

**SUPPLEMENTARY INFORMATION:** The text of Formal Interpretation Number 16 is set out below:

### Formal Interpretation Number 16

Formal Interpretation Pursuant to § 803.30 of the Premerger Notification Rules, 16 CFR § 803.30, Concerning the Number of Original Affidavits and Certification Pages Which Must Accompany a Premerger Notification Filing.

This is a Formal Interpretation pursuant to § 803.30 of the Premerger Notification Rules ("the rules"). The rules implement section 7A of the Clayton Act, 15 U.S.C. 18a, which was added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("the act"). The act requires the parties to certain acquisitions of voting securities or assets to notify the FTC and the DOJ and to wait a specified period of time before consummating the transaction. The purpose of the act and the rules is to ensure that such transactions receive meaningful scrutiny under the antitrust laws, with the possibility of an effective remedy for violations, before consummation.

The act states that "no person shall acquire \* \* \* any voting securities or assets of any other person, unless both persons (or in the case of a tender offer, the acquiring person) file notification pursuant to rules under subsection (d)(1) of this section \* \* \*." Section 803.1(a) of the rules states that the notification required by the act is the completed Antitrust Improvements Act Notification and Report For Certain Mergers and Acquisitions ("the form"), 16 CFR part 803—Appendix.

Section 803.5(a) of the rules requires that "\* \* \* (f)or acquisitions to which § 801.30 applies, the notification required by the act from each acquiring person shall contain an affidavit, attached to the front of the notification, attesting (that the acquired person has been notified of certain facts about the proposed transaction, that the reporting person has a good faith intention to make the acquisition, and, in the case of a tender offer, that the intention to make a tender offer has been publicly announced)." Section 803.5(b) requires that "\* \* \* (f)or acquisitions to which Section 801.30 does not apply, the notification required by the act shall contain an affidavit \* \* \* attesting that a contract, agreement in principal or letter of intent to merge or acquire has been executed, and \* \* \* to the good faith intention of the person filing notification to complete the transaction." Section 803.6(a) of the rules states that "The notification

required by the act shall be certified \* \* \*."

One of the primary purposes of these requirements—particularly that of certification—is to preserve the evidentiary value of the filing. The Statement of Basis and Purpose ("SBP") for § 803.6 states that "\* \* \* the certification is intended to estop the person on whose behalf the report is filed from later denying the completeness or accuracy of the information provided on the form in the event that either enforcement agency seeks to introduce any such information into evidence in any proceeding." 43 FR 33511 (July 31, 1978). The certification requirement is also intended to place responsibility on an individual to ensure that information reported is true, correct, and complete and that the form is filled out in accordance with the act and the rules. *Id.*

The affidavit requirement is intended to ensure that several important prerequisites are met before the review process begins. Thus the acquiring person must attest that it has made certain disclosures about the proposed transaction to the acquired person so the acquired person has knowledge of its obligation to file. *Id.* at 33510. In consensual transactions, the parties must also attest that a contract, letter of intent, or agreement in principal has been executed. *Id.* Its contents also ensure that the parties intend to consummate the acquisition and are not using the notification process to vet a purely hypothetical transaction with the agencies. *Id.* at 33511.

The Instructions to the form state that each person filing notification must "(c)omplete and return two notarized copies (with one set of documentary attachments) of (the form) to (the PNO) \* \* \* and three notarized copies (with two sets of documentary attachments) to (the DOJ) \* \* \*." The PNO has interpreted the instructions to require that each certification be originally signed and notarized and that each of the required affidavits also be originally signed and notarized. This has resulted in each party's submission to the enforcement agencies in a non-§ 801.30 transaction and acquiring persons' filings in non-§ 801.30 transactions having ten original signatures and ten original notarizations (five on the affidavits and five on the certifications). Acquired persons' filings in § 801.30 transactions must have five originally signed and notarized certifications.

The PNO has determined that multiple original signatures and notarizations, while not a great burden, is not a negligible one. Accordingly, the PNO has decided to modify its position

on the necessity for original signatures and notarizations with premerger notification filings. From now on, filing persons need supply only one original signed and notarized affidavit (if required) and one original signed and notarized certification with one of the two copies of the form submitted to the FTC. The affidavits and certifications accompanying the other copies of the form may be copies of these originals. A copy is acceptable if the signature and notarization (including the embossed notary seal, if required in the jurisdiction of notarization) are clearly visible. Likewise, a person required to re-certify an amended filing because the original was deficient may submit one original certification and four copies with the new information.

This Formal Interpretation affects only the number of original signatures and notarizations which must accompany premerger notification filings. It does not change the affidavit or certification requirements themselves, who may sign the affidavit and certification, or the number of copies of the form and documentary attachments which must be provided. It also remains the case that any filing person, United States of foreign, can swear or affirm under penalty of perjury under the laws of the United States pursuant to 28 U.S.C. 1746 in lieu of notarization.

**Donald S. Clark,**

*Secretary.*

[FR Doc 99-24903 Filed 9-23-99; 8:45 am]

BILLING CODE 6750-01-M

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## GENERAL ACCOUNTING OFFICE

### Advisory Council on Government Auditing Standards; Notice of Meeting

The Advisory Council on Government Auditing Standards will meet Monday, October 18, 1999, from 8:30 a.m. to 4:30 p.m. and Tuesday, October 19, 1999, from 8:30 a.m. to 11:30 a.m., in room 7C13 of the General Accounting Office building, 441 G Street, NW., Washington, DC.

The Advisory Council on Government Auditing Standards will hold a meeting to discuss issues that may impact government auditing standards. Any interested person may attend the meeting as an observer. Council discussions and reviews are open to the public.

**FOR FURTHER INFORMATION CONTACT:**  
Marcia Buchanan, Assistant Director,

Government Auditing Standards, AIMD, 202-512-9321.

**Marcia B. Buchanan,**  
Assistant Director.

[FR Doc. 99-24965 Filed 9-23-99; 8:45 am]

BILLING CODE 1610-02-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

[Program Announcement No. ACF/ACYF/HS-FY 2000-01]

### Fiscal Year 2000 Discretionary Announcement for Select Areas of Early Head Start; Availability of Funds and Request for Applications

**AGENCY:** Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), DHHS.

**ACTION:** Notice.

**SUMMARY:** The Administration on Children, Youth and Families announces financial assistance to be competitively awarded to local public and private entities—including Early Head Start and Head Start grantees—to provide child and family development services for low-income families with children under age three and pregnant women. Early Head Start programs provide early, continuous, intensive and comprehensive child development and family support services on a year-round basis to low-income families. The purpose of the Early Head Start program is to enhance children's physical, social, emotional, and intellectual development; to support parents' efforts to fulfill their parental roles; and to help parents move toward self-sufficiency.

The funds available will be competitively awarded to eligible applicants to operate Early Head Start programs in select service areas.

Grants will be competitively awarded to eligible applicants, including current Head Start and Early Head Start grantees, to operate Early Head Start programs in geographic areas currently served by existing Early Head Start grantees which were first funded in fiscal year 1995 (see list below for the geographic areas). In awarding these grants, ACYF is interested in assuring that communities currently served by these existing grantees will have an opportunity to continue receiving services to low-income families with infants and toddlers and pregnant women through Early Head Start. Applicants in each geographic area will

compete for funds against other applicants wishing to serve the same geographic area. There are 49 such competitive areas.

**DATES:** The closing date and time for receipt of applications is 5:00 p.m. EDT on November 23, 1999.

**FOR FURTHER INFORMATION CONTACT:** A copy of the program announcement and necessary application forms can be obtained by contacting: Early Head Start, ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209, The telephone number is 1-800-351-2293. Copies of the program announcement can be downloaded from the Head Start web site at: [www.acf.dhhs.gov/programs/hsb](http://www.acf.dhhs.gov/programs/hsb).

#### SUPPLEMENTARY INFORMATION:

#### Eligible Applicants

Applicants eligible to apply to become an Early Head Start program are local public and local non-profit and for-profit private entities. Local Early Head Start and Head Start grantees are eligible to apply.

#### Project Duration

The competitive awards made through this announcement will be for one-year budget periods and an indefinite project period. Subsequent year budget awards will be made non-competitively, subject to availability of funds and the continued satisfactory performance of the applicant.

#### Federal Share of Project Costs

Grantees that operate Early Head Start programs must, in most instances, provide a non-Federal contribution of at least 20 percent of the total approved costs of the project.

#### Available Funds

See the list below for the approximate amount of funds available for each geographic area.

#### Anticipated Number of Projects To Be Funded

It is estimated that there will be at least one award for each geographic area (49 geographic areas).

**Statutory Authority:** The Head Start Act, as amended, 42 U.S.C. 9831 *et seq.*

*Catalog of Federal Domestic Assistance:* Number 93.600, Head Start.

Dated: September 20, 1999.

**Patricia Montoya,**  
Commissioner, Administration on Children, Youth and Families.

#### Early Head Start Select Service Areas

The following are general descriptions of the service areas (geographic areas) to

be competed with approximated boundaries. The approximate funds available for each competition are indicated in parentheses.

#### Region I

1. Belknap County in New Hampshire (\$465,000)
2. Strafford County in New Hampshire (\$361,000)
3. Washington, Lamoille & Orange Counties in Vermont (\$658,000)

#### Region II

4. In Newark, New Jersey: Central Ward; West Ward; North Ward (Verona Avenue to Orange Street and Lake Street to McCarter Highway); and Bakery Village (\$1,022,000)
5. Warren and Sussex Counties in New Jersey (\$655,000)
6. Chautauqua County in New York (\$729,000)
7. Fort Greene in Brooklyn in New York (\$1,329,000)
8. Dutchess County in New York (\$795,000)
9. City of Syracuse and surrounding areas in New York (\$1,352,000)
10. Cantera in Municipality of San Juan; Cucharillas in Municipality of Catano; Las Flores in Municipality of Coamo; Brenas, Muachauchal and Santa Ana in Municipality of Vega Alta in Puerto Rico (\$1,384,000)
11. The Municipalities of Canovanas, Rio Grande, Loiza, Ceiba and Junco in Puerto Rico (\$2,514,000)

#### Region III

12. In Washington, DC: In Ward One an area bounded on the Northeast by Spring Road, on the Northwest by Piney Branch Parkway, on the East by Michigan Avenue and Florida Avenue, on the Southeast by S Street, and on the West by Rock Creek; in Ward Two an area bounded on the Northeast by New Jersey Avenue, Florida Avenue and S Street, on the Northwest by Florida Avenue, on the East by Florida Avenue and Southwest Freeway, on the Southeast by the Anacostia River, and on the West by the Potomac River; in Ward Four an area bounded on the Northeast by Eastern Avenue, on the Northwest by Western Avenue, on the Southeast by Michigan Avenue, and on the Southwest by Rock Creek; and in Ward Five an area bounded on the Northeast by Eastern Avenue, on the Northwest by South Dakota, on the Southeast by the Anacostia River, on the Southwest by Florida Avenue and on the West by Harewood Road (\$1,101,000)