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United States Department of the Interior



BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20245

IN REPLY REFER TO:

Social Services
MS-310-SIB

JAN 22 1996

BIAM Transmittal

To: All Holders of 66 BIAM

From: Deputy Commissioner of Indian Affairs

Subject: New Manual Sections for 66 BIAM 1.1 - 1.3, Social Services --
Program, Authority, Policy

This transmittal issues new manual sections to replace 66 BIAM 1.0 - 1.3 (Social Services -- Program, Authority, Policy) in the Bureau of Indian Affairs' Manual System. The information contained in the new sections replaces and supersedes manual parts 66 BIAM 1.1 - 1.3, release number 66-2, dated May 23, 1980.

Helen A. Manuel
Deputy Commissioner of Indian Affairs

Filing instructions:

- (a) Remove superseded material:
66 BIAM 1.0 - 1.3 (1 sheet)
Release 66-2, dated 5-23-80
- (b) Insert new material transmitted:
66 BIAM 1.1 - 1.3 (1 sheet)
- (c) Pen and ink changes:
None

SOCIAL SERVICES

Program Authority Policy

1. Program

1.1 Objective. The objective of the Bureau of Indian Affairs in relation to financial assistance and social services is to establish and administer programs designed to help Indian individuals, families and communities identify and work toward resolution of economic and social problems which prevent them from attaining a full measure of economic, social and emotional well-being.

1.2 Authority.

A. The Act of November 2, 1921, (42 Stat. 208), provides that the Bureau shall direct, supervise, and expend such moneys as Congress may from time to time appropriate for the benefit, care and assistance of Indians throughout the United States.

B. The Act of April 16, 1934 (48 Stat. 596), is an act "Authorizing the Secretary of the Interior to arrange with States or Territories for the education, relief of distress, and social welfare of Indians, and for other purposes." In accordance therewith, the annual appropriation to the Secretary of the Interior includes funds for social welfare services to Indian children and adults in need of assistance.

C. The Act of January 4, 1975 (88 Stat. 2203), directs the Secretary of the Interior "...upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of any such tribe to plan, conduct and administer programs or portions thereof, which the Secretary of the Interior is authorized to administer for the benefit of Indians....".

D. The Act of November 8, 1978 (92 Stat. 3096), authorizes the Secretary of the Interior "... to make grants to Indian tribes in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes...." and "... to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs....".

E. The Act of October 12, 1984 (98 Stat. 1837, 1848), directs that "...no part of any appropriation (except trust funds) to the Bureau of Indian Affairs may be used directly or by contract for general or other welfare assistance (except child welfare assistance) payments (1) for other than essential needs (specifically identified in regulations of the Secretary or in regulations of the State public welfare agency pursuant to the Social Security Act (42 U.S.C. 301 et seq.) adopted by reference in the Secretary's regulations) which could not be reasonably expected to be met from financial resources or income (including funds held in trust) available to the recipient individual which are not exempted under law from consideration in determining

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eligibility for or the amount of Federal financial assistance or (2) for individuals who are eligible for general public welfare assistance available from a State except to the extent the Secretary of the Interior determines that such payments are required under sections 6(b)(2), 6(i), and 9(b) of the Maine Indian Claims Settlement Act of 1980 (94 Stat. 1793, 1794, 1796; 25 U.S.C. 1725(b)(2), 1725(i), 1728(6))....".

F. The Act of August 15, 1985 (99 Stat. 338), directs that "General assistance payments made by the Bureau of Indian Affairs after April 29, 1985, shall be made on the basis of Aid to Families with Dependent Children (AFDC) standards of need except where a State ratably reduces AFDC payments in which event the Bureau shall reduce general assistance payments in such State by the same percentage as the State has reduced the AFDC payment."

G. The Act of October 27, 1986 (100 Stat. 3207-145), provides that "The Secretary, with respect to the administration of any family or social services program by the Bureau of Indian Affairs directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to the number and types of child abuse and neglect cases seen and the type of assistance provided. Additionally, such data should also be categorized to reflect those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring, and those cases which involve other minor siblings.... The data compiled...shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan".

H. The Act of November 28, 1990 (104 Stat. 4544), finds that "...there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe..." and therefore, "...authorize[s] such actions as are necessary to ensure effective child protection in Indian country....".

I. The Act of October 24, 1994 (108 Stat. 4251-4253), authorizes the Secretary of the Interior to establish and carry out a Tribal Self-governance program within the Department of the Interior in accordance with title IV of the Act.

1.3 Policy. General assistance, child welfare assistance, miscellaneous assistance and family and community services shall be provided for eligible Indians by the Bureau in a manner designed to promote personal and family unity and economic and social stability, working toward attainment of self-sufficiency, when assistance or services are not available or not being provided by state, local, or other agencies.

SOCIAL SERVICESCentral Office Organization, Functions and Staffing2. Central Office Social Services Organization and Function.

2.1 Central Office Organization. The Chief, Division of Social Services is the staff officer in whom the Commissioner has vested responsibility for overall technical supervision of the Bureau's social services program. The Division of Social Services is a staff office responsible for advising the Commissioner of Indian Affairs, through the Director, Office of Indian Services, as to matters involving broad social policy affecting Indian people. The Division staff also provides technical administrative leadership, direction, support and coordination to the Bureau-wide social services activity comprised of Area offices and field agencies operating social services programs at the local level. The Division Chief, and the Division staff are ultimately responsible to the Commissioner for all of the staff activities related to providing or obtaining necessary social services for eligible Indians.

2.2 Central Office Social Services Staff Functions.

A. To develop plans for a comprehensive social services direct delivery/contract/grants program: to define areas of responsibility in the administration of Bureau social services; to define the scope of the social services activity in relation to appropriate and available funds.

B. To formulate policies and procedures for the technical administration of the social services activity in consultation with Area and Agency field staff; to coordinate these policies and procedures with other appropriate Bureau activities.

C. As assigned by the Commissioner, through the Director, Office of Indian Services, to carry responsibility for developing specific agreements with Federal agencies and national private organizations to further the efficient operation of social services for Indians; and to establish such criteria as are necessary to implement the policies and programs.

D. To advise Bureau officials, including financial management and contracting officers on technical and professional matters.

E. To serve as consultants to Area, Agency and other Bureau activity staff to determine the social factors to be considered in the development of overall programs.

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F. To work closely with the Associate Solicitor, Division of Indian Affairs to clarify the legal position in relation to adoptions, guardianships, commitments, and other matters involving the social welfare of tribes or individuals.

G. To keep the Commissioner, through the Director, Office of Indian Services, informed on program operation and accomplishments.

H. To establish standards for services, assistance and staff functions.

I. To work closely with the Division of Personnel Management in development of personnel standards including duties of social services staff, standards of performance, and work loads.

J. Through consultation and technical guidance, to assist the Area office staff in planning and executing the social services program and in carrying out established policies.

K. To periodically perform quality control review of program operations at all levels to determine the degree to which policies, standards, and instructions are followed and whether they are applied uniformly in all areas of operation.

L. To develop a reporting system to obtain basic information on social conditions and human needs in order to develop sound programs, to determine their cost, and to justify the need for services.

M. Through analysis of reports and field visits, to evaluate and to appraise program operation, to measure accomplishments, and to determine necessary changes in program or in policy.

N. To analyze and review field programs and related fund estimates, to estimate over-all program costs and budget requirements, and to prepare justifications.

O. To assist in the preparation of legislation as may be required; and to prepare reports on proposed legislation which may affect the social services program.

P. To revise and update policies and procedures that reflect changes made by laws and policy decisions made by the Commissioner or higher authority.

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Q. To administer Indian Child Welfare Grants program when National in scope or when program encompasses more than one area jurisdiction.

2.3 Central Office Staffing.

A. Recommended Staffing Structure.

- (1) Administration unit.
 - (a) Chief, Social Worker.
 - (b) Assistant Chief, Social Worker.
 - (c) Program Assistant.
- (2) Child Welfare Unit.
 - (a) Child Welfare Social Work Specialist
 - (b) Assistant Child Welfare Social Work Specialist.
 - (c) Child Welfare Social Work Grants Specialist.
- (3) General Assistance Social Work Specialist.
 - (a) General Assistant Social Work Specialist.
 - (b) Assistant General Assistance Social Work Specialist.
 - (c) Family Services Social Work Specialist.
- (4) Staff Development/Training and Quality Control Unit.
 - (a) Staff Development/Training Social Work Specialist.
 - (b) Quality Control Social Work Specialist (Child Welfare).
 - (c) Quality Control Social Work Specialist (General Assistance).

SOCIAL SERVICESArea Office Organizations, Functions and Staffing3. Area Office Social Services Organization and Function.

3.1 Area Office Organization. The Area Social Worker is the staff officer in whom the Area Director has vested responsibility for overall technical supervision of the Area's social services program. The Area Director is responsible to the Commissioner of Indian Affairs for the administration of all programs and activities within the Area. The functions defined in 66 BIAM 3.2 for social services are the staff responsibility of an Area Social Worker within the Area Office jurisdiction. Within the objectives and policies established by the Central Office, under the direction of the Area Director, and with consultation and technical guidance provided by the Chief, Division of Social Services, the Area Social Worker is responsible for the development and operation of the Area social services program and for the provision of technical assistance and consultation to the Area-wide Bureau social services staff and to tribes, and to Indian organizations with respect to Indian Child Welfare grants programs, within the Area's administrative jurisdiction.

3.2 Area Social Worker Staff Functions.

A. In accordance with Central Office policies and objectives, develops plans for an Area social services direct delivery/ contract/ grants program together with methods for carrying the plans out as required by conditions and need for services.

B. Coordinate social services policies, programs, and procedures with those of other appropriate Bureau-Area activities.

C. In accordance with Bureau policies and agreements, develop and maintain cooperative relationships with other Federal, State, and local agencies.

D. Provide consultation to the Area Director and other officials on technical and professional issues, and when necessary, represent the Area Director at public and other meetings.

E. Keep the Area Director informed on program operation and accomplishments.

F. Serve as a resource by providing training and technical assistance to Area and Agency staff and to tribes on programs, services, and developments in the social welfare field.

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G. Provide technical guidance and consultation to Agency Social Workers and others charged with responsibility for the social services program in order to maintain conformity with established policies, standards, and procedures.

H. Performs a minimum semi-annual quality control field visits to agencies for consultation, program reviews, and training activities, including monitoring and evaluation of all programs.

I. Make recommendations on the social services budget to include staffing requirements, expense of operation, and necessary funds for assistance.

J. Through individual and group conferences, workshops, or other techniques, assist Bureau and tribal staff to improve their professional competence in order to give more efficient service.

K. Has approval and administrative authority for all Area Indian Child Welfare grants programs, both for Indian tribes and off-reservation Indian organizations within the Area jurisdiction, and serve as Grants Officer's Representative.

L. Prepare and submit reports as required.

3.3 Area Office Staffing.

A. Recommended minimum of one (1) Area Social Worker wherever there is administered a Social Services program.

B. An Assistant Area Social Worker position is recommended for an Area providing program responsibilities of technical supervision and training for five (5) to ten (10) Agency/Tribal contract/grants programs or \$1 M dollars in total funding.

C. An additional Area Social Worker staff position is recommended for each increment of five (5) additional Agency/Tribal contract/ grants programs or for each additional \$5 M dollars in total funding.

D. Diversified staff functions for Area Offices of three (3) or more social work positions is recommended, and shall be developed in consultation with the Central Office and published as an Area Office manual supplement.

SOCIAL SERVICESAgency Office Organization, Functions and Staffing4. Agency Office Social Services Organization and Function.4.1 Agency Office Organization.

A. The Agency level social services program is under the immediate direction of the Agency Superintendent who is responsible to the Area Director for the administration of all programs and activities at the Agency.

B. The functions defined in 66 BIAM 4.2 for social services are the staff responsibility of an Agency Social Worker who will report directly to the Agency Superintendent. Within the objectives and policies established by the Central Office and Area Office under the immediate supervision of the Agency Superintendent and with consultation and technical guidance provided by the Area Social Worker, the Agency Social Worker is responsible for providing social services and assistance to eligible Indians, and for obtaining and developing additional services as needed.

C. Where there is no Agency Social Worker, the Agency Superintendent is responsible for the administration of the Agency social services activity.

4.2 Agency Social Worker Staff Functions.

A. Provides social services and assistance with respect to direct delivery/contract/grants systems in accordance with 25 CFR 20 to all eligible Indians including but not limited to:

(1) Providing general assistance, child welfare assistance, and miscellaneous assistance.

(2) Providing social services to children when these are not available or provided by State and local agencies.

(3) Through counseling and other social services, helping families and adults resolve or make a satisfactory adjustment to social problems they may be experiencing.

(4) Counseling families in relation to their children, including boarding school enrollment for social reasons, foster care placement, or other necessary adjustments.

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B. As delegated by the Agency Superintendent, provide counseling service to assist Indians in planning the use of their money.

C. Through joint planning, coordinate social services policies, programs and procedures with those of other appropriate activities within the Agency.

D. In line with Bureau policies and agreements, develop and maintain cooperative relationships with local representatives of social welfare agencies and other agencies providing related services.

E. Provide consultation to the Agency Superintendent and other officials on technical and professional issues.

F. Serve as consultant to tribes and other agency activities to determine the social factors to be considered in the development of reservation programs.

G. Keep the Agency Superintendent informed on program operation and accomplishments.

H. Encourage and support tribal participation in social services activities and programs.

I. Serve as consultant to the tribal councils and other Indian organizations on technical phases of social services programs.

J. Assist tribal councils to develop policies and standards for tribal assistance and social services programs.

K. Make recommendations on program requirements, including personnel, operating costs, and assistance costs for use in preparing budget estimates and jurisdictions.

L. Provides technical consultation and supervision for Indian tribal child welfare grants programs, and serves as Grants Officer's Representative.

M. Keep records and prepare reports as required.

4.3 Agency Office Staffing.

A. Recommended minimum of one (1) Agency Social Worker wherever there is administered a Social Services program. A single

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Agency Social Worker shall not be expected to carry more than an annual monthly average caseload of 100 generic cases as weighted by 4.3 B as well as the administrative, group work, and community organization activities.

B. Agency social work positions which carry generic caseloads (which is the general practice on many reservations) shall have the following recommended weighted factors applied in determining the total annual average monthly staff/caseload standard of 140 cases.

(1) For each foster care or institutional care child welfare case a weight of four (4).

(2) For each substantial casework services case (general assistance or service only), defined as at least one meaningful client counseling each month, a weight of three (3).

(3) For each moderate casework services case (general assistance or service only), defined as at least one meaningful client counseling every two months, a weight of two (2).

(4) For each minimum caseload services case (general assistance or service only), defined as at least one meaningful client counseling every six months, a weight of one (1).

(5) For each group work/community organization/grants activity a weight of two (2).

C. The Agency Supervisory Social Worker shall have the recommended 100 caseload reduced by 20 cases for each additional social worker under supervision. No Agency Supervisory Social Worker supervising over five (5) social workers shall be required to carry a caseload.

D. It is recommended that any Agency having a tribal contract/grant for delivery of a social services program of \$500,000 or more shall have a minimum of one (1) Social Worker to serve as the Contracting/Grants Officer's Representative.

E. Any division of direct delivery/tribal contracting/grants delivery systems and/or geographically/travel issues involving appropriate staff/caseload standards shall be developed in consultation with Area Office/Tribal officials and published as an Area Office manual supplement.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245



IN REPLY REFER TO:
Social Services

APR 06 1990 *Bulletin*
66 BIAM Bullentin *7*

Memorandum

To: Holders of 66 BIAM

From: Deputy to the Assistant Secretary - Indian Affairs
(Operations)

Subject: General Assistance - Manual Bulletin #7

This bulletin replaces 66 BIAM Bulletin #6, issued August 22, 1989. That bulletin revised Part 66 Section 5, General Assistance, of the Bureau Manual and shall continue to be used in the interim pending the final version of the 66 BIAM.

Walter R. Mills
Deputy to the Assistant Secretary -
Indian Affairs (Operations)

Filing Reference: 66 BIAM - Section 5

October 6, 1990
Bulletin Expires

MANUAL BULLETIN

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

AUG 22 1989

66 BIAM Bulletin 6



IN REPLY REFER TO:
Social Services

MEMORANDUM

To: Holders of 66 BIAM

From: Acting Deputy to the Assistant Secretary - Indian Affairs
(Operations)

Subject: General Assistance - Manual Bulletin

This is to inform you of the extension date of the 66 BIAM Bulletin #5 issued December 15, 1988. That bulletin revised Part 66 Section 5, General Assistance, of the Bureau Manual and shall continue to be used in the interim pending the final version of the 66 BIAM.

Walter K. Mills

Deputy to the Assistant Secretary -
Indian Affairs (Operations)

Filing Reference: 66 BIAM - Section 5

BULLETIN EXPIRES February 22, 1990

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5. GENERAL ASSISTANCE

5.1 Purpose. The purpose of this manual section is to provide procedural regulations for administration of the Bureau of Indian Affairs general assistance program, whether by direct Bureau operation or through tribal contract, unless modified by the contract itself in accordance with 25 CFR Part 271.4(h).

A. These procedural regulations are based upon and are directly related to the definitions, purpose, policy, administrative procedures, eligibility conditions, and hearing and appeals requirements prescribed in 25 CFR Part 20, Financial Assistance and Social Services Program. These guidelines are specifically intended to implement the regulatory requirements of 25 CFR Part 20 and do not supersede, modify or in any way change those regulatory requirements.

B. The Bureau in contracting for all or a divisible part of the BIA social services program must comply with 25 CFR Part 20, Financial Assistance and Social Services Program, 25 CFR Part 271, Contracts Under the Indian Self-Determination Act, and with the policies and procedures included in 66 BIAM unless a waiver to any part is authorized and is included as a part of the contractual agreement.

C. The general assistance program is intended to meet certain specified unmet essential needs of otherwise eligible Indians. This program includes direct payment to meet prescribed essential needs of individuals and families, payment of certain costs directly related to care for adults, and provision of the contractual Tribal Work Experience Program (TWEPE).

D. Unmet essential need is determined by reviewing with each applicant his/her situation, including a determination of the size of the household, income or resources available, and the applicable state public assistance requirements for meeting financial need. The basic money amount required to meet certain specified need varies from state to state. Each state has established minimum money amounts for food, clothing, shelter, household supplies, utilities, personal needs and other essential or special living requirements. General assistance payments are intended to meet the cost of basic need items and special need items as defined by the Bureau standard of assistance for the state in which the applicant or recipient resides.

5.2 Policy. When assistance or services are not available or not being provided by state, local, or other agencies, general assistance, child welfare assistance, miscellaneous assistance and family community services shall be provided for eligible Indians by the Bureau in a manner designed to promote personal and family unity and economic and social stability, working

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toward attainment of self-sufficiency. It is the overall policy of the Bureau of Indian Affairs that determination of eligibility, delivery of service, and rights of appeal, all as pertain to general assistance, are uniformly administered on a nationwide basis.

5.3 Application for General Assistance. All persons have a right to make an application for general assistance. They shall be provided an opportunity to do so and shall have an eligibility determination completed. Under all circumstances, the applicant's right to privacy will be a prime consideration in the application process. When administratively feasible, the applicant's preferences relative to where the application is to be made shall be honored. Social Services staff have the responsibility for giving prompt attention to all requests or referrals for financial assistance and for taking appropriate action to prevent any unnecessary hardship for the applicant.

A. An application for financial assistance may be made orally, by correspondence or, if the applicant is physically or mentally unable to represent himself/herself, by a person designated by him/her. A simple inquiry about the general assistance program or its eligibility criteria does not constitute an application for assistance.

B. All requests, however received, shall ultimately be properly recorded on an application form and signed by the applicant(s). In situations where it is difficult to obtain a written application on a prescribed form, the caseworker shall mail the official application form to the applicant at the earliest possible date. No decision will be made until a signed application is received by the caseworker.

C. Referrals on behalf of potential applicant(s) will be accepted from relatives, interested persons, social welfare agencies, law enforcement officials, courts, and others. When such referrals are received, the appropriate Bureau/Tribal social services staff has the responsibility for exploring and giving consideration to eligibility.

D. **Receipt of Application.** Applications for assistance are made to the appropriate Bureau Superintendent or tribally contracted social services office. If needed, other locations may be designated by the local Bureau Superintendent or an official representative.

(1) The applicant must be notified in writing and given reasons why a decision is delayed within 30 days of the date of the application if a decision to approve or deny an applicant is not made.

(2) Applications shall not be held pending beyond 45 days of the date of the application. Financial assistance will be authorized to begin effective from the date of application should conditions of basic eligibility be met.

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E. Caseworker Responsibilities.

(1) The caseworker must advise the applicant of the eligibility requirements and the process for determining need, and should provide a clear explanation of the information that is necessary to establish a basis for eligibility determination.

(2) The caseworker is responsible for contacting other persons who may be able to help in establishing eligibility for general assistance, if the applicant is unable to participate in the determination of eligibility because of circumstances such as physical or mental disability, inability to speak English or other such difficulties.

(3) The caseworker shall carefully explain the applicant's legal responsibility for reporting fully all facts pertinent to eligibility, the responsibility for reporting changes promptly, and the penalty for failure to report. Also, the caseworker must explain the applicant's legal right to a hearing if the applicant is dissatisfied with the decision that is made on the application.

(4) The application process will include written statements advising the applicant of his/her rights under the Privacy Act (5 U.S.C. 552a), the applicant's responsibility to report all changes in circumstances which may affect eligibility for general assistance, and the penalty for the applicant's failure to do so. The appeal procedure will also be provided in writing at the time of application.

(5) The caseworker shall verbally inform the applicant of his/her ongoing legal responsibility for reporting fully all facts pertinent to eligibility, the responsibility to report changes promptly, and the penalty for failure to report.

(6) The first source of information is the applicant although he/she is not the only source, and all information relating to eligibility should ultimately be verified by the caseworker from documents furnished by the applicant or from information supplied by collateral sources. When it is necessary to secure information from other sources, the applicant will be requested to sign a release of information form which clearly identifies the sources that will be contacted and the reasons for obtaining information from those sources, i.e., current employment and work history.

(7) The caseworker shall inform the applicant of each condition of eligibility which must be established and the information needed to establish each condition of eligibility. Assurance shall also be given as to the confidentiality of the information and that it will be used only in connection with the application for general assistance.

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(8) The caseworker shall be knowledgeable of other Bureau services, tribal programs, and other community resources which the applicant may be encouraged to utilize in resolving particular problems. The caseworker is responsible for recognizing expressed or implied needs other than the request for financial assistance, for determining whether there is a need for other help, and for making appropriate referrals. In most instances, it is desirable to make a home visit in order to add to the understanding of the applicant's needs, and his/her potential for self-help and self-sufficiency.

5.4 Basic Eligibility. The determination of eligibility is a continuous process which encompasses all activity related to an application, from the client's first request to receive general assistance to the final disposition of the application and all subsequent activity related to continuing eligibility. The eligibility determination process is completed for each client to determine if all the specific eligibility criteria provided in 25 CFR Part 20 are met. To be eligible, the applicant must fully meet each of the following eligibility conditions:

A. Indian Blood. Verification of Indian Blood is the most fundamental factor in the determination of eligibility and is to be based solely on the applicant's legal status under U.S. law.

(1) All recipients must be members of a tribe recognized by the U.S. Government, or a one-fourth degree or more blood quantum descendant of a member of an Indian tribe federally recognized as eligible for Bureau services. In the State of Oklahoma, all recipients are required to have one-fourth or more degree of Indian blood quantum.

(2) Each eligibility determination should include a record of the official documentation used to verify Indian ancestry for each household member included in the grant. The documentation must be in writing as evidenced by the following: Certificate of Degree of Indian Blood, enrollment card, written statement from the tribal enrollment office, or written statement from the Agency Superintendent.

(3) The eligibility requirements of 25 CFR Part 20 relating to Indian ancestry permit only the Indian members of a household to be eligible for general assistance. The caseworker, however, will include the entire household in the case-planning process and in referrals to appropriate agencies and resources.

(4) Indians who are not citizens of the United States are not eligible for general assistance, unless otherwise authorized by legislation in accordance with 25 CFR Part 20.1(p).

BUREAU OF INDIAN AFFAIRS MANUAL

66 BIAM 5.4B

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B. Residence. General assistance from the Bureau is limited to those clients who reside on a federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma (except Oklahoma City and non-trust land in the city of Tulsa) and Indian allotments, or near-reservation areas designated in accordance with 25 CFR Part 20.1(r) as being approved and meeting established criteria. The Commissioner shall officially designate each near-reservation area and publish the designation in the Federal Register.

(1) Whenever it is learned that a client has been or is known to another Bureau/tribal agency, the agency where the client is currently applying will obtain verification that assistance was not received during the month of application.

(2) Each eligibility determination should include a record of the documentation used to verify the residency requirements. The methods of verification can either be included in the case record in the form of a letter or written statement, or it could be included as a part of the narrative statement made by the caseworker. The acceptable methods of documentation are the following:

- (a) Written statement of home visit by caseworker
- (b) Statement from landlord or rent receipts
- (c) Statement from neighbor or responsible person in the community with personal knowledge of residency of the applicant or recipient

C. Assistance from other Governmental Programs. Clients who are receiving Aid to Families with Dependent Children (AFDC) or Supplemental Security Income (SSI) payments in their own right, or whose needs are included in such payments, are not eligible for Bureau general assistance. All clients applying for Bureau general assistance who are deemed eligible or potentially eligible for assistance from other programs, including AFDC or SSI programs, shall be required to concurrently apply for that assistance unless good cause reasons exist, such as physical isolation with sporadic access to transportation, or the intermittent availability of state eligibility specialists temporarily prevents concurrent application. The Caseworker shall verify that such an application has been made and shall document all action taken by the AFDC or SSI office on their determination of eligibility.

(1) Bureau general assistance may be approved only to meet the client's needs until other assistance is actually received. If necessary, the applicant should be assisted to apply and meet eligibility requirements for other assistance programs.

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(2) Failure on the part of the applicant to apply, or to cooperate in the determination of eligibility, or his/her refusal to make a reasonable effort to comply with the other assistance program's policies and requirements, will result in ineligibility for Bureau general assistance.

(3) Bureau general assistance shall not be used:

(a) To duplicate, enhance or replace other Bureau, state or local training and/or educational grant programs.

(b) To provide an alternative to AFDC, public assistance, or SSI payments.

(c) To supplement AFDC, public assistance, or SSI payments.

D. Acceptance of Available Employment. Employable persons as defined in 25 CFR Part 20.21(1) who are age 16 or older and are applicants for, or recipients of, general assistance are required to accept available employment for which they are able and qualified to perform. General assistance and its Tribal Work Experience Program (TWEP) component are not alternatives to acceptance of available employment, and shall not be considered substitutes for employment. Insofar as possible, determination of the actual availability of employment shall be made jointly by the caseworker and the applicant or recipient. However, as is the case with other eligibility requirements, the caseworker will ultimately determine whether the applicant or recipient is meeting this particular eligibility requirement. Each month, the caseworker must require the recipient to submit written proof of having actively sought employment. Written proof can be a current updated employment office card or a letterhead statement from a company or tribal office known to hire individuals. Failure to provide at least three potential employment contacts and submitting written verification each month will result in a 60 day penalty as provided for by 25 CFR Part 20.21(1)(4).

(1) Individuals included in the general assistance grant must provide evidence of efforts to obtain employment, unless they are exempt under one or more of the following criteria:

(a) Persons under the age of 16 years;

(b) Full-time students under the age of 19 who are attending an elementary or secondary school, or a vocational or technical school equivalent to a secondary school;

(c) Persons suffering from an illness, when it is determined on medical evidence or on other sound basis that the individual's illness or injury is serious enough to temporarily prevent employment;

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(d) Incapacitated persons, when verified by a physician or licensed or certified psychologist, who have a physical or mental impairment which by itself or in conjunction with age, prevents the individual from engaging in employment;

(e) Pending examination by a physician or other appropriate professional, persons who, upon the documented assessment of the caseworker, are deemed incapacitated because of age, physical disability or mental impairment;

(f) Caretakers responsible for a person in the home who has a verified physical or mental impairment that requires the caretaker to be in the home on a virtually continuous basis, without another appropriate household member available to assist;

(g) Parents or other individuals who personally provide full-time care of a child under the age of six;

(h) A parent of a minor living in the household if the other parent is not exempt from seeking or accepting employment;

(i) Persons who are working 30 hours or more per week in unsubsidized employment expected to last a minimum of 30 days. This exemption also applies if there is a temporary break in full-time employment expected to last no longer than 10 work days: and

(j) Persons for whom employment is not accessible in a commuting time that is reasonable and comparable with others in similar circumstances.

(2) Where the tribe administers a Tribal Work Experience Program (TWEP), the nonexempt individual shall be available to participate in the program. However, participation does not relieve the individual from the responsibility to seek and accept employment.

(3) Non-exempt individuals who refuse, or otherwise fail to seek and accept available local employment, or who voluntarily and without good cause do not maintain their employed status, will not be eligible to receive general assistance for a period of 60 days following the date of application or eligibility redetermination.

(a) The 60-day period of ineligibility will be renewed upon each application for general assistance until the applicant complies with the requirement to seek and accept available local employment.

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(b) An unemployed individual against whom a 60-day eligibility suspension has been levied will have the suspension period reduced by 30 days upon providing evidence that he/she has made efforts to seek employment.

(c) Periods of eligibility suspension shall affect only the individual who fails to comply with the provision of this section, but shall not apply to other otherwise eligible members of his/her household.

5.5 Method for Determining Eligibility and Payment Amounts. The amount of the general assistance monthly payment (unmet essential need) is determined by deducting the household's net countable income from the total "need" of the budget. After all countable income and resources are considered, a general assistance payment will be made to the recipient(s) in an amount necessary to meet the cost of basic items or special items as established pursuant to the Social Security Act by the public welfare agency of the state in which the recipient resides.

A. Standard of Assistance. The state public assistance (Aid to Families with Dependent Children) standard governing basic consumption and special need items which is currently in effect in the state where an Indian general assistance client lives will be the basis for exploration and assessment of his/her need.

(1) Financial eligibility and the monthly amount of the BIA payment are determined by subtracting net countable income, after applying disregards, from the established state standards of assistance for the appropriate size household.

(2) Essential Need Items. These include such items as food, clothing, shelter, fuel, utilities, personal requirements, and other needs that the state has established as essential to all individuals. The caseworker will maintain the current state standards of assistance that reflect the minimum requirements for certain specified needs for each size family in that state. Some states have established maximum levels of need combining all essential living items for each size family in one total amount. The Bureau social services staff is required to use the state standards in determining the amount of financial assistance in all cases.

(3) Persons Whose Needs May be Included in a Budget. A determination to include the needs of an individual or members of a family group in the assistance budget shall be made after a careful analysis of the current living arrangements of an individual or family group.

(a) During the course of analyzing the current living arrangements of an individual or family group, a determination must be made

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to designate a head of household for payment purposes. The head of household shall be the individual who is responsible for shelter costs shall be based on verification acquired by the caseworker through the examination of rent or utility receipts, a home visit, a landlord contact, or a tribal housing authority verification. The narrative must explain the method by which the head of household was determined.

(b) The caseworker has the responsibility of determining the eligibility of each person included in the application for assistance, taking into consideration the income and resources of all persons for whom assistance is being sought.

(c) In a mixed household, (i.e., a household composed of Indians and non-Indians), the total unmet need is determined, then the eligible Indian members receive their proportionate share of the total.

(d) When calculating the total unmet need, the following categories of individuals are not to be considered as eligible members of the household:

(i) SSI recipients.

(ii) AFDC recipients.

(iii) Dependent children whose needs are met through receipt of survivors' benefits from the Social Security Administration or Veterans Administration.

(iv) Indians who are not members of federally recognized tribes or one-quarter or more blood quantum descendants of a member of a federally recognized tribe.

(e) When there is more than one family group living in one dwelling when general assistance is sought, the caseworker is required to prorate the common expenses of shelter, utilities, and household expenses to provide a grant or grants not to exceed state allowances for those shared expenses. If actual expenses are less than the state allowances, proration shall be based on the actual amounts. When one or more of the family groups receive AFDC, the proration rule shall be applied when computing the general assistance grant. Income from SSI received into a multi-family household, however, shall be exempt from the proration requirement.

(f) Unless there is clear evidence to the contrary, the caseworker will not assume that a non-legally responsible individual(s) residing with a general assistance household is contributing to the support

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of any member of the household included in the assistance payment. The legal relationships between husband and wife, parent and minor child, and guardian and ward will be considered as relationships in which support is implied. The state definitions of emancipation and age of majority will also be used to assess whether a legal relationship exists between household members.

(4) Special Circumstances Items. Some states, in addition to establishing essential need items, allow payment for special items required by certain individuals. The provisions in the state public assistance standards, if any, for meeting these special needs are to be appropriately applied in meeting such needs in general assistance cases.

B. Resources. Resources means liquid assets available to an Indian person of household to meet current living costs, unless specifically excluded by Federal statute. Liquid assets are properties in the form of cash or other financial instruments which can be converted to cash, such as savings or checking accounts, promissory notes, mortgages and similar properties.

(1) Applicants and recipients may retain a resource limit of \$1,000 available to the household. Any liquid resource in excess of this amount will be counted as income in determining eligibility for, and the amount of the BIA payment. However, this exemption does not apply to earned or unearned income during the month in which such income is received. All monies not specifically exempted by law are to be counted as income during the month in which they are received, but as an exempt resource thereafter up to a \$1,000 maximum. This money may be spent at any time without deducting from an existing grant. The expended funds may be replaced not to exceed the \$1,000 maximum, but under the same conditions whereby funds are first considered as income in the month received.

(2) As a condition of receiving general assistance or to meet eligibility requirements for general assistance, no applicant for or recipient of general assistance shall be required to dispose of the following resources:

(a) A capital resource used in the production of income for self-support.

(b) His or her home.

(c) Insurance policy.

(3) If the recipient and spouse (including an ineligible, e.g., non-Indian, spouse) are either living together or they are living apart, with no clear permanent break in the family relationship, resources which are held jointly are considered as available for all family members.

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(4) Family members who are receiving AFDC or SSI are not included in the Bureau grant; therefore, no consideration is given to any of the resources held by them when computing the \$1,000 resource limit for general assistance.

C. Income. All earned or unearned income will be counted as available income in the month received and, if still available, as income in the months thereafter, except for the \$1,000 resource limitation explained in 66 BIAM 5.5B. Income is the money amount or in-kind benefit received from employment, business, property, retirement, free housing and utilities, and other sources, which is actually available to meet essential need. In determining need, the available net income must be established and the budget appropriately adjusted to reflect direct income and in-kind income.

(1) Gross income is the total monthly amount from all sources, whether earned or unearned, before any deductions are made.

(2) Net income is the total money amount available after deductions are made for:

(a) Federal and State taxes.

(b) Social Security/F.I.C.A.

(c) Health Insurance.

(d) Work-related expenses for employed persons which include expenses such as union fees, lunches, and verifiable transportation costs to and from work.

(e) The cost of special clothing, tools, and equipment directly related to the individual's employment will be considered as work-related expenses and will be deducted from net income. The cost of child care and/or day care is also to be considered as a work-related expense unless the spouse is available and physically/mentally able to provide the care. If self-employed, net income must be established by deducting costs of doing business from the gross amount.

(3) In arriving at net income, the following examples shall not be considered as allowable deductions:

(a) Personal debts, including payroll deductions for personal debts or savings.

(b) Installment payments or other payments to lending institutions including tribal and Bureau credit programs, banks, loan

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companies, housing authorities, FHA, and other obligations made for essential or non-essential items.

(c) Legal judgments including child support, alimony, bail, bond, attorney fees, and court-levied fines.

(d) Medical, care drugs and other related costs.

(4) All income, whether earned or unearned, must be verified with the applicant's aid and recorded in the case narrative dated and directly related to the application and budget (corresponding dates) regarding the approved general assistance grant.

(a) Earned income refers to cash or in-kind contributions earned by an individual. Receipt of income is verified by the best available information, which would consist of pay stubs presented by the client, or in the absence of pay stubs, an interview with the employer, or any other reliable source which could provide verification. Cash income is the receipt of wages, salary, commission or profit from activities in which an individual is engaged as an employee, or through self-employment. In-kind income means goods or services which are provided in lieu of income for services rendered. Earned income is also income earned over a period of time, but for which settlement is made at a single given time, such as the sale of crops or livestock.

(b) Recurring annual income is income received by applicants such as teachers, which, when prorated for 12 months, exceeds basic monthly defined need, leaving the applicants without resources for brief periods of time. If this is known in advance, such applicants should be assisted through counselling in budgeting their income. Until September 30, 1988, lease income which has been obligated by a household in a manner which makes it unavailable in consumable form to the household, will not be prorated, if the obligation was incurred prior to September 30, 1985. Recurring annual lease income obligated since October 1, 1985, will be prorated on a 12-month calendar-year basis. All recurring annual lease income received after September 30, 1988, will be prorated monthly.

(c) Unearned income may be received on a regular or irregular basis. When receipt of such income is sporadic or unpredictable, appropriate allowances must be made. For example, anticipated income is not to be counted until it is actually available to the applicant or recipient. The following are considered as unearned income:

(i) Interest payments. Interest payments or dividends from capital investments such as saving accounts, bonds, notes, mortgages, etc.

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(ii) Income-Producing Property. When there is lease or rental from property other than the primary residence or an acreage or lot, associated with shelter by the client, income from rental or lease is considered as unearned and available to meet need.

(iii) Minerals and Oil. Gross income from minerals, gas, and oil, as well as bonuses, delayed rentals and production are to be considered as unearned income.

(iv) Home Produce. The sale of any home produce from garden, livestock and poultry is to be considered as unearned income. If the home produce is utilized by the recipient and his/her household for their consumption (as distinguished from being sold or exchanged) it is not to be considered in determining need or the amount of the assistance payment.

(v) Contributions. Recurring contributions actually received in cash, such as child support payments and alimony, are to be considered as income available to meet need.

(vi) Retirement, Disability and Unemployment and other Benefits. Income from these sources is classified as unearned income. Life insurance, pensions, compensations, veteran's benefits, railroad retirement, unemployment compensation, workman's compensation, strike benefits paid by unions, survivors' benefits, and allowances for dependents of military personnel are possible sources of income to the recipient and/or dependents. Cash benefits intended for the exclusive benefit of identified children, such as survivors' benefits, shall not be considered as available to the entire household.

(vii) Per Capita Payments. Per capita monies derived from tribally owned trust or income-producing enterprises shall be considered to be income for meeting needs unless excluded by Federal statute.

(viii) Land Sale Income. Income derived from sales of land with trust status shall be considered as income when it becomes available to meet need unless set aside for the specific purpose of reinvestment in trust land or a primary residence. If such income has not been reinvested in trust land or a primary residence by the end of one year from the date it was received, it shall be counted in its entirety as available to meet need.

(ix) Income from the Sale of Real or Personal Property. Income derived from the sale of real or personal property, unless otherwise restricted, shall be considered as income available to meet need, unless proceeds from the sale are reinvested in trust land or a primary residence within one year in accordance with the provisions of (viii) above.

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(x) Federal and State Tax Refunds. Federal and state tax refunds shall be considered as available income to meet need.

(xi) Income from In-kind Contributions. Income such as in-kind contributions providing shelter at no cost to the individual or household shall be counted as unearned income. In establishing the amount of the in-kind contribution the caseworker shall use the amount for shelter included in the state AFDC standard. If the standard does not identify a specific amount for shelter, the caseworker shall use 25 percent of the state standard to calculate the value of the free shelter unless there is evidence provided that the value of the free shelter is less. The caseworker shall subtract the shelter amount for any eligible applicant age 16 or over who lives with a parent, unless there is evidence that actual shelter costs are paid by the applicant.

(d) Income Disregards. Various Federal statutes require certain income to be disregarded in determining need. A current list of all such income disregards will be issued by the Chief, Division of Social Services as a manual supplement each October 1st. Examples of income disregards are:

(i) Judgment payments distributed to Indian tribes up to \$2,000 per person per payment. (Public Law 98-64)

(ii) Any portion of payments, made under the Alaskan Native Claims Settlement Act to an Alaska Native, which are exempt from taxation under the Settlement Act.

(iii) The Food Stamp Act coupon allotment or surplus food commodities.

(iv) Low Income Heating and Energy Assistance Payments (LIHEAP), (Public Law 98-558).

(v) BIA Housing Improvement Programs.

(vi) American Red Cross or Federal, state or county disaster relief funds.

D. Payment. The Bureau shall make assistance payments in an amount not to exceed the difference between the state AFDC standard of assistance and all income and resources not disregarded. In the event the state, in which the individual or household lives, applies a rateable reduction to that difference, or maintains a system of dollar maximums on the payment, the Bureau shall also apply the rateable reduction and/or the maximum to the payment.

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(1) The amount of the general assistance payment is determined by deducting the total amount of income determined available to all individuals included in the general assistance budget from the appropriate state welfare standard. In calculating a monthly family budget, all available weekly income to be included in the budget will be determined by using 4.3 weeks = 1 month as the factor. This procedure shall be accomplished by use of the prescribed form for the preparation of a general assistance budget. The amount of the budget deficit shall be rounded down to the next whole dollar. Authorization shall be made for payments at regular periods. This may be monthly, on or about the first of the month. When the caseworker determines the recipient will be best served through receipt of general assistance payments in smaller amounts, the payments may be made semimonthly or weekly in amounts adjusted from the total monthly budget deficit to cover the specified periods.

(2) In any state where the level of payment (rateable reduction) is less than the standard of need, the state methods with regard to net income shall be applied for determining the amount of payment.

(3) The date of actual application is considered the date of eligibility for general assistance payments, with the receipt of payment not to exceed 45 days after the date of actual application. Simple inquiry about the general assistance program or its eligibility criteria does not constitute an application for assistance. Payment shall be made retroactive to the date of actual formal application.

(4) To determine the amount of the initial assistance payment, the monthly benefit amount shall be prorated from the date of application. In prorating the initial payment, the worker shall divide the monthly benefit by 30, then multiply by the number of days remaining in the initial payment period.

(5) General assistance checks may be made payable to a third party for the client when, after thorough investigation, it is determined that a third party has assumed responsibility for providing care and maintenance due to incapacity of the client. Justification for the arrangement of third-party payments shall be entered in the case record. The caseworker has the joint responsibility with the client to identify the most responsible payee to best serve the needs of the entire assistance group. General assistance checks shall not be addressed in care of another person unless the recipient has furnished a signed written request for such action. The signed request for such mailing must be retained in the case record.

(6) Available imprest funds may be used by Bureau programs to meet an emergency need. Purchase orders for subsistence needs may be used to

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prevent hardship, or to meet an emergency only when a delay in payment by check would cause hardship. These amounts for emergency need are to be deducted from subsequent general assistance grants, therefore only persons eligible for general assistance could receive emergency purchase orders.

(7) Individuals, including minors or adults, who live with and are related to or accepted by the "head of household" as members of the family unit and who meet other eligibility criteria should be included in that individual's need determination.

E. Written notification. A written notice of all proposed decisions shall be mailed or hand-delivered to the applicant or recipient, in accordance with 25 CFR Part 20.13. The only exception to this policy is that assistance shall be immediately terminated upon verification of the death of a recipient. In the event of a recipient's death, the caseworker is advised to assist the surviving family members with supportive services and budget planning. Written notices shall clearly and completely advise the applicant or recipient of his/her legal rights to contest any adverse proposed decision as set forth in 25 CFR Part 20.30 or under Part 2 of 25 CFR, and shall further consist of the following:

(1) A statement of the action being taken, the effective date, and the reasons for the decision.

(2) Written notice shall be provided to the recipient 20 days in advance of the proposed effective date if the action is to reduce, suspend, or terminate financial assistance to the recipient.

(3) Advice to the applicant or recipient of his/her right to request a hearing if dissatisfied with the proposed decision.

(4) Advice to the applicant or recipient of his/her right to be represented by an authorized representative at no expense to the Bureau.

(5) Advice to the applicant or recipient that failure to request a hearing within a 20 day period following the date of notification of the proposed decision will cause the proposed decision to become final subject to appeal under Part 2 of 25 CFR.

(6) Advice to the applicant that the decision will not be disturbed except for fraud or gross irregularity, or where found by higher authority that failure to appeal on the part of the applicant, or recipient, would result in inequity or injustice to the parties.

F. Client Dissatisfaction With Caseworker Decision. When an applicant or recipient expresses dissatisfaction with a decision concerning his or her

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eligibility or payment, the caseworker will review with him/her the facts upon which the decision was based to ascertain the validity of the facts and the decision. If an error was made, or if new or additional information justifies a modification or adjustment of the decision to comply with established policy, an appropriate adjustment will be made.

G. Hearings and Appeals. Any applicant or recipient of financial assistance under 25 CFR Part 20 who is dissatisfied with any decision or action concerning eligibility for or receipt of financial assistance, may request a hearing before the superintendent or his/her designated representative, or tribal official specifically designated by contract, within 20 days after the date of mailing or delivery of the written notice of the proposed decision, as provided for in 25 CFR Part 20.13. The superintendent may extend the 20 day period for a good cause shown and documented in the record.

(1) Upon the request for a hearing by a recipient dissatisfied by a proposed decision, the recipient's financial assistance will be continued or reinstated to prevent a break in financial assistance until the date of decision by the superintendent or his/her designated representative, in accordance with 25 CFR Part 20.30(f).

(2) The superintendent, or his/her designated representative, or tribal official designated by contract, shall set a date for the hearing within 10 days of the date of request for a hearing, at a location convenient to both parties, and give written notice to the applicant or recipient. The applicant or recipient shall have the right of one continuance of not more than 10 days with respect to the date of hearing.

(3) The written notice of hearing date and location shall include:

(a) A statement of the issues.

(b) The applicant or recipient's right to be heard in person, or to be represented by an authorized representative at no expense to the Bureau.

(c) The applicant or recipient's right to present both oral and written evidence, and written statements prior to or during the hearing.

(d) The applicant or recipient's right to confront and cross-examine witnesses at the hearing.

(e) The applicant or recipient's right to examine and copy, at a reasonable time before and during the hearing, his/her case record as it

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relates to the proposed action being contested.

(4) The superintendent, or his/her designated representative, shall conduct the hearing in an informal but orderly manner, record the hearing, and provide the applicant or recipient with a transcript of the hearing upon request.

(5) The superintendent or his/her designated representative shall render a written decision within 10 days of the completion of the hearing. The written decision shall consist of the following:

(a) A written statement covering the evidence relied upon and the reasons for the decision.

(b) The applicant or recipient's right to further appeal any unsatisfactory decision in accordance with procedures for appeals from administrative actions set forth in Part 2 of 25 CFR.

(6) An interested party wishing to make such an appeal may request Bureau assistance in preparation of the appeal also as prescribed in Part 2 of 25 CFR.

5.6 Redeterminations. The caseworker is required to evaluate each general assistance case that includes an employable person(s) at least every three months or whenever there is an indication of a change in circumstances. All other cases must be reviewed not less than once every six months. In this process both recipient and spouse (if applicable) must sign an updated application containing essential information needed to establish continuing eligibility for general assistance. The review by the caseworker does not supercede the recipient's responsibility for reporting changes in status which may affect his/her eligibility for assistance. The review process shall preferably include a home visit and will include a personal contact to evaluate living conditions and situations. The home visit or personal contact shall be made in order to assess any changes in living circumstances and household composition; the need for continued assistance and necessary adjustment in payment; the results of services received; and the need for additional services which could be provided by Social Services or obtained through referral to other sources.

5.7 Grant Adjustments. Grants will be adjusted when there is a change in circumstances that affects unmet need. Procedures will be followed as described under 25 CFR Part 20.14, adjusting incorrect payments as:

A. Non-receipt of checks. Retroactive payment may be authorized when a client reports with a signed statement that his/her check has not been received. Other necessary documents must be signed by the client to autho-

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authorize stop payment of the original vouchered check. A retroactive payment may be authorized upon completion of the required forms.

B. Underpayments. Underpayments that may occur as the result of administrative error shall be corrected by payment of the unpaid amount retroactive to the date the error occurred, but not prior to October 1st of the current fiscal year.

C. Overpayment. Adjustments will be made for recovery when an overpayment becomes apparent. The recipient should have the opportunity to discuss this matter with the caseworker and resolve the matter informally before any adjustments are made.

(1) Grants are to be corrected by adjustment of the budget for the first regular grant payment following the discovery of the overpayment, and measures are to be taken for recovery of the overpayment in full, going back to the date of overpayment.

(2) When the overpayment has resulted from administrative error, recovery of the overpayment shall be accomplished through an agreement with the client that will not create undue hardship for the client. Future grant payments will be reduced in amounts that will lead to eventual recovery of the total overpayment. The reduction should not exceed one third of the monthly grant.

(3) If the grant cannot be adjusted in a month during which income is received, an administrative adjustment or recovery will be made the following month.

5.8 Fraud. When it appears that a client has knowingly and willfully concealed or withheld information relevant to his/her eligibility, (U.S.C. Title 18 chapter 47 1001 (Fraud and false statement)), a written report shall be directed to the Agency Superintendent for appropriate investigative action. Social services staff shall not assume an investigatory role following the report. A request for investigation of possible fraud does not in itself make the client ineligible for continuing assistance.

A. When an overpayment has resulted from incorrect information provided by the client, the case is to receive supervisory review for a determination of possible intent to commit fraud. Prior to an adjustment of an overpayment, the recipient shall be notified of the proposal to correct the payment and be given an informal opportunity to resolve the matter. The recipient is entitled to a written notice of the decision and, if requested, a hearing.

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B. The proposed decision shall become final within 20 days after written notice is mailed or delivered to the recipient.

5.9 Tribal Work Experience Program. Grant assistance funds may be expended to enter into contractual agreements with recognized tribal governing bodies for a Tribal Work Experience Program (TWEPE). Such a program is to provide eligible participants with work experience and training that promotes and preserves work habits and develops work skills. This is a social services program designed to complement, not replace, employment development functions of other entities. Participation on a TWEPE project is not employment and does not meet the requirement to accept available employment. Tribal Work Experience Program payments are assistance grants, not wages, and shall not be included when computing for Social Security purposes, retirement or unemployment compensation. Employee benefit contributions and Federal or state income tax withholding are also not applicable to TWEPE benefits. Participants on TWEPE projects may participate in Adult Education Programs as a part of the project plan and must be encouraged to seek regular employment. The primary goal of the program is for each participant to gain permanent, full-time employment. The project accomplishments are a secondary benefit.

A. Work-training placements shall be developed and should be designed to provide service to the community while promoting good work experience and habits. Participants must not be used to fill vacancies in established positions, displace employed persons, perform work for which persons are normally hired, or used in commercial profit activities of any kind, including work for self-employed persons who would make a profit from the labor of TWEPE participants.

B. Case workers may target categories of employable people for TWEPE participation. If this option is adopted, a priority ranking of categories shall be included in the TWEPE contract. Such a ranking shall not exclude any category of non-exempt employable people.

C. The scope of work for each TWEPE contract will establish the method of grant delivery. The grant will be based upon the needs determination made during the eligibility determination. This will adhere to the applicable state standards and will be adjusted when the state standards of assistance are changed.

D. The contract will also provide for a monthly work-related expense payment to be paid to the participant not to exceed a monthly amount that is established in the annual appropriation. Tribal Work Experience Program payment procedures shall be identical to general assistance payment procedures as detailed above.

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E. Participation in a TWEP program shall be mandatory unless the participant is exempt under 25 CFR Part 20.21(1), or there is no TWEP position available for the participant. Potential TWEP participants must first apply and be certified as eligible for Bureau general assistance. The family unit and the head of household are established when the eligibility determination is made. Tribal Work Experience Program participation is limited to one participant from each eligible family assistance group. This is generally an unemployed, employable individual or the person generally recognized as the head of a family unit. However, another member of the family unit may be assigned to a TWEP project even if the head of household is an employable person. It is the primary responsibility of the household to decide who among its members will participate on TWEP unless the case worker has prioritized participation in accordance with section B above.

(1) In situations where the recognized head of household is certified as unemployable, an alternate member of the assistance group, such as the spouse or an adult child, shall be designated as available for TWEP participation. When an eligibility determination has established that more than one assistance group shares common living arrangements and separate grants have been approved, one potential TWEP participant from each grant may be designated.

(2) When A TWEP participant's general assistance eligibility has been suspended due to failure to seek or accept employment, TWEP participation is also to be suspended and a new head of household designated.

(3) The scope of work for each TWEP contract will establish the method of grant delivery. The grant will be based upon the needs determination made during the eligibility determination. This will adhere to the applicable state standards and will be adjusted when the state standards of assistance are changed.

(4) The work-related expense payments will be made only for those days that a participant is on the project or has an authorized excuse. A negotiated work schedule will be specified in the scope of work of the TWEP contract. The work schedule must provide for a required number of hours participation per week, paid holiday, how absences are to be authorized, etc.

(5) The Tribal Work Experience Program is intended to promote employability through the acquisition of work skills and good work habits. Therefore, long-term participation does not fulfill TWEP goals and is discouraged. Tribal Work Experience Program positions that have been filled by one person for more than two years are to be considered available for other individuals awaiting TWEP vacancies.

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General Assistance

F. Plan of Operation. No TWEF contract shall be executed without a written certification therein from the Contracting Officer as to the extent to which tribal resources are available and will be utilized for administrative costs. When tribal resources are certified to be insufficient for full or partial administration costs, Social Services program administration funds may be provided for necessary administration direct costs. The actual direct costs for tribal administration of the TWEF shall be based upon the following formula:

<u>Average Number of Participants in TWEF Contract</u>	<u>Maximum Allowable Direct Administrative Cost - TWEF Contract</u>
25 and below	40%
26 - 50	30%
51 and up	20%

(1) In every instance the allowable direct administrative cost in a TWEF contract shall be the actual cost. The total direct administrative costs in any TWEF contract shall not exceed the appropriate maximum percentage in the above formula.

(2) The above maximum percentages are not be considered automatic or non-negotiable. It is entirely conceivable that many TWEF contracts can be administered well under the designed maximum percentage limitations and should be negotiated accordingly.

(3) Capital equipment, materials and supplies for projects and tools and equipment may not be purchased from grant assistance funds. Workmen's compensation coverage and insurance cannot be provided from grant assistance funds.

(4) Tribal Work Experience Program participants should be notified of any change that may effect the work incentive payment and must be notified of any change in the assistance grant.

(5) The caseworker shall be responsible for accurate daily time and attendance records on all TWEF participants. The amount of the TWEF incentive payment shall be based on the individual's total TWEF participation in the prescribed period of time.

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Miscellaneous Assistance

6. Miscellaneous Assistance.

6.1 Introduction. Miscellaneous assistance includes burial assistance, disaster and emergency assistance.

6.2 Burial Assistance.

A. Requests and applications for burial assistance may be received from relatives or interested persons who are making burial arrangements. These requests and applications and eligibility determinations shall be documented in the case record. Whenever possible, the application will ultimately be reduced to a written form.

B. Each application made on behalf of a deceased Indian must have an eligibility determination made using the criteria of 25 CFR 20.1(q), 25 CFR 20.20, and 25 CFR 20.23.

C. Residence on a reservation, or in a designated "near reservation" location, is required. Residence of an individual does not change with his placement in an off-reservation foster or institutional facility, when his placement has been authorized by Bureau Social Services, the Indian Health Service or a Court of competent jurisdiction. The basic residence requirement must have been met prior to placement in order for eligibility for burial assistance. In order to provide for those individuals who die during a temporary stay away from the reservation or near reservation location the Bureau has extended eligibility to those whose absence has not exceeded 60 days. This 60 day limit is deemed appropriate and will remain the general measure of temporary absence.

D. In case of death of a student enrolled in a Federal boarding school, burial arrangements and transportation, including payment, are the responsibility of the Division of Education as provided in 20 BIAM 7.2.6. When death occurs to an individual or family member who is in placement planned by the Bureau's Employment Assistance activity, the Employment Assistance activity is responsible for burial assistance as provided in 82 IAM 6.7.1.

E. Actual cost for transporting the body of a deceased individual determined to be eligible and without other resources as outlined above may be provided as follows:

(1) When the death has occurred away from the reservation, designated near reservation location, or other authorized service area, the minimum necessary cost of transportation of the body back to the reservation, designated near reservation location, or other authorized service area may be paid if relatives request such transportation, and there is no other resource for transportation.

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(2) Transportation costs directly associated with burials are normally a part of the established burial rate. In those case instances where an additional transportation charge is added to the burial rate because of exceptional distance, the Bureau may pay the added charge but should insure that these charges are reasonable, equitable and apply to all burials.

F. Burial assistance is only available in the absence of other resources. The need determination for a deceased adult is based upon the resources available to the deceased. For a deceased minor, the determination also considers the resources of the parent or person responsible for the child.

(1) The Bureau has established a rate of payment for burial expenses. This rate is to be applied for those burials of needy Indian persons who have met the needs and residence eligibility requirements.

(2) The Bureau shall evaluate each individual case to determine all resources that may be available to meet all or part of the cost of burial. Such resources may include, but are not limited to, tribal burial programs, Veterans Administration benefits, Social Security benefits, Individual Indian Monies account funds, insurance policies, cash on hand and estates. When burial benefits or other resources, are available but are not enough to cover the rate established for needy Indians, an amount to cover the difference may be granted.

(3) The Bureau's financial responsibility is limited to the established rate and no Bureau payment for burial cost may exceed the rate.

6.3 Disaster and Emergency Assistance.

A. Disaster and emergency assistance may be provided in concert with other Bureau activities in situations and in the absence of other immediate Federal state and local disaster resources.

B. Expenditure of Bureau social services funds for disaster and emergency assistance shall be limited to provision of food, shelter and other necessities directly related to basic living needs of Indian people, and related emergency costs to provide those basic living needs.

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IN REPLY REFER TO:
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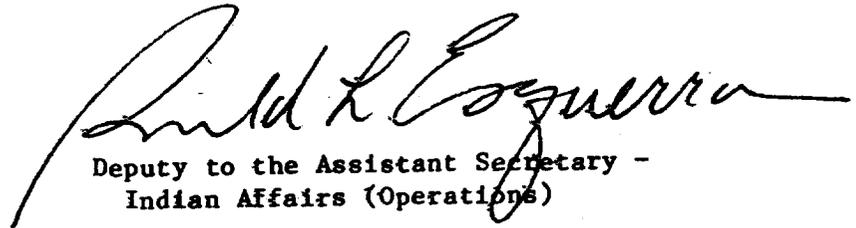
Memorandum

To: Holders of 66 BIAM

From: Deputy to the Assistant Secretary - Indian Affairs (Operations)

Subject: Section 10 - Social Services for Children and Families

Part 66 of the Bureau Manual regarding Social Services for Children and Families has been completely revised. This material updates all Children and Family Service policy memoranda distributed prior to receipt of this material. Additional information concerning the Indian Child Welfare Act and subsidized adoption is included in these revisions.



Deputy to the Assistant Secretary -
Indian Affairs (Operations)

Filing Instructions:

- (a) Remove superseded material:
66 BIAM, Section 10 and Table of Contents, Rel. 4 (Dated 8/3/82) (19 sheets)
- (b) Insert new material transmitted:
66 BIAM, Section 10 and Table of Contents, Rel. 5 (Dated 11/6/86) (12 sheets)
- (c) Pen-and-ink changes:
None

SOCIAL SERVICES

Social Services for Children and Families

10. SOCIAL SERVICES FOR CHILDREN AND FAMILIES

10.1 Introduction. Based on the special relationship that exists between the Federal Government and the separate Indian nations and tribes, the Bureau has a responsibility to provide, where needed, social services to children and families. This special relationship requires the Bureau to plan, develop and provide social services for the general welfare of Indian children and youth. In carrying out this function, the Bureau involves the separate Indian nations and tribes in the delivery of services to children and families, taking into consideration the distinct culture, customs, and traditions of Indians regarding child rearing practices and adapting the Bureau social services programs to meet these specific child welfare needs of the separate nations and tribes.

A. The purpose of this manual section is to provide guidelines applicable to administration of the Bureau of Indian Affairs' child welfare assistance and social services for children and families program. These guidelines are to be utilized by tribal Pub. L. 93-638 contractors in the absence of a BIA approved tribally redesigned manual of procedures.

B. These guidelines are based upon and are directly related to the definitions, purpose, policy administrative procedures, eligibility conditions and hearing and appeals requirements prescribed in 25 CFR 20 Financial Assistance and Social Services Program. These guidelines are specifically intended to implement the regulatory requirements of 25 CFR 20, 23, 271.3 and 271.4 and do not supersede, modify or in anyway change those regulatory requirements.

10.2 Policy Regarding Bureau Services for Indian Children and Families. It is the policy of the Bureau:

A. To protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by implementing the requirements established in the Indian Child Welfare Act (ICWA);

B. To facilitate the coordination of all Federal, tribal, state and other social services programs on Indian reservations;

C. To provide services and assistance when the above resources are unavailable in a manner designed to promote family unity and economic and social stability;

(1) In order to develop this policy, close cooperative relationships with tribal governments, tribal social services programs, and Federal, state and local programs shall be developed.

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(2) The general welfare of Indian children and families is best promoted when appropriate state (Federal) programs provide necessary social services or available funds to tribes to provide services on the same basis as it does to others.

(3) A program of social services and assistance for Indian children shall be provided by the Bureau of Indian Affairs within the limits of available resources. These services will be provided after determination of what parts of the necessary services or assistance are available through other resources.

(4) Social services are provided through the utilization of social work skills. These may include casework, group work or community organization relative to the needs of the child, family or the community where the child lives.

D. To facilitate the efforts of Indian tribes to plan, conduct and administer programs or portions thereof, which the Bureau is authorized to administer for the benefit of Indians.

10.3 Objectives of Bureau Services.

A. To identify Indian children and youth who are in need of social services because of neglect, abuse, abandonment, birth to a single parent, a mental or physical handicap, lack of sufficient parental concern or support, lack of parental capacity or parenting skills, lack of suitable guardianship, anti-social behavior, emotional problems or any other condition which may affect their well-being;

B. To help obtain services from other agencies or provide the service for these children and their families which seem indicated. This may require referral for legal action when necessary to protect and care for a child deprived of parental support and protection;

C. To provide social services in a manner designed to promote personal and family unity and economic and social stability, working toward the attainment of self-sufficiency;

D. To advocate awareness of the following rights:

(1) The rights of children and their families to services which strengthen family life;

(2) The right of a child to his/her own family;

(3) The right of the child to have parents or guardians who exercise

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their rights and responsibilities in a way which protects the child and gives him/her opportunity for development;

E. To promote Indian participation in the planning, development and administration of social services which the Bureau is authorized to administer for the benefit of Indians.

10.4 Children Eligible for Bureau Services. Eligibility criteria for Bureau-provided social services are as follows:

A. Children who are enrolled members of a federally recognized tribe or have one-fourth degree or more blood quantum and are descendants of a member of any Indian tribe recognized by the Secretary as eligible for special services and programs to Indians because of their status as Indians;

B. Children under the age of 18, or the age of majority as may be established for purposes of parental support by tribal or state law (if any) applicable to the person at his/her residence, except that no person who has been emancipated by legal marriage shall be deemed a child;

C. Indian members of a family who, at the date of acceptance for care or services, are living within the boundaries of a reservation or who live in a near reservation area designated as such by the Assistant Secretary - Indian Affairs. (Refer to 25 CFR 20.1(r) and 20.20(a)(3));

D. Children for whom plans must be developed in order to protect their interests in property held in trust by the Federal Government and/or to make their property available to them, including Individual Indian Money Accounts (IIM);

E. Children who are between the ages of 18-21 who are receiving Child Welfare Assistance in substitute care (foster home or institutional care) prior to age 18, may continue to be eligible for Child Welfare Assistance through age 21 for the purpose of achieving the goal of completing a high school education, including a General Equivalency Diploma;

F. Children who are living independent of their parents or guardians because of neglect, abandonment or other extenuating circumstances and are under the supervision of the Bureau or tribally contracted social services program, and are still attending high school, may receive child welfare assistance to meet their basic need. The social worker must verify that the child is ineligible for all other resources and must develop a case plan to assist the child to have his/her needs met although living independently. This may include supervision or assistance from an adult who does not have custody of the child, but will agree to actively participate in case planning on behalf of the child.

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10.5 Program of Social Services and Assistance for Indian Children. In the absence of other resources, in accordance with 25 CFR 20.20, 20.22 and 20.24, the services for children, may include the following services:

A. Social Services For Children In Their Own Home. The aim of social services is to strengthen the family's ability to provide for and nurture their children. These services may include social casework, counseling for parents and children, group work, homemaker and day care services;

B. Services of the Bureau shall be extended for the protection of Indian children;

C. Foster Care, or Care Other Than in the Parental Home. When foster care is considered, the greatest care should be exercised in assessing the need for a child to be placed outside of the family. When foster care is necessary, a tentative case plan should be established at the time of placement, and a complete case plan must be established within 30 days or as outlined in tribally established standards. Factors used to determine the appropriateness of a foster home placement including licensing standards, shall be applied to any out of home placement. This includes placements with relatives for which foster care payments will be made;

(1) Services may be provided to parents or guardians who request services for the protection of children with no change in legal status being necessary for up to 30 days. Protective services may be extended up to an additional 30 days if the parent or guardian is in a recognized treatment program;

(a) A temporary case plan must be established at time of placement including:

(i) Need for placement;

(ii) Expected length of placement;

(iii) Post placement plans;

(iv) Parental consents for emergency medical care, and transportation. The consent is only for when the parent or legal guardian is not available, and;

(v) Plan for payment, financial responsibility of parents and other appropriate resources;

(b) A placement beyond 30 days will require action by a court of competent jurisdiction.

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(2) Children may need assistance and seek social services on their own when there is no parent or legal guardian to be their advocate. Consent should be sought when a parent or guardian is available or court intervention should be sought when it is necessary to protect the child;

(3) Emergency placements may be made for children who need immediate care or other social services. Court intervention must be obtained within 72 hours of such placement, or in accordance with tribally established requirements;

(4) A court may request information that will assist in determining its jurisdiction or disposition of a child in Indian child custody proceedings;

(5) Citizens or representatives of other agencies may report child abuse or neglect or refer any child whose situation calls for attention with respect to his/her care, protection, legal status or tribal membership. When necessary the Bureau social service worker shall report abuse/neglect referrals to the designated tribal/state agency;

D. Placement in a foster family home may be made directly by Bureau/tribal social services staff or may be made through a contract with a public or private child caring agency. The social worker shall establish, in cooperation with the family, a case plan containing short and long term goals which focus on permanent plans for the child and family.

E. Hearings and Appeals. Any applicant or recipient of child welfare assistance under 25 CFR 20 who is dissatisfied with any decision or action concerning eligibility for or receipt of child welfare assistance may request a hearing before the Superintendent or his/her designated representative within 20 days after the date of mailing or delivery of the written notice of the proposed decision as provided in 25 CFR 20.13. The Superintendent may extend the 20 day period for a good cause shown and documented in the record. Procedures for filing an appeal are specified in 25 CFR 20.30.

10.6 Foster Family Care. The foster home placement preferences established in the Indian Child Welfare Act or by the child's tribe shall be followed. Documentation of reasons for other placement choices shall be included in the record.

A. Foster family homes must meet licensing standards established by the tribe or state or be tribally approved. Placements must be in the least restrictive setting which most approximates a family, in reasonable proximity to the biological family, and meet the special needs of the child;

B. A foster parent agreement shall be established delineating roles and

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responsibilities of the foster parents, the placing agency, the terms of payment for care, and the need for adherence to an established case plan. The agreement shall be signed by the foster parents, an agency representative, and the natural parent whenever possible;

C. The Bureau or tribal social service provider shall select appropriate substitute homes to meet the physical and emotional needs of children who require such care. The social worker will recruit, train, and develop foster parents who have the capacity to accept children in their homes and to provide appropriate care. The social worker shall:

(1) Provide assistance, at the request of the tribe, in the development and formulation of foster home systems and standards of care. This may include foster parent training;

(2) Encourage participation by foster parents in associations of foster parents. The information of foster parents organizations is to be encouraged to emphasize the important role foster parents play and to provide an organization which can advocate for children as well as for the foster parents themselves;

(3) Discuss with the foster parents the special needs of a child and provide counseling or referral to available resources to assist the foster parents with the care of the child;

(4) Refer to appropriate resources for housing improvement funds when an otherwise approvable Indian foster home is deficient in household repairs or equipment;

(5) Any reports of child abuse or neglect shall be immediately investigated and, if necessary, protective services provided.

D. Recordkeeping. A record must be kept on each foster home. Prior to or at the time of placement the following information should be included:

(1) Assurance from a physician that the foster child and foster family's state of health presents no serious hazard to the child's well-being. This statement shall be updated annually;

(2) The social worker's initial evaluation of the capacity of the foster parent(s) to provide a foster home;

(3) A copy of the agreement with the foster parent(s), (refer to 10.6B);

(4) An annual evaluation as to how a foster home has fulfilled its

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function relative to the special needs of the child/children placed in the home. A listing of the name and birthdate of each child placed in the home or for whom the Bureau has accepted responsibility for payments or supervision, the dates of their placement and removal, the reason for selection of the home for that child, and the reason for removal should also be included.

10.7 Services to Children in Residential Facilities. Placement in a residential facility shall be made only after assessment to determine the total needs of the child and the extent to which an institution can serve the child.

A. All available resources including Indian Health Services, mental health facilities and Exceptional Education must be explored;

B. Contact should be maintained with the child and the institution through letters or visits in order to keep the child in touch with his/her family and to keep the tribe informed of his/her problems and progress;

C. Home visits or family contacts shall be encouraged;

D. A semi-annual evaluation should be made of all aspects of the child's care and progress for on-going planning purposes.

10.8 Specialized Non-Medical Care.

A. Children with handicapping conditions, physical or emotional, may be brought to the social worker's attention through a referral. Such children may be eligible for services through Exceptional Education, Office of Indian Education Programs and/or the Division of Social Services. A handicapped child is a child evaluated in accordance with Exceptional Education's regulations and determined to be emotionally disturbed, learning disabled, mentally retarded, hard of hearing, deaf, deaf-blind, speech impaired, severe language disordered, visually impaired, multi-handicapped, or orthopedically impaired or handicapped, and requires special care/education and related services. Exceptional Education is required to design instruction to meet the unique needs of a handicapped child;

(1) Upon receipt of such referral the social worker shall make a preliminary assessment of the problems and service needs;

(2) When a child's handicapping condition is the identifiable primary problem, referral shall be made to Exceptional Education. The social worker shall work jointly with Exceptional Education to delineate roles and responsibilities, including payment of care. An Individual Education Plan (IEP) shall be developed by the Office of Exceptional Education within 30 days of enrollment and the IEP shall outline the services to be provided by the Office of Exceptional Education.

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(3) If a handicapped child is denied services by Exceptional Education, the family may appeal the decision. Other available resources may be investigated at the family or court's request;

(4) Only when the eligibility requirements established in 25 CFR 20 and 66 BIAM 10.5, Programs of Social Services and Assistance for Indian Children, are met may placements of handicapped children be paid for by social services. Any letters denying service from Exceptional Education should be included in the child's case record;

(5) For those children identified as handicapped by Exceptional Education, additional maintenance or custodial costs will be paid by Social Services when the child has come under the responsibility of Social Services in accordance with 25 CFR 20 and 66 BIAM 10.5.

B. Indian Health Services (IHS) has primary responsibility for the provision of direct medical care to persons eligible for IHS services pursuant to 42 CFR 36.12. (Refer to 10.12B) Where other resources are unavailable, services may be provided by the private sector to Indians eligible for Contract Health Services (CHS) funds (42 CFR Part C) whose health problems fall within the CHS priority level within the patients' respective IHS area at the time of the patients' referral;

(1) Any child requiring medical and/or mental health services shall be referred to IHS for assessment and provision of the services needed. If required services are denied, a copy of that denial and a written explanation for that denial shall be included in the child's case record and alternative resources sought. These denials should be forwarded to the Area/Central Office for coordination with appropriate agency officials. Social Services is not to be the placing program when the primary reason for placement is based on a medical diagnosis and treatment plan;

(2) Efforts should be made to coordinate services and, if appropriate, the roles and responsibilities of the agencies involved should be delineated in the case service plan. Joint service and payment may be handled on a case by case basis, or as provided in an interagency agreement.

10.9 Guardianship and Custody. The Bureau or Tribal Social Services Contractor, unless authorized by tribal authorities or licensed by a child placing agency, is not authorized to accept custody of children. The tribal court will retain custody of children in placement and care and supervision given to the appropriate social service agency. The court shall not restrict placement to a particular family, or institution in order to enable payment of child welfare assistance.

A. Bureau employees acting in their official capacities shall not

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accept legal custody or guardianship from any court, or serve as officers of a court in custody and guardianship matters. Officer of a court means any person operating as a professional under the direct control or supervision of the court. Nothing in this restriction shall be construed to:

(1) Prevent parents or legal guardians or persons from arranging with appropriate Bureau employees for the day-to-day care and education of a child in accordance with Bureau regulations governing the use of Bureau facilities, services, and funds.

(2) Obstruct any Bureau employee from exercising any personal right or privilege he/she has in his/her private capacity to accept custody for or to adopt any child.

B. Bureau employees acting in their official capacities shall not accept statements from parents designed to sever their parental controls and responsibilities for their children because this is a court related function and, as such, should be handled by a court as stipulated in 25 U.S.C. 1913.

C. Case plans shall be reviewed with the appropriate court every six months. A dispositional hearing shall be held within 18 months after the date of initial placement.

10.10 Protective Services. When a child is deemed not to be receiving proper care and supervision or is exploited and/or abused, the social service worker shall become involved with the child's caretaker for the purpose of achieving improvement in the care provided. A social service worker is required to report child abuse or neglect to appropriate law enforcement officials. When a report of child abuse or neglect is substantiated and no other in-home services appear appropriate, the social worker shall seek court action to protect the child. When a report of child abuse or neglect is not substantiated, that finding should be noted in the record.

10.11 Work with Federal or Contracted Boarding School. Admissions to Federal or contracted boarding schools for other than educational reasons may require participation by the social services staff. Contact by the social workers shall be maintained with school staff, as indicated, when no school social worker is available. If the child is in boarding school away from his/her agency, the social worker shall ask for reports from the school on his/her progress. Whenever possible, usually at the end of a school term, the child shall be returned to his/her own home. If the tribal court is involved in the placement, coordination must be maintained with the court.

A. Planning for the child's care for the summer and other school vacations is the responsibility of the social worker when the child is placed for social reasons and cannot return to his/her own home.

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(1) The summer placement may be in the school if it has a summer program, or placement may be with relatives, adult friends, foster care, a camp or in any authorized and supervised program which cares for children;

(2) The social worker may give consultation to parents and school officials with regard to suitable vacation planning for children;

B. A child admitted to a Federal or contracted boarding school for social reasons is expected to arrive there with clothing for his/her current needs, and provide for his/her own personal needs. If clothing cannot be furnished by his/her own family or from his/her own funds and the child comes from a family home, the policy stated in 66 BIAM 10.5D will apply if the family is eligible for general assistance. When there are no other available resources including General Assistance, clothing and personal needs can be furnished through child welfare assistance funds.

10.12 Independent Foster Care Placements. Placements are made without the involvement of a social agency and without authorization of a court. When such a situation comes to the attention of the social worker, he/she shall determine if protective services are needed. If necessary, an assessment of the need for other available resources will be made and a case plan developed. Eligibility shall be determined in accordance with established policy.

10.13 Foster Care Payments.

A. Provisions shall be made for all necessary costs of care including clothing, incidentals, and personal allowance in accordance with established state standards of payment. These established standards may include an initial placement allowance or special allowance. The foster care worker has the responsibility for planning jointly with the foster parents and child for the individual clothing, incidentals, and personal allowance needs. At the time of placement, in the absence of resources available to the foster parents to purchase essential necessities for a foster child, Child Welfare Assistance funds may be used.

B. Arrangements shall be made for medical supervision and medical costs with the appropriate funding agency including Indian Health Service and U.S. Public Health Service, for every child in placement.

C. Evaluation of the parent's ability to pay for foster care should be completed. Parents should assume a share in the responsibility for foster care costs when possible. This evaluation shall be included in the social workers recommendations to the court. This not only helps financially, but maintains some form of contact and responsibility between parent and child.

D. Social Security benefits, Veterans Administration benefits. All

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income accruing to children, except income exempted by Federal statute, shall be considered as a resource available to meet the cost of foster care authorized and arranged by the Bureau of Indian Affairs and tribal social service providers. This includes all income deposited in a child's Individual Indian Money Account (IIM) with the exception of per capita shares of judgment funds which shall be protected in full accordance with the provisions of 25 CFR 60.10 and 25 CFR 115.4, and Public Law 98-64 (See 66 BIAM 5.5A(3)(d)(iii)).

10.14 Contracts or Agreements for Foster Care.

A. Contracts shall be negotiated in accordance with the appropriate regulations;

B. The types of contracts which may be entered into are:

(1) Contracts with foster families for the care of specified eligible Indian children or agreements covering conditions of foster care, which may be made on an annual basis and payment made by voucher for individual children referred for care (Short term care may be obtained by purchase order or imprest cash);

(2) Contracts with Indian tribes, public or private institutions and agencies for the care of individual Indian children certified as eligible;

(3) Contracts with Indian tribes, states, or local public welfare departments for children certified by the Bureau or tribal Social Services as individually eligible prior to payment. Rates of payment will be made in accordance with those established by the state public welfare agency of the state in which the child is placed, unless there is adequate justification which may merit an increase over the state's standard rate. Such an increase must be approved by the Area Director in accordance with Federal Procurement Regulations;

(4) An off-reservation foster family home or institution under contract must meet the standards of the state in which it operates. If licensing is mandatory, the facility must be licensed; otherwise it must operate in accordance with standards approved by the state department of social services;

(5) Any foster family home or institution used must have social services supervision;

(6) The placing agency shall maintain individual records for all children cared for under the contract;

(7) Bureau of Indian Affairs and Tribal Social Services Contractors shall have access to the records and to the children covered by any contract.

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The Area office shall maintain a file for every state or social agency or institution with which it makes contracts. This file shall include:

- (a) A signed copy of the contract;
- (b) A general report on the agency or institution covering all items required under the state licensing or standard-setting regulations;
- (c) A copy of the state or tribal licensing report;

C. The area social worker or his/her representative shall review and report on the contractor's case records of children included under the contract on an annual basis. The purpose of this review is to determine that the children are receiving quality social services under the terms of the contract and that continued contract care is the best plan for the child.

10.15 Single Parents. Social work services may be made available to single parent(s). Single parent(s), especially minors, may need assistance in dealing with problems related to an unplanned pregnancy and future plans. Family members may be involved in planning with the minor's knowledge and subject to their agreement. Emergency medical or legal situations may require parental involvement. Referrals will be made to other resources as needed.

10.16 Adoption of Indian Children.

A. The Bureau of Indian Affairs is not an authorized adoption agency and staff shall not arrange adoptive placements. Tribal contractors may provide adoption services through their Pub. L. 93-638 contracted program, only if authorized by the tribal governing body.

B. Indian children who would benefit by adoption shall be referred by the Bureau of Indian Affairs to an authorized adoption agency, including tribal adoption programs following procedures defined under the ICWA, tribal codes or policies. Information may be provided to the adoption agency upon request.

C. Efforts shall be made to secure adoption services for Indian adoptive parents upon request. Prospective adoptive parents shall be referred to an authorized adoption agency in their state of residence, a tribal adoption program, or a known Indian adoption exchange. Prospective adoptive Indian homes will be referred to licensed child placement agencies as a possible resource.

D. Upon the request of a tribal court or family, the social worker may make a social study of prospective Indian adoptive parents and children who live within the jurisdiction of the court and report his/her findings to the

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court. The report shall include a written recommendation as to the suitability of the adoption.

E. Independent adoptions that come to the attention of the social worker shall be afforded the protections required in the Indian Child Welfare Act. Any requests for assistance shall be referred to the appropriate social service agency serving the jurisdiction in which the adoption will occur. Any questions concerning any individual or agency's involvement in independent adoption shall be referred to the Area/Central Office for review and referral to appropriate authorities.

10.17 Subsidized Adoption.

A. Bureau of Indian Affairs social services funds can be used to provide adoption subsidies to assist in the adoption of a child currently in foster care. Approval by the Area Director is necessary and an appropriate financial payment method utilized. The subsidy will be renewed annually through an interview and a written agreement between the Bureau or tribal contractor (represented by the social worker) and the adoptive parents. At that time, the need for continued subsidy will be documented and the amount of the subsidy re-negotiated as necessary. The following criteria must be met at the time of initial application:

- (1) The child is under the age of eighteen;
- (2) The child has been in foster care prior to the adoption placement with payment and supervision responsibilities placed with the BIA Social Services, or contracted Tribal Social Services program;
- (3) The adoption placement is in an Indian home, when such a home is available and appropriate for the needs of the child. In such instances where placement in a non-Indian home is indicated, written justification and any supporting documents shall be prepared and forwarded to the Division of Social Services for Children and Families for concurrency;
- (4) The BIA/tribal contract social worker has been active in permanent planning for the child;
- (5) Adoption placement has been clearly shown to be in the best interest of the child and termination of parental rights has already occurred;
- (6) Adoption could not be effected without BIA financial assistance;
- (7) All other resources for adoption placement have been explored;

B. The following types of subsidies are available:

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(1) Monthly Subsistence Payments - direct payments to the Indian adoptive parents to assist in maintenance costs for the child. This payment will be an amount agreed upon between the Bureau and the adoptive parents prior to the adoption. The monthly payment must be less than the monthly foster care rate. The social worker shall make a clear, comprehensive and well documented assessment of need of the adoptive parents, including living needs and available resources. If the adoptive parents' living situation should change prior to the yearly review, it is the adoptive parents' responsibility to notify the Bureau of their change in status;

(2) Payment for Medical Care - payment to the adoptive parents for the purpose of assistance in the payment of care necessary to treat pre-existing medical/emotional problems which would not be the responsibility of the Indian Health Service or the Bureau's Office of Indian Education Programs. This monthly amount or one time payment shall be agreed upon prior to the actual adoption. The subsidy agreement shall be negotiated for a period of one year. The social worker shall make an assessment of the adoptive parents' ability to pay for this care and shall only authorize payment if they demonstrate a need for assistance to deal with the child's identified medical/emotional problems. A doctor's statement of continuing medical needs must be included. The agreement shall stipulate that it is the parents' responsibility to notify the Bureau of any change in the child's condition or of the family's ability to pay for the child's care;

(3) Special Needs - A one-time subsidy to assist the family in the adoption process: attorney's fees associated with the adoption process of an already legally freed child, travel, lodging and other expenses related to family adoption expenses. An adoption agency having custody of an Indian child for the purpose of adoptive placement may charge a service fee payable by the adoptive parents. Child welfare funds may be used to meet these fees for Indian parents adopting Indian children for whom adoption would be impossible without financial assistance. Justification must clearly show that the adoptive Indian parents do not have financial resources to meet these costs, that there are no other forms of assistance to meet these costs, and that there are no other appropriate Indian homes for that child;

C. When a state standard exists for any of these types of subsidies, that standard must be followed.

10.18 Interstate Placement of Children.

A. Placement of children across state lines or reservation lines, whether for foster care or adoption, is governed by the laws of the two states or reservations involved. The Interstate Compact Agreement may also be involved;

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B. When such a placement is being considered for an Indian child and involves either an off-reservation location or a location where there is no tribal court, the Bureau or tribal social worker shall contact the appropriate social services department for assistance.

C. When a tribal court is involved in an interstate placement and requests social services assistance, the social worker shall inform the court as to Interstate Compact procedures.

D. When a family from another state requests the placement of a child in their home, they should be referred to the state social service department in their own state for information about the regulations covering such placements.

10.19 Tribal Courts and Social Services. Under the concept of separation of governing powers, (legislative, administrative, and judicial), social services provided in court-related matters are the function of an administrative agency that is separate and apart from the judicial entity involved. In many circumstances, the worker's authority to take action is derived from a court order. Nevertheless, tribal courts lack the authority to compel a worker to take any specific action in the performance of his/her duties which may be in conflict with requirements specified in legislation, regulation, or the Bureau manual.

A. Examples of social services which a court may request on behalf of children are:

(1) Investigation of reports of delinquency, child abuse, neglect or exploitation;

(2) Providing witness to the conditions observed relevant to the matter before the court and providing expert testimony when qualified by the court as an expert witness;

(3) Placement assessment for a child custody award in a divorce case;

(4) Evaluation of available treatment/placement resources and recommendations regarding the suitability of treatment/placement resources in order to facilitate implementation of Pub. L. 95-608;

(5) Provision of court-related services following adjudication such as in-home supervision, foster care, or aftercare;

B. In fulfilling the request for services by a court, the following procedures will be followed:

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(1) Discuss with the appropriate court official the nature of the information the court needs, and establish a timeframe for completing the report;

(2) Undertake whatever social services are required to make the requested investigation and evaluation;

(3) Prepare and submit required reports;

(4) Undertake the necessary social services to provide aftercare services when an adjudicated child is released to his/her home community from the supervision of a residential facility to which he/she has been committed and which has no aftercare services.

10.20 Homemaker Services for Children in Their Own Homes. Homemaker services are provided under the supervision of a social agency and are administered by a person trained in such services. While housekeeping services are one portion of this service, the Bureau/tribal social services provided homemaker services shall focus on training household members in such skills as child care and home management. When resources are not available from the state agency or other sources, homemaker services may be purchased or contracted in accordance with 25 CFR 20.23 and 20.24 to provide for:

A. A child who, otherwise, would need a foster care placement or who would benefit from supportive (protective) supervision;

B. A severely handicapped child whose care places undue stress on the family, or;

C. A child who would benefit from training provided to family members by a homemaker.

10.21 Day Care. Day care services may be provided for children by a licensed or approved day care facility for a portion of the day. The facility may be a family day care home, group day care home, day care center, or the service may be provided by a licensed or approved in-home caretaker. Day care may be used as an alternative to separation of children and families. In the absence of other available resources, child welfare assistance may be used to pay day care costs in accordance with established state standards.

10.22 Other Social Work Processes.

A. Social Group Work Services. Social group work is the utilization of the group process in the diagnosis and treatment of social problems, whether of an individual, an organized group, or a community. It may be a complete service or used in conjunction with individualized social services. The

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worker may use group work methodology to resolve identified social problems;

B. Community Organization. Social services programs are part of a community network of human services. The interdependence of these agencies is apparent. Organized efforts to deal with mutual problems related to this interdependency can bring about improved utilization of available services, and better understanding of community needs for the development of other services;

C. The social worker may conduct studies to gather information, provide assistance or leadership for studies made by responsible citizens or may respond to requests for information for studies when research is done by other responsible organizations. Care must be exercised to obtain permission from appropriate tribal officials before proceeding with such activity;

D. Any of these processes may be applied to a variety of subject areas in order to address community needs. Areas where these processes may be utilized include: work with governing bodies, tribal councils, state, local and county governments, special interest groups, citizen community volunteer groups, client groups, and other social agencies.

10.23 Indian Child Welfare Act Implementation. The Bureau of Indian Affairs staff has responsibilities to facilitate implementation of this Act. The activities necessary to carry out these responsibilities are specifically enumerated in 25 CFR Part 23. These include Subparts C, D, E, F, and G.

A. Grant Process. The Indian Child Welfare Act is a competitive grant process in which tribes, Indian organizations, and multi-service Indian centers may apply for grant funds for the purpose of establishing Indian child and family programs which focus on the prevention of separation of children and families. These applications may be for project periods of one or three years. Multi-year requirements are specified in 25 CFR 23.37. The need for the program based on this intent must be justified in a specified timeframe announced in the FEDERAL REGISTER. Specific information relative to the application process will be published in conjunction with the FEDERAL REGISTER announcement. The responsibilities for the grant process cannot be delegated to tribal contractors or grantees;

(1) Agency Office responsibility includes:

(a) Provision of initial technical assistance to applicants or grantees;

(b) Completion of initial certification with recommendations to the Superintendent concerning the approval/disapproval status of the application;

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(c) Sub-Grant Officer's Representative (GOR) monitoring to ensure compliance with regulations and adherence to programmatic objectives in relation to the grant award, (The Superintendent has been designated the GOR);

(2) Area Office responsibility includes:

- (a) Distribution of application information;
- (b) Provision of available technical assistance available as requested;
- (c) Planning and conducting training relative to the grant application process;
- (d) Coordination of the Selection Review Process;
- (e) Make recommendations to Area Directors concerning eligible applications, and grant awards;
- (f) Completion of necessary administrative action;
- (g) Review of existing programs;

(3) Central Office responsibility includes:

- (a) Development of procedural and administrative guidelines for grant activity;
- (b) Distribution of funds to Areas for grant awards;
- (c) Provision of technical assistance to Areas on grant process;
- (d) Review of Area recommendations, appeals of denied applications and preparation of recommendations to the Assistant Secretary - Indian Affairs concerning appeal decision;

B. Identification of Indian Children. The social worker shall cooperate with tribal enrollment officials to determine a child's eligibility for coverage in Indian child custody proceedings. The social worker will also be responsible for preparing responses to state agencies or courts in cooperation with tribal enrollment officials concerning a child's eligibility for coverage;

C. Payment of appointed counsel in state Indian child custody proceedings is authorized by Section 102(b) of Pub. L. 95-608 or 25 U.S.C. 1912, and 25 CFR 23.13.

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(1) Section 102(b) states the following criteria must be met:

(a) The court must determine indigency for the parent or Indian custodian for that party to have the right to court appointed counsel in any removal, placement or termination proceeding under Pub. L. 95-608;

(b) The court may appoint counsel for the child upon finding that such appointment is in the best interest of the child;

(c) If either (a) or (b) applies and the state law makes no provision for appointment of counsel in those instances, the court shall promptly notify the Secretary of the Interior or the Secretary's designated representative, the appropriate Area Director delineated in 25 CFR 23.11, to initiate steps for possible payment of said fees;

(2) The procedure which the Area Director follows to approve or disapprove such payments is explained in 25 CFR 23.13. When such an appointment is made:

(a) The court must send written notice of the appointment to the appropriate Area Director listed in 25 CFR 23.11, which shall include:

(i) Name, address and telephone number of the attorney appointed;

(ii) Relationship of client to child;

(iii) Name of Indian child's tribe;

(iv) Copy of the petition or complaint;

(v) Court certification that state law makes no provision for this situation, and;

(vi) Court certification that the client is indigent;

(b) The Area Director shall determine if the client is eligible for payment for appointed counsel no later than 10 days after the receipt of the notice of appointment of counsel. He/she shall certify eligibility unless:

(i) The litigation is not a child custody proceeding as defined in 25 U.S.C. 1903(1);

(ii) The child is not an Indian child as defined in 25 U.S.C. 1903(4);

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(iii) The client is not the Indian child subject to the litigation, the Indian child's parent as defined in 25 U.S.C. 1903(9) or the child's Indian custodian as defined in 25 U.S.C. 1903(6);

(iv) State law provides for counsel in such proceedings;

(v) The notice to the Area Director of appointment of counsel is incomplete; or

(vi) No funds are available. He/she shall notify the court, the client and the attorney in writing. If the client is denied, include in the notice the reason(s) for the denial and inform the parties involved of their right to appeal under 25 CFR Part 2;

(3) No later than 15 days after receipt of the payment voucher he/she shall send notice to the court, the client, and the attorney stating the amount of payment authorized. If the payment is less than the court requested, a statement concerning the reason for the decision and the right of appeal should be included in the notice. The Area Director's failure to meet the deadlines noted above, may be treated as a denial for reason of appeal;

(4) Once the Area Director has received all necessary information and has certified payment of the attorney fees, a copy of that material must be sent to the Central Office, Division of Social Services. If there are no funds available in the area for payment of these fees, the Area Director shall so verify by memorandum, and to the respective area's 2277 account for payment of said fees;

D. Transportation costs to return children to his/her tribe as a result of Indian child custody proceedings cannot be provided directly. Utilization of the Interstate Compact to establish responsibility for payment of transportation costs by the sending state should be encouraged. Tribal contractors and ICWA grantees may include a line item in their contract or grant to pay for transportation costs.

10.24 Recordkeeping.

A. The primary purpose of case records are to serve as a tool for case planning, program management and for accountability;

B. Social workers will be required to adhere to the provision of the Privacy Act and the Freedom of Information Act. Where the worker questions the applicability of the Privacy Act, a release of information should be obtained from the client. Documents of a personal nature including investigation information should be kept in a secure manner to maintain their confidentiality. If the client is the subject of criminal investigation

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involving child sexual abuse, child abuse or neglect, contact should be made with the area Solicitor or legal advisor before releasing specified information requested by law enforcement officials.

C. Records for social services shall contain the following information:

- (1) A request or referral for services;
- (2) Problem identification; including diagnostic, assessment of the child;
- (3) Background information, e.g., age, race, sex, family history, tribal enrollment, place of residence;
- (4) Determination of eligibility for services;
- (5) Development of a case plan including short and long term goals with identifiable objectives, and a tentative timeframe upon which these objectives will be met. The client will be requested to acknowledge and sign the case plan;
- (6) Narrative entries of each notice or contact with child, family, foster parents, medical or school personnel, etc. should be timely and entered in the case record; and,
- (7) At the time of transfer or closure of case, summarize the status of the case.

D. In case of a child in placement, the following information should be included in the case plan:

- (1) Date, reason for, and type of initial placement and subsequent placements - voluntary or involuntary including copies of any voluntary agreements or court orders;
- (2) Type and appropriateness of current placement including whether the placement is in the least restrictive setting and in close proximity to the parents home;
- (3) Efforts made to find a placement in, the least restrictive setting or in close proximity to the parents' home and the services which could not be made available in such a setting;
- (4) Services provided to the child and family prior to placement and a discussion of why placement could not be prevented;

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(5) Plan for visitation between the child and parents including dates of proposed and actual visits, the location and transportation arrangements where applicable;

(6) Aftercare plan when the child returns home; and

(7) Obligations and responsibilities of the child, the child's family, the worker, and other agencies providing services including proposed dates for contact between the worker and the child and the worker and the parents.

E. Case Plans must be reviewed and approved at least every six months by a program supervisor. For a child in placement, a dispositional hearing shall be held within 18 months after the date of initial placement.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245



IN REPLY REFER TO:

AUG 20 1990

66 BIAM
Release 6

Memorandum

To: All Holders of 66 BIAM

From: Deputy to the Assistant Secretary - Indian Affairs
(Operations)

Subject: Social Services, Child Protection Teams

This release revises and updates the supplement to 66 BIAM, Chapter 10, dated November 6, 1986, to establish procedures for the development, implementation, and monitoring of Child Protection Teams on the local, area, and national levels. This manual supplement updates all Child Protection Team memoranda distributed prior to receipt of this material.

All comments have been reviewed by the Child Protection Task Force and incorporated to the extent feasible into this Manual Supplement.

Walter R. Mills
Deputy to the Assistant Secretary -
Indian Affairs (Operations)

Filing Instructions:

- (a) Remove superseded material:
66 BIAM 0 (cont.), Table of Contents, Rel. 5 (dated 11/6/86) (1 sheet)
- (b) Insert new material transmitted:
66 BIAM 0 (cont.), Table of Contents, Rel. 6 (dated 8/20/90) (1 sheet)
66 BIAM 10.25, 10.25 - 10.25Q(2) Rel. 6 (dated 8/20/90) (8 sheets)

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10.25 Child Protection Teams.

A. Purpose. These procedures establish Child Protection Teams (CPT) to coordinate the intervention and services in child abuse and neglect cases in Indian country. They implement the September 12, 1986, Memorandum of Agreement between the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) which makes a commitment to implement a more coordinated plan for the prevention, intervention, and treatment of child abuse and neglect cases in Indian communities.

B. Policy.

(1) Child abuse and neglect is a multidimensional problem affecting the child, the family, and the community. With the involvement of many agencies within the community in the provision of services to the abused or neglected child and his family, it is important that the agencies actively coordinate efforts to prevent Indian children from being abused or neglected. In cases where a child has been abused or neglected, efficient and effective protective services are to be provided so as to immediately secure the child's safety and health. Follow-up actions shall then be taken to stabilize the situation for the long-term benefit of the child and, to the extent possible, the family. CPT shall be the catalyst to mobilize the community in the development and implementation of a child protection system which will promote the long-term well-being of the child and the appropriate family members.

(2) CPT are technical and advisory in nature. In no way are they intended to undermine the authorities and responsibilities of individual agencies. They are designed to promote cooperation, communication, and consistency among agencies. It is appropriate for CPT to debate what actions would best promote the well-being of a child and provide relevant information and advice to decision-making agencies. The overall goal of each CPT should be to facilitate the decision-making process. Although each team may have several functions, the essential functions are to improve direct services to clients by assisting with assessment, treatment planning, and case monitoring. The roles and responsibilities of the various team members shall be clearly defined by the team itself to minimize a duplication of effort and demands made on the child and family.

C. Scope. This section outlines the procedures required for the BIA to implement and monitor the CPT at the Agency, Area, and Central Office levels to ensure that all child protection efforts are coordinated in an efficient and comprehensive manner.

D. Responsibilities.

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(1) The Assistant Secretary - Indian Affairs has the overall responsibility for the BIA's implementation of CPT and for the BIA's appointments to the BIA/IHS Indian Affairs/Indian Health Services National Oversight Committee for Child Protection.

(2) The Deputy to the Assistant Secretary - Indian Affairs (Operations) is responsible for operational support and services to implement the program.

(3) The Deputy to the Assistant Secretary - Indian Affairs (Tribal Services) and the Deputy to the Assistant Secretary/Director - Indian Affairs (Indian Education Programs) are jointly responsible for providing overall guidance and direction to the CPT.

(4) All BIA Area Directors are responsible for working jointly with the IHS Area Director and the Area Education Office in the development and continued support of the Area CPT and to arrange for the appropriate Bureau employees to serve on the Area CPT and to allow them to have sufficient time available to carry out their responsibilities to the team.

(5) All BIA Agency Superintendents are responsible for working jointly with the IHS Service Unit and the Agency Education Office in the implementation of the local child protection procedures, to assure that there is a coordinated effort at each agency for the provision of services on a day-to-day basis to abused and neglected children and their families. The Agency Superintendent is responsible for arranging for the appropriate BIA employees to serve on the local CPT and to allow them to have sufficient time available to carry out their responsibilities to the team.

E. Role of Division of Social Services.

(1) All communities have the need for a permanently organized team of persons from the appropriate professions and agencies to plan and coordinate services to families in which abuse and neglect occur. Only the child protective services agency and law enforcement have the authority to intervene in a family without the family's invitation. In many legal jurisdictions, the legal authority for CPT intervention is based on which child protective services agency or law enforcement office is mandated to receive and investigate reports of suspected abuse and neglect and make recommendations to the court.

(2) In Indian country, these child protective services programs could be operated exclusively or through a combined effort by either the State, BIA, or tribal social services program. Therefore, members of the local CPT should serve at the request and for

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the benefit of the local child protective service or law enforcement agency. The Area and Agency Social Services staff shall assist the Area Director and Agency Superintendent in identifying who the key personnel are in the BIA, State, or tribal child welfare systems so the appropriate persons may be called upon to serve on either the Area or the Agency CPT.

F. Establishment of Local CPT. Where multidisciplinary interagency teams do not already exist, local CPTs shall be cooperatively established within each BIA Agency and complementing IHS service area to coordinate services and to provide technical assistance. Where Agencies serve more than one tribe, Agency representatives may need to participate on more than one CPT. The BIA and IHS have the primary coordinating responsibilities for the CPTs when they are providing direct services. Additionally, the appropriate Federal, state, county, or tribal programs should be encouraged to interact in a cooperative fashion to assure that American Indian children are provided all available services in instances of child abuse and neglect. BIA staff shall not attempt to duplicate already existing state or tribal multidisciplinary teams serving Indian communities. Where Indian communities are served by interagency groups similar to the described CPT, these teams shall be formally identified so that their needs might be better met and their activities fully supported by the Agency and appropriate staff.

G. Procedures for Local CPT. Tribal contractors may have established procedures which shall be complied with by Federal staff to the extent practicable, except where in conflict with these procedures.

(1). Organizational Framework.

(a) Membership. To assure effective group interaction, membership is ideally limited to eight persons or less. Although other program representatives may serve as resources for the CPTs, at a minimum, appropriate tribal, state, or Federal representatives from the following service providers shall be members of the local CPTs:

- (i) Child Protective Services.
- (ii) Law Enforcement.
- (iii) Medical.
- (iv) Judicial Services.
- (v) Counseling/Psychological Services
(including alcohol and substance abuse service providers).

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(vi) Education.

(b) Administration. All committee members should establish a clear understanding and agreement among themselves on the frequency, time, and location of the local CPT meetings. Minutes shall be maintained for each meeting.

(2) Responsibilities of the Local CPT. To coordinate and actualize the day-to-day activities involved in providing direct services to abused and neglected children, the following procedures shall be developed and implemented:

(a) Oversight. A systematic approach shall be developed which will ensure that the CPT maintains oversight on active child abuse and neglect cases in the designated service area.

(b) Facilitating Services. The local CPT members' common goal should be in the best interest of the child. In this spirit, they should cooperate and coordinate their mandated functions to minimize the risk to the child. The coordination of services will facilitate a positive response to, and outcome for, child victims of child abuse and neglect.

(c) Providing Technical Assistance. The CPT should be ready to respond to requests for technical assistance from agencies and individuals concerned about children and families. In addition, the CPT should be available, upon request, to provide consultative services to support tribal efforts to advocate and address conditions that may cause or increase child abuse and neglect.

(3) Local CPT Plan of Operation. Each CPT shall develop working agreements and protocols among the various agencies involved in providing services to children who are abused or neglected which will clearly delineate the method through which it systematically tracks referrals to the CPT. Each local CPT shall also have a clearly documented plan of operation that shall relate to the the critical elements identified below and specify the involvement of each of the members:

(a) Prevention. To the extent local resources permit, each local CPT shall implement communitywide prevention and development strategies which include activities such as the following:

(i) Conducting public awareness campaigns to inform all segments of the community of the extent and nature of child abuse and neglect, all reporting procedures, and the resources necessary to prevent it, as well as those required to protect children and strengthen families.

2/19/03
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or misnumbered.
Contact
Amy Blair

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(e) Referral. Each CPT shall thoroughly assess the information provided to it through the referral mechanism established by the CPT protocol and make recommendations to the various pertinent agencies regarding future actions.

(f) Investigation. The investigation of allegations of child abuse and neglect is not the responsibility of the local CPT. However, it is important for each CPT to work closely with local law enforcement and social services to formalize procedures for investigations which will meet the needs of their locale. The CPT will assist law enforcement in developing a written plan for the local emergency procedures which are in operation for investigating child abuse and neglect cases. In order to reduce the trauma to the victims and the opportunity for revictimization by the investigative process, social services and law enforcement shall define their working relationship by reaching agreement regarding methods for cross-reporting, protocols for determining when joint investigations are appropriate, roles and responsibilities, and cross-training on procedures.

(g) Case Assessment and Review by Full CPT. In the disposition of the investigation of reports of suspected child abuse, a decision should be made as to whether to continue with a direct service, to withdraw, or to make a referral to a particular agency or service. The involvement of the CPT in the decision making process should be advisory in nature and should be clearly understood by all parties involved. It is the role of the local prosecutors to decide if further legal action is warranted.

(h) Protective Action Procedures. Local CPT shall develop working agreements among the various agencies involved in providing protective services to children to minimize the risk of continuing or future harm to the child.

(i) Case Plan Development. The CPT shall be available to assist the caseworker in making resources available when the caseworker develops a case plan with the client. The CPT should also carefully assess its need for any ongoing involvement with the case, and should develop a plan for any periodic review or monitoring of services initiated through the CPT activities.

(j) Case Plan Implementation. (Treatment Phase) The social worker should assume responsibility for implementing the case plan and for developing long and short range goals with the parents. The goal of CPT in working with the parents should be that the child should receive adequate care and that the parents should become able to fulfill their parental roles adequately. It is important that the services of the medical, psychiatric, psychological, and judicial services team members be

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utilized in the protection of the children. They should assist in the provision of services to meet the identified needs and problems of the children and their families, as indicated in the case plan. As CPT members, they should provide information and professional support in their particular fields of competence to better enable social workers to use their knowledge and skills in serving children and families. The actual case management of the cases and decisions regarding the overall case plan should be clearly understood by all CPT members, and in most cases, will be the responsibility of the social worker.

(k) Monitoring and Evaluation of Ongoing Cases.

Each local CPT shall develop a tracking system to ensure that all child abuse and neglect cases referred to the CPT are followed through the child protective services system, with appropriate intervention and supportive services provided by the CPT when necessary.

(l) Case Closure. The local CPT should decide when it will cease its review of a case it is following. Cases followed by the CPT should be considered to be a cooperative intervention, with the CPT members and professionals being involved in planning the termination of their intervention as a CPT. The closure of CPT cases may or may not coincide with the closure of services through the courts or the local child protection service providers.

(m) Data Collection. Statistical data for the local CPT shall be maintained and utilized to demonstrate an accurate record of services rendered and to identify recurring problems that have implications for community action. Specifically, each local CPT shall develop and maintain a system for collecting and recording the following data to be submitted in a monthly report to the BIA Area Social Services Office:

(i) Number of Child Abuse and Neglect Reports to local law enforcement.

(ii) Number of Child Abuse and Neglect Referrals reviewed by the local CPT.

(a) Total numbers.

(b) Subtotal of number involving alcohol and/or drug use.

(iii) Types of Referrals.

(a) Child Abuse.

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- (b) Child Neglect.
- (c) Child sexual abuse.
- (iv) Result of investigations.
 - (a) Substantiated.
 - (b) Unsubstantiated.
 - (c) Under investigation.
- (v) Actions Taken.
 - (a) Referral to Court.
 - (b) Referral to social services or other agency.
 - (c) No follow-up.

H. Implementation Strategy for Local CPT. In establishing a cooperative approach to child abuse, communities may wish to follow the following implementation approaches:

(1) Establish a working committee. The committee shall be composed of key service providers in the community. If such a group exists already, the social services work program should take the lead in presenting a plan whereby the local committee could formalize its role in the community by establishing a comprehensive and coordinated child abuse intervention plan. The working committee shall assure that the composition of the committee implements the procedures identified in 66 BIAM 10.25(G)(1)(a). A facilitator shall be chosen who has an open approach to the multidisciplinary concept and is capable of allowing a group process style that will enable the group an opportunity to gain a consensus. All policies drafted by the committee shall be reviewed and approved by the local tribal government.

(2) Develop a Mission Statement. The working committee should develop a mission statement which clearly identifies the goals and objectives of the working committee. In preparing such a statement the committee should first undergo a careful analysis of the problem and utilize the mission statement as a method to gain a clear understanding of the importance of a multidisciplinary approach to child abuse. The committee should also determine the focus of the CPT approach and the population that it proposes to serve.

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(3) Develop Interagency Agreements. To formalize the cooperative arrangements being made between the local service providers, the development of local interagency agreements may be utilized. Each agreement should establish and formalize the cooperation among the agencies involved in the community intervention system by defining a coordinated systems response to child abuse.

(4) Develop Written Procedures. To formalize the committee's role in the community, the committee should develop a written plan of operation which clearly identifies the procedures and protocols which reflect the overall mission, goals, and objectives of the committee.

I. Review of Local CPT Activities. To improve the direct services to clients, reviews of the local CPT activities should be conducted by the committee itself on a routine basis. Once a structure and plan has been implemented, the CPT should evaluate its activities against its written plan of operation. If there are protocols or procedures that are not assisting the CPT approach and are not expediting the provision of services to the victims, then these procedures should be modified or changed by the committee to ensure that the system they have formulated for their community does produce positive results.

J. Establishment of Area CPT. The purpose of the Area CPT should be to provide oversight and policy direction to the local CPT.

K. Procedures for Area CPT.

(1) Organizational framework.

(a) Membership. The BIA and IHS should take the lead in establishing Area CPT which should be a joint effort between the BIA and IHS, and where feasible, various Federal, state, county, or tribal programs. The Area Social Worker, or designee, shall participate on the Area CPT. The Area CPT members should be encouraged to interact in a cooperative fashion to ensure that Indian children are provided all available services in instances of child abuse and neglect. Selection of Area CPT members should include appropriate representation from the social services, law enforcement, medical, mental health, and judicial services fields. The representatives should be selected on the basis of their specialized knowledge of child abuse and neglect, their experience, their ability to offer sensitive and timely services and solutions to problems, and their willingness to collaborate with other professionals.

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(b) Administrative. At a minimum, the Area CPT shall meet quarterly. The Area CPT shall develop clear guidelines for the conduct of their meetings to assure their regularity and continuity. They shall prepare minutes of each meeting which will be transmitted through the Chief, Division of Social Services to the National Oversight Committee.

(2) Responsibilities of the Area CPT. The Area CPT are charged with the following duties:

(a) Providing General Oversight of the Local CPT. The specific oversight activities of the Area CPT are as follows:

(i) Review local CPT plans in the Area for their completeness.

(ii) Make suggestions regarding improvements local CPT's may wish to make in their local plans.

(iii) Monitor local CPT activities to determine whether they are appropriate, timely, efficient, and effective.

(iv) Collect local CPT data, as required by 66 BIAM 10.25G(3)(m), and submit it to the Division of Social Services.

(v) Develop and submit annual reports to the Division of Social Services, to be transmitted to the National Oversight Committee, which includes the following:

(a) A comprehensive summary and assessment of the status of CPT activities on both local and Area levels.

(b) Identification of the strengths and weaknesses of the local CPT.

(c) A discussion of the effectiveness of the Area and local CPT.

(d) Recommendations for improvements at the local, Area, and national level.

(b) Facilitating Local CPT Activities. The Area CPT shall be ready to respond and take action where needed to improve the overall delivery system to children and families and to facilitate the functioning of the local CPT activities. Specific actions shall include:

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(i) Based on identified needs and weaknesses, recommend appropriate corrective actions to local CPT.

(ii) To the extent possible, assist local CPT in obtaining adequate resources for their operations.

(iii) Coordinate local CPT activities with national and regional resources, programs, and professional organizations.

(iv) Communicate changes in national policy to local CPT's.

(c) Providing Technical Assistance. At the request of the tribes or Agency Superintendents, the Area CPT shall serve as a resource by providing training and technical assistance to Area and Agency staff and to tribes on programs, services, and developments in the child protection field. The Area teams shall be prepared to provide the technical guidance and consultation to Agency and tribal personnel charged with the responsibility for the child protection programs in order to maintain conformity with established policies, standards, and procedures. Specific duties include:

(i) Developing Area policies for local CPT which would specifically address the jurisdictional and service provision issues which may be peculiar to certain localities.

(ii) Identifying effective CPT models developed in other areas and assisting local CPT's in adapting these models.

(iii) Identifying local CPT training needs and, if possible, providing available training resources.

(iv) Providing appropriate expertise and skills to local CPT's.

(3) Plan of Operation for Area CPT. Each Area CPT shall develop a written plan of operation that has the concurrence of the Area Director on the following items:

(a) Identifying membership.

(b) Meeting dates.

(c) Responsibilities and duties of the members.

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(d) Timelines for obtaining feedback from local CPT.

(e) Specification of review and monitoring activities of BIA/IHS agencies.

(f) Data collection.

L. Implementation Strategy for Area CPT. In a fashion similar to the strategy proposed for the local CPT's, each Area CPT shall develop an implementation strategy which contains the following essential components:

- (1) Steering committee.
- (2) Mission statement.
- (3) Interagency agreements.
- (4) Written procedures.

M. Review of Activities.

(1) Self Review. Each Area CPT shall develop a method to review its own activities in relation to its overall purpose of providing oversight and policy direction to the local CPT. Its activities shall be measured against its own plan of operation to determine if the CPT's activities are directly related to its overall mission to improve the delivery system for child protection.

(2) Review of Local CPT. In addition to its self review, the Area CPT shall develop an annual plan which coordinates site visits of the local CPT, including a complete assessment and review based on the local CPT plan of operation. The information gained through these local reviews will provide an opportunity for the Area CPT to provide troubleshooting for the local CPT, technical assistance to correct any problems which may arise, and to provide a basis for the annual evaluation of local and Area activities to be submitted to the National Oversight Committee, through the Division of Social Services.

N. Establishment of National Oversight Committee. The Assistant Secretary - Indian Affairs and the Director, IHS shall appoint members to a BIA/IHS National Child Protection Oversight Committee (Committee) for Child Protection to review and analyze the effectiveness of CPT. The purpose of the Committee is to promote interagency cooperation, advise on policies and procedures, provide technical assistance and consultation to BIA, IHS, and tribal child

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protection workers, and to promote tribal and community involvement in child protection matters.

O. Committee Procedures.

(1) Organizational Framework.

(a) Membership. The membership of the National Committee shall reflect the disciplines involved in child protection at the local and Area levels. The Assistant Secretary - Indian Affairs will appoint a maximum of six program managers who are responsible on a daily basis for child welfare services, judicial services, law enforcement, alcohol and substance abuse services, and educational services. In coordination with IHS, the Assistant Secretary - Indian Affairs may request additional participation from the Department of the Interior, and other Federal agencies, including Department of Justice and the Department of Health and Human Services. The Assistant Secretary - Indian Affairs may request field representation from the various disciplines and tribal organizations involved in child protection services.

(b) Administration. The BIA members of the Committee will designate the BIA's co-chairman of the Committee. The BIA Central Office Child Protection Coordinator will be responsible for arranging with IHS for agendas and for periodic and special meetings of the Committee. At a minimum, the Committee will meet quarterly and will maintain minutes of each meeting to be distributed to each Area CPT.

(2) Committee Responsibilities.

(a) Monitor. The Committee shall establish procedures to monitor reports of child abuse and neglect transmitted to the Division of Social Services from the Local CPT and to the Law Enforcement Services Central Registry. The data should be reviewed for the following reasons:

(i) To monitor compliance with legal mandates and agency policies and procedures.

(ii) To gather information in a uniform manner to facilitate management planning by providing statistical data on the characteristics of reported cases, the response of the agency to these reports, and the outcomes for children and families.

(iii) To obtain agency statistical information to ascertain the incidence of child abuse and neglect in order to influence public policy and legislation and obtain adequate resources for children and families.

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(b) Reviews of Child Protection Activities. Each fiscal year, the Committee shall establish a plan which will provide for the review of child protection activities in all Areas. Reviews shall be made by various members of the Committee in coordination with Area IHS and BIA personnel and with tribal authorities. These reviews shall, at a minimum, be structured to meet the following objectives:

(i) To learn Area strengths and successes in child protection.

(ii) To become acquainted with weaknesses or barriers in the Area so that Central Office/Headquarters support of child protection activities can be enhanced.

(iii) To develop an annual report of the findings and recommendations of the reviews to the Director, IHS, and the Assistant Secretary - Indian Affairs.

(iv) To assist and monitor the implementation of recommendations and corrective action plans.

(c) Recommend Policies and Procedures. The Committee shall recommend policies and procedures to be implemented at local, Area, and Central Office levels, to promote prevention and education, to ensure that children are protected and to obtain effective services for victims. The Committee shall recommend policies and procedures for services for offenders.

(d) Provide Coordination. The Committee shall promote, initiate, and maintain intra/interagency coordination including identification of responsibilities and child protection resources among tribal, local, county, state, and relevant offices within IHS and BIA Federal agencies.

(e) Establish Objectives. The Committee shall adopt work objectives with assigned responsibilities. Progress in meeting these objectives shall be regularly reviewed and revised by the Committee.

(3) Plan of Operation. The Committee shall develop a written plan of operation that has the concurrence of the Assistant Secretary - Indian Affairs and the Director, IHS, on the following items:

(a) Identifying membership.

(b) Meeting dates.

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- (c) Responsibilities and duties of the members.
- (d) Timelines for obtaining and providing feedback to the local CPT transmitted through the Area.
- (e) Specification of review and monitoring activities of BIA/IHS agencies.

P. Implementation Strategy. In a fashion similar to the strategy proposed for the local and Area CPT, the Committee will review the bylaws under which it is currently operating to assure that there is an agreement as to the whether the following essential components are covered by the bylaws:

- (1) Membership.
- (2) Mission statement.
- (3) Interagency agreements.
- (4) Written procedures.

Q. Review of Activities.

(1) The Committee shall review its own activities in relation to its overall purpose of reviewing and analyzing the effectiveness of the CPT effort. Its activities should be measured against its own plan of operation to determine if the Committee's activities are directly related to its overall mission to improve the delivery system for child protection. The BIA members of the Committee will provide periodic reports to the Assistant Secretary - Indian Affairs as to its activities and objectives.

(2) In addition to its self-review, the Committee shall develop an annual plan which would coordinate site visits with Area CPT which would include a complete assessment and review based on the Area CPT plan of operation. The information gained through these Area reviews will provide an opportunity for the Committee to develop any initiatives or proposals on items requiring special attention. The BIA members of the Committee will assist in developing an annual report to the Assistant Secretary - Indian Affairs which will incorporate information received from all local, Area, and Committee reports and reviews.