

1302.11 Selection among applicants to replace grantee.

**Subpart C—Change in Grantee Requiring Amendment of Approved Application or Replacement of Head Start Program**

1302.20 Grantee to show both legal status and financial viability.

1302.21 Grantee shows legal status but not financial viability.

1302.22 Suspension or termination of grantee which shows financial viability but not legal status.

1302.23 Suspension or termination of grantee which shows legal status but not financial viability.

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**Subpart D—Replacement of Indian Tribal Grantees**

1302.30 Procedure for identification of alternative agency.

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1302.32 Alternative agency—prohibition.

AUTHORITY: 42 U.S.C. 9801 *et seq.*

SOURCE: 44 FR 24062, Apr. 24, 1979, unless otherwise noted.

**Subpart A—General**

**§ 1302.1 Purpose and scope.**

The purpose of this part is to set forth policies and procedures for the selection, initial funding and refunding of Head Start grantees and for the selection of replacement grantees in the event of the voluntary or involuntary termination, or denial of refunding, of Head Start programs. It particularly provides for consideration of the need for selection of a replacement grantee where the continuing eligibility (legal status) and fiscal capability (financial viability) of a grantee to operate a Head Start program is cast in doubt by the cessation of funding under section 519 of the Act or by the occurrence of some other major change. It is intended that Head Start programs be administered effectively and responsibly; that applicants to administer programs receive fair and equitable consideration; and that the legal rights of current Head Start grantees be fully protected.

**§ 1302.2 Definitions.**

As used in this part—

*Act* means Title V of The Economic Opportunity Act of 1964, as amended.

*Approvable application* means an application for a Head Start program, either as an initial application or as an application to amend an approved application governing an on-going Head Start program, which, in addition to showing that the applicant has legal status and financial viability, provides for comprehensive services for children and families and for effective and responsible administration which are in conformity with the Act and applicable regulations, the Head Start Manual and Head Start policies.

*Community action agency* means a public or private nonprofit agency or organization designated as a community action agency by the Director of the Community Services Administration pursuant to section 210(a) or section 210(d) of the Act.

*Community action program* means a program operated by a community action agency.

*Financial viability* means the capability of an applicant or the continuing capability of a grantee to furnish the non-Federal share of the cost of operating an approvable or approved Head Start program.

*Head Start grantee or grantee* means a public or private nonprofit agency or organization whose application to operate a Head Start program pursuant to section 514 of the Act has been approved by the responsible HHS official.

*Indian tribe* means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (c)) or established pursuant to such Act (43 U.S.C. 1601 *et seq.*) that is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

*Legal status* means the existence of an applicant or grantee as a public agency or organization under the law of the State in which it is located, or existence as a private nonprofit agency or organization as a legal entity recognized under the law of the State in

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which it is located. Existence as a private non-profit agency or organization may be established under applicable State or Federal law.

*Responsible HHS official* means the official of the Department of Health and Human Services who has authority to make grants under the Act.

[44 FR 24062, Apr. 24, 1979, as amended at 63 FR 34329, June 24, 1998]

### § 1302.3 Consultation with public officials and consumers.

Responsible HHS officials will consult with Governors, or their representatives, appropriate local general purpose government officials, and Head Start Policy Council and other appropriate representatives of communities to be served on the proposed replacement of Head Start grantees.

### § 1302.4 Transfer of unexpended balances.

When replacing a grantee, unexpended balances of funds in the possession of such grantee in the fiscal year following the fiscal year for which the funds were appropriated may be transferred to the replacement grantee if the approved application of the replacement grantee provides for the continuation of the Head Start services without significant change to the same enrollees and their parents and undertakes to offer employment to the staff of the terminating grantee. A letter of concurrence in the change should be obtained from the terminating grantee whenever possible.

### § 1302.5 Notice for show cause and hearing.

(a) Except in emergency situations, the responsible HHS official will not suspend financial assistance under the Act unless the grantee has been given an opportunity, in accordance with part 1303, subpart D, of this chapter, to show cause why such action should not be taken.

(b) The responsible HHS official will not terminate a grant, suspend a grant for longer than 30 days, or deny refunding to a grantee, unless the grantee has been given an opportunity for a hearing in accordance with part 1303 of this chapter.

## 45 CFR Ch. XIII (10-1-07 Edition)

### Subpart B—Bases for Selection of Grantees

#### § 1302.10 Selection among applicants.

(a) The basis for selection of applicants proposing to operate a Head Start program will be the extent to which the applicants demonstrate in their application the most effective Head Start program.

(b) In addition to the applicable criteria at section 641(d) of the Head Start Act, the criteria for selection will include:

(1) The cost effectiveness of the proposed program;

(2) The qualifications and experience of the applicant and the applicant's staff in planning, organizing and providing comprehensive child development services at the community level, including the administrative and fiscal capability of the applicant to administer all Head Start programs carried out in the designated service area;

(3) The quality of the proposed program as indicated by adherence to or evidence of the intent and capability to adhere to Head Start Performance Standards (in 45 CFR part 1304) and program policies, including the opportunities provided for employment of target area residents and career development for paraprofessional and other staff and provisions made for the direct participation of parents in the planning, conduct and administration of the program;

(4) The proposed program design and option including the suitability of facilities and equipment proposed to be used in carrying out the program, as it relates to community needs and as the applicant proposes to implement the program in accordance with program policies and regulations; and

(5) The need for Head Start services in the community served by the applicant.

[57 FR 41887, Sept. 14, 1992]

#### § 1302.11 Selection among applicants to replace grantee.

The bases for making a selection among applicants which submit approvable applications to replace a grantee, in addition to the basis in § 1302.10 of this part, shall be: