OCSE guideline referenced in paragraph (a)(1) of this section.

* * * * *

PART 304—FEDERAL FINANCIAL PARTICIPATION

1. The authority citation for part 304 continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

§ 304.20 [Amended]

2. In § 304.20, reference to ''Until September 30, 1995'' in paragraph (c) is revised to read ''Until September 30, 1997''.

PART 307—COMPUTERIZED SUPPORT ENFORCEMENT SYSTEMS

1. The authority citation for part 307 is revised to read as follows:

Authority: 42 U.S.C. 652 through 658, 664, 666 through 669A, and 1302.

§ 307.0 [Amended]

2. Section 307.0 is amended by revising the introductory text; redesignating paragraphs (c) through (h) as paragraphs (d) through (i); and adding a new paragraph (c) to read as follows:

* * * * *

This part implements sections 452(d) and (e), 454(16) and (24), 454A, and 455(a)(1)(A) and (B), and (a)(3)(A) of the Act which prescribe:

* * * * *

(c) Security and confidentiality requirements for computerized support enforcement systems;

* * * * *

§ 307.1 [Amended]

3. Section 307.1 is amended by redesignating paragraphs (b) through (j) as paragraphs (c) through (k); replacing the citation ''§ 307.10'' with the citations ''§ 307.10, or § 307.11'' in the newly designated paragraphs (d) and (g); and adding a new paragraph (b) to read as follows:

* * * * *

(b) Business day means a day on which State offices are open for business.

* * * * *

§ 307.5 [Amended]

4. Section 307.5 is amended by removing paragraphs (a) and (b); redesignating paragraphs (c) through (h) as paragraphs (b) through (g); replacing the citation ''§ 307.10'' with the citations ''§ 307.10, or § 307.11'' in the newly redesignated paragraph (b); and adding a new paragraph (a) to read as follows:

* * * * *

(a) *Basic requirement.* (1) By October 1, 1997, each State must have in effect

an operational computerized support enforcement system, which meets Federal requirements under § 302.85(a)(1) of this chapter, OCSE will review each system to certify that these requirements are met; and

(2) By October 1, 2000, each State must have in effect an operational computerized support enforcement system, which meets Federal requirements under § 302.85(a)(2) of this chapter. OCSE will review each system to certify that these requirements are met.

* * * * *

§ 307.10 [Amended]

5. Section 307.10 is amended in the introductory text by replacing the citation ''§ 302.85(a)'' with the citation ''§ 302.85(a)(1)''; replacing ''AFDC'' with ''TANF'' in paragraph (b)(10); removing paragraph (b)(14); redesignating paragraphs (b)(15) and (16) as paragraphs (b)(14) and (15); and revising the section heading to read as follows:

§ 307.10 Functional requirements for computerized support enforcement systems in operation by October 1, 1997.

* * * * *

6. Section 307.11 is added to read as follows:

§ 307.11 Functional requirements for computerized support enforcement systems in operation by October 1, 2000.

At a minimum, each State's computerized support enforcement system established and operated under the title IV–D State plan at § 302.85(a)(2) of this chapter must:

(a) Be planned, designed, developed, installed or enhanced, and operated in accordance with an initial and annually updated APD approved under § 307.15 of this part;

(b) Control, account for, and monitor all the factors in the support collection and paternity determination processes under the State plan. At a minimum, this includes the following:

(1) The activities described in § 307.10, except paragraphs (b)(3), (8) and (11); and

(2) The capability to perform the following tasks with the frequency and in the manner required under, or by this chapter:

(i) Program requirements. Performing such functions as the Secretary may specify related to management of the State IV–D program under this chapter including:

(A) Controlling and accounting for the use of Federal, State and local funds in carrying out the program either directly, through an auxiliary system or through an interface with State financial management and expenditure information; and

(B) Maintaining the data necessary to meet Federal reporting requirements under this chapter in a timely basis as prescribed by the Office;

(ii) Calculation of Performance Indicators. Enabling the Secretary to determine the incentive payments and penalty adjustments required by sections 452(g) and 458 of the Act by:

(A) Using automated processes to:

(*1*) Maintain the requisite data on State performance for paternity establishment and child support enforcement activities in the State; and

(*2*) Calculate the paternity establishment percentage for the State for each fiscal year;

(B) Having in place system controls to ensure the completeness, and reliability of, and ready access to, the data described in paragraph (b)(2)(i)(A)(1) of this section, and the accuracy of the calculation described in paragraph (b)(2)(i)(A)(2) of this section; and

(iii) System Controls: Having systems controls (e.g., passwords or blocking of fields) to ensure strict adherence to the policies described in Sec. 307.13(a); and

(3) Activities described in the Act that were added by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, not otherwise addressed in this part.

(c) Collection and Disbursement of Support Payments. To the maximum extent feasible, assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B of the Act through the performance of functions which, at a minimum, include the following:

(1) Transmission of orders and notices to employers and other debtors for the withholding of income:

(i) Within 2 business days after receipt of notice of income, and the income source subject to withholding from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State; and

(ii) Using uniform formats prescribed by the Secretary;

(2) Ongoing monitoring to promptly identify failures to make timely payment of support; and

(3) Automatic use of enforcement procedures, including procedures under section 466(c) of the Act if payments are not timely;

(d) Expedited Administrative Procedures. To the maximum extent feasible, be used to implement the expedited administrative procedures required by section 466(c) of the Act.

(e) State case registry. Have a State case registry that meets the requirements of this paragraph.

(1) Definitions. When used in this paragraph and paragraph (f) of this section, the following definitions shall apply.

(i) Participant means an individual who owes or is owed a duty of support, imposed or imposable by law, or with respect to or on behalf of whom a duty of support is sought to be established, or who is an individual connected to an order of support or a child support case being enforced.

(ii) Participant type means the custodial party, non-custodial parent, putative father, or child, associated with a case or support order contained in the State or Federal case registry.

(iii) locate request type refers to the purpose of the request for additional matching services on information sent to the Federal case registry, for example, a IV–D locate (paternity or support establishment or support enforcement), parental kidnapping or custody and visitation.

(iv) locate source type refers to the external sources a locate submitter desires the information sent to the Federal case registry to also be matched against.

(2) The State case registry shall contain a record of:

(i) Every IV–D case receiving child support enforcement services under an approved State plan; and

(ii) Every support order established or modified in the State on or after October 1, 1998.

(3) Standardized data elements shall be included for each participant. These data elements shall include:

(i) Names;

(ii) Social security numbers;

(iii) Dates of birth;

(iv) Case identification numbers;

(v) Other uniform identification numbers;

(vi) Data elements required under paragraph (f)(1) of this section necessary for the operation of the Federal case registry;

(vii) Issuing State of an order; and

(viii) Any other information that the Secretary may require.

(4) The record required under paragraph (e)(2) of this section shall include information for every case in the State case registry receiving services under an approved State plan that has a support order in effect. The information must include:

(i) The amount of monthly (or other frequency) support owed under the order;

(ii) Other amounts due or overdue under the order including arrearages,

interest or late payment penalties and fees;

(iii) Any amounts described in paragraph (e)(4) (i) and (ii) of this section that have been collected;

(iv) The distribution of such collected amounts;

(v) The birth date and, beginning no later than October 1, 1999, the name and social security number of any child for whom the order requires the provision of support; and

(vi) The amount of any lien imposed in accordance with section 466(a)(4) of the Act to enforce the order.

(5) Establish and update, maintain, and regularly monitor case records in the State case registry for cases receiving services under the State plan. To ensure information on an established IV–D case is up to date, the State should regularly update the system to make changes to the status of a case, the participants of a case, and the data contained in the case record. This includes the following:

(i) Information on administrative and judicial orders related to paternity and support;

(ii) Information obtained from comparisons with Federal, State or local sources of information;

(iii) Information on support collections and distributions; and

(iv) Any other relevant information.

(6) States may link local case registries of support orders through an automated information network in meeting paragraph (e)(2)(ii) of this section provided that all other requirements of this paragraph are met.

(f) Information Comparisons and other Disclosures of Information. Extract information, at such times and in such standardized format or formats, as may be required by the Secretary, for purposes of sharing and comparing with, and receiving information from, other data bases and information comparison services, to obtain or provide information necessary to enable the State, other States, the Office or other Federal agencies to carry out this chapter. As applicable, these comparisons and disclosures must comply with the requirements of section 6103 of the Internal Revenue Code of 1986 and the requirements of section 453 of the Act. The comparisons and sharing of information include:

(1) Effective October 1, 1998, (or for the child data, not later than October 1, 1999) furnishing the following information to the Federal case registry on participants in cases receiving services under the State plan and in support orders established or modified on or after October 1, 1998, and providing updates of such information within five (5) business days of receipt by the IV–D agency of new or changed, information, including information which would necessitate adding or removing a Family Violence indicator and notices of the expiration of support orders:

(i) State Federal Information Processing Standard (FIPS) code and optionally, county code;

(ii) State case identification number;

(iii) State member identification number;

(iv) Case type (IV–D, non-IV–D);

(v) Social security number and any necessary alternative social security numbers;

(vi) Name, including first, middle, last name and any necessary alternative names;

(vii) Sex (optional);

(viii) Date of birth;

(ix) Participant type (custodial party, non-custodial parent, putative father, child);

(x) Family violence indicator (domestic violence or child abuse);

(xi) Indication of an order;

(xii) Locate request type (optional);

(xiii) Locate source (optional); and

(xiv) Any other information of the Secretary may require.

(2) Requesting or exchanging information with the Federal parent locator service for the purposes specified in section 453 of the Act;

(3) Exchanging information with State agencies, both within and outside of the State, administering programs under titles IV–A and XIX of the Act, as necessary to perform State agency responsibilities under this chapter and under such programs; and

(4) Exchanging information with other agencies of the State, and agencies of other States, and interstate information networks, as necessary and appropriate, to assist the State and other States in carrying out the purposes of this chapter.

7. Section 307.13 is added to read as follows:

§ 307.13 Security and confidentiality for computerized support enforcement systems in operation after October 1, 1997.

The State IV–D agency shall:

(a) *Information integrity and security.* Have safeguards on the integrity, accuracy, completeness of, access to, and use of data in the computerized support enforcement system. These safeguards shall include written policies concerning access to data by IV–D agency personnel, and the sharing of data with other persons to:

(1) Permit access to and use of data to the extent necessary to carry out the State IV–D program under this chapter; and

(2) Specify the data which may be used for particular IV–D program purposes, and the personnel permitted access to such data; and

(3) Permit access to and use of data for purposes of exchanging information with State agencies administering programs under titles IV–A and XIX of the Act to the extent necessary to carry out State agency responsibilities under such programs in accordance with section 454A(f)(3) of the Act.

(b) *Monitoring of access.* Monitor routine access to and use of the computerized support enforcement system through methods such as audit trails and feedback mechanisms to guard against, and promptly identify unauthorized access or use;

(c) *Training and information.* Have procedures to ensure that all personnel, including State and local staff and contractors, who may have access to or be required to use confidential program data in the computerized support enforcement system are:

(1) Informed of applicable requirements and penalties, including those in section 6103 of the Internal Revenue Service Code and section 453 of the Act; and

(2) Adequately trained in security procedures; and

(d) *Penalties.* Have administrative penalties, including dismissal from employment, for unauthorized access to, disclosure or use of confidential information.

* * * * *

§ 307.15 [Amended]

8. Section 307.15 is amended by replacing the citation ''§ 307.10'' with the citations ''§ 307.10, or § 307.11'' in paragraphs (a), (b), introductory text, (b)(1), (b)(5), (b)(7), and (c); and revising paragraph (b)(2), (b)(9) and (b)(10) to read as follows:

* * * * *

(b) * * *

(2) The APD must specify how the objectives of the computerized support enforcement system in § 307.10, or § 307.11 will be carried out throughout the State; this includes a projection of how the proposed system will meet the functional requirements of § 307.10, or § 307.11 and how the single State system will encompass all political subdivisions in the State by October 1, 1997, or October 1, 2000 respectively.

* * * * *

(9) The APD must contain a proposed budget and schedule of life-cycle milestones relative to the size, complexity and cost of the project which at a minimum address requirements analysis, program design,

procurement and project management; and, a description of estimated expenditures by category and amount for:

(i) Items that are eligible for funding at the enhanced matching rate, and

(ii) items related to developing and operating the system that are eligible for Federal funding at the applicable matching rate;

(10) The APD must contain an implementation plan and backup procedures to handle possible failures in system planning, design, development, installation or enhancement.

(i) These backup procedures must include provision for independent validation and verification (IV&V) analysis of a State's system development effort in the case of States:

(A) that do not have in place a statewide automated child support enforcement system that meets the requirements of the FSA of 1988;

(B) States which fail to meet a critical milestone, as identified in their APDs;

(C) States which fail to timely and completely submit APD updates;

(D) States whose APD indicates the need for a total system redesign;

(E) States developing systems under waivers pursuant to section 452(d)(3) of the Social Security Act; or,

(F) States whose system development efforts we determine are at risk of failure, significant delay, or significant cost overrun.

(ii) Independent validation and verification efforts must be conducted by an entity that is independent from the State (unless the State receives an exception from OCSE) and the entity selected must:

(A) Develop a project workplan. The plan must be provided directly to OCSE at the same time it is given to the State.

(B) Review and make recommendations on both the management of the project, both State and vendor, and the technical aspects of the project. The IV&V provider must provide the results of its analysis directly to OCSE at the same time it reports to the State.

(C) Consult with all stakeholders and assess the user involvement and buy-in regarding system functionality and the system's ability to meet program needs.

(D) Conduct an analysis of past project performance sufficient to identify and make recommendations for improvement.

(E) Provide risk management assessment and capacity planning services.

(F) Develop performance metrics which allow tracking project completion against milestones set by the State.

(iii) The RFP and contract for selecting the IV&V provider (or similar documents if IV&V services are provided by other State agencies) must include the experience and skills of the key personnel proposed for the IV&V analysis and specify by name the key personnel who actually will work on the project and must be submitted to OCSE for prior approval.

* * * * *

§ 307.25 [Amended]

9. Section 307.25 is amended by replacing the citation ''§ 307.10'' with the citations ''§ 307.10, or § 307.11'' in the introductory text.

§ 307.30 [Amended]

10. Section 307.30 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

* * * * *

(a) *Conditions that must be met for FFP.* During the Federal fiscal years 1996, and 1997, Federal financial participation is available at the 90 percent rate in expenditures for the planning, design, development, installation or enhancement of a computerized support enforcement system as described in §§ 307.5 and 307.10 limited to the amount in an advance planning document, or APDU submitted on or before September 30, 1995, and approved by OCSE if:

* * * * *

(b) *Federal financial participation in the costs of hardware and proprietary software.* (1) Until September 30, 1997, FFP at the 90 percent rate is available in expenditures for the rental or purchase of hardware for the planning, design, development, installation or enhancement of a computerized support enforcement system as described in § 307.10 in accordance with the limitation in paragraph (a) of this section.

(2) Until September 30, 1997, FFP at the 90 percent rate is available for expenditures for the rental or purchase of proprietary operating/vendor software necessary for the operation of hardware during the planning, design, development, installation or enhancement of a computerized support enforcement system in accordance with the limitation in paragraph (a) of this section, and the OCSE guideline entitled ''Automated Systems for Child Support Enforcement: A Guide for States.'' FFP at the 90 percent rate is not available for proprietary application software developed specifically for a computerized support enforcement system. § 307.35 of this part regarding reimbursement at the applicable matching rate.)

* * * * *

§ 307.35 [Amended]

11. Section 307.35 is amended by replacing the citation ''§ 307.10'' with the citations ''§ 307.10, or § 307.11'' in paragraph (a)

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§ 307.40 [Amended]

12. Section 307.40 is amended by replacing the citation ''§ 307.10'' with the citations ''307.10, or § 307.11'' in paragraph (a).

[FR Doc. 98–22276 Filed 8–20–98; 8:45 am]

BILLING CODE 4150–04–P