

the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management ensures proper and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The quality and adequacy of the applicant's plan to use its resources (including funding, facilities, equipment, and supplies) and personnel to achieve each objective;

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disability; and

(6) A clear description of how the applicant will provide equal access to services for eligible project participants who are members of groups that have been traditionally under-represented, including—

(i) Members of racial or ethnic minority groups;

(ii) Women;

(iii) Elderly individuals; and

(iv) Children and youth.

(h) *Involvement of individuals with significant disabilities* (5 points). (1) The Secretary reviews each application for information that shows that individuals with significant disabilities are appropriately involved in the development of the application.

(2) The Secretary looks for information that shows that individuals with significant disabilities or their parents, guardians, or other legally authorized advocates or representatives, as appropriate, will be substantially involved in planning, policy direction, and management of the center, and, to the greatest extent possible, that individuals with significant disabilities will be employed by the center.

(Approved by the Office of Management and Budget under control number 1820-0018)

(Authority: 29 U.S.C. 796f-1(d)(2)(B))

**§ 366.28 Under what circumstances may the Secretary award a grant to a center in one State to serve individuals in another State?**

(a) The Secretary may use funds from the allotment of one State to award a grant to a center located in a bordering State if the Secretary determines that the proposal of the out-of-State center to serve individuals with significant disabilities who reside in the bordering State is consistent with the State plan of the State in which these individuals reside.

(b) An applicant shall submit documentation demonstrating that the arrangements described in paragraph (a) of this section are consistent with the State plan of the State in which the individuals reside.

(Approved by the Office of Management and Budget under control number 1820-0018)

(Authority: 29 U.S.C. 711(c) and 796f (c) and (d))

**Subpart D—Grants to Centers in States in Which State Funding Equals or Exceeds Federal Funding**

**DETERMINING WHETHER STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING**

**§ 366.29 When may the Director of the designated State unit (DSU) award grants to centers?**

(a) The Director of the DSU (Director) may award grants under section 723 of the Act and this subpart to centers located within the State or in a bordering State in a fiscal year if—

(1) The Director submits to the Secretary and obtains approval of an application to award grants for that fiscal year under section 723 of the Act and § 366.32 (a) and (b); and

(2) The Secretary determines that the amount of State funds that were earmarked by the State to support the general operation of centers meeting the requirements of part C of chapter 1 of title VII of the Act in the second fiscal year preceding the fiscal year for which the application is submitted equaled or exceeded the amount of funds allotted to the State under section 721 (c) and (d) of the Act (or part B of title VII of the Act as in effect on

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October 28, 1992) for that preceding fiscal year.

(b) For purposes of section 723(a)(1)(A)(iii) of the Act and this subpart, the second fiscal year preceding the fiscal year for which the State submits an application to administer the CIL program is considered the "preceding fiscal year." *Example:* If FY 1995 is the fiscal year for which the State submits an application to administer the CIL program under this subpart, FY 1993 is the "preceding fiscal year." In determining the "preceding fiscal year" under this subpart, the Secretary makes any adjustments necessary to accommodate a State's multi-year funding cycle or fiscal year that does not coincide with the Federal fiscal year.

(Approved by the Office of Management and Budget under control number 1820-0018)

(Authority: 29 U.S.C. 796f-2(a)(3))

**§ 366.30 What are earmarked funds?**

(a) For purposes of this subpart, the amount of State funds that were earmarked by a State to support the general operation of centers does not include—

- (1) Federal funds used for the general operation of centers;
- (2) State funds used to purchase specific services from a center, including State funds used for grants or contracts to procure or purchase personal assistance services or particular types of skills training;
- (3) State attendant care funds; or
- (4) Social Security Administration reimbursement funds.

(b) For purposes of this subpart, *earmarked funds* means funds appropriated by the State and expressly or clearly identified as State expenditures in the relevant fiscal year for the sole purpose of funding the general operation of centers.

(Authority: 29 U.S.C. 711(c) and 796f-2(a)(1)(A))

**§ 366.31 What happens if the amount of earmarked funds does not equal or exceed the amount of Federal funds for a preceding fiscal year?**

If the State submits an application to administer the CIL program under section 723 of the Act and this subpart

for a fiscal year, but did not earmark the amount of State funds required by § 366.29(a)(2) in the preceding fiscal year, the State shall be ineligible to make grants under section 723 of the Act and this subpart after the end of the fiscal year succeeding the preceding fiscal year and for each succeeding fiscal year.

*Example:* A State meets the earmarking requirement in FY 1994. It also meets this requirement in FY 1995. However, in reviewing the State's application to administer the CIL program in FY 1998, the Secretary determines that the State failed to meet the earmarking requirement in FY 1996. The State may continue to award grants in FY 1997 but may not do so in FY 1998 and succeeding fiscal years.

(Authority: 29 U.S.C. 796f-2(a)(1)(B))

**AWARDING GRANTS**

**§ 366.32 Under what circumstances may the DSU make grants?**

(a) To be eligible to award grants under this subpart and to carry out section 723 of the Act for a fiscal year, the Director must submit to the Secretary for approval an application at the time and in the manner that the Secretary may require and that includes, at a minimum—

(1) Information demonstrating that the amount of funds earmarked by the State for the general operation of centers meets the requirements in § 366.29(a)(1); and

(2) A summary of the annual performance reports submitted to the Director from centers in accordance with § 366.50(n).

(b) If the amount of funds earmarked by the State for the general operation of centers meets the requirements in § 366.29(a)(1), the Secretary approves the application and designates the Director to award the grants and carry out section 723 of the Act.

(c) If the Secretary designates the Director to award grants and carry out section 723 of the Act under paragraph (b) of this section, the Director makes grants to eligible agencies in a State, as described in § 366.2, for a fiscal year from the amount of funds allotted to the State under section 721(c) and (d) of the Act.