The Department of Health and Human Services (DHHS) will use this information to respond to Congressional requests for current data on children in foster care or who have been adopted, and to respond to questions and requests from other Departments and agencies, including the General Accounting Office, the Office of Management and Budget (OMB), the DHHS Office of Inspector General, national advocacy organizations, States and other interested organizations.

III. Program Description

Title IV–B, Subpart 1, of the Social Security Act (the Act), the Child Welfare Services program, is a formula grant program. Each State receives grants during the year representing its allotment. The grants provide States with Federal support for a wide variety of State child welfare services including: Preplacement preventive services to strengthen families and avoid placement of children; services to prevent abuse and neglect; foster care and adoption services; and certain protections for children in foster care. Title IV–B, Subpart 2, Family Preservation and Support Services, is an entitlement program which encourages and enables each State to develop and establish or expand, and to operate a program of family preservation services and community based family support services. Funds under both subparts of title IV-B can be used to provide services regardless of the income of the families and children who are in need of such services.

Title IV-E of the Act is an entitlement program which authorizes Federal financial participation (FFP) in the costs of State foster care maintenance and adoption assistance payments. Federal matching of State foster care maintenance payments is available for children in foster care who meet certain eligibility criteria that are based, in part, on the child's eligibility under the Aid to Families With Dependent Children (AFDC) program. The adotpion assistance program under title IV-E is designed to assist States in placing "special needs" children with adoptive families through the provision of an adoption assistance payment. In order to be eligible for this program, a child must be eligible for AFDC, title IV-E foster care or Supplemental Security Income for the Blind and Disabled (SSI) and must meet the statutory definition of "a child with special needs" according to section 473(c) of the Act. Title IV-E of the Act is the major single source of Federal support for foster care and adoption assistance payments. However, over half the funds for adoption and

foster care and half the children are supported by State and local governments and private sector.

According to State agency information gathered by the American Public Welfare Association (APWA) under the Voluntary Cooperative Information System (VICS), there were approximately 444,000 children in foster care on the last day of 1993.

In 1990, the most recent year for which data have been analyzed, approximately 407,000 children were in foster care. Of these children, approximately 69,000 had a plan for adoption and approximately 20,000 had parental rights terminated or relinquished and were waiting for adoptive homes.

IV. Legislation Establishing New Data Collection Requirements

Section 9943 of the Omnibus Budget Reconciliation Act (OBRA) of 1986 (Pub. L. 99-509) amended title IV-E of the Social Security Act by adding section 479. This section directs the Secretary to promulgate regulations for the implementation of a system to collect data relating to adoption and foster care in the United States. On December 22, 1993, the Department published the AFCARS final rule which requires that State agencies administering or supervising the administration of titles IV-B and IV-E of the Act implement data collection systems and report semi-annually on data elements set forth in the final rule.

Page 67917 of the preamble to the AFCARS final rule, announced the Department's intention to add a foster care financial data element to the appendices of the AFCARS regulation. This data element will indicate the total monthly amount of foster care benefit paid on behalf of each child in foster care. At that time the Department urged interested parties to comment on this intention so that expressed concerns and comments could be taken into account in the development of the data element. Two letters (both from State agencies) were received in response to the final rule's request for comments on this matter.

States should begin submitting the monthly foster care payment information with their submittal for the fourth AFCARS reporting period, April 1, 1996–September 30, 1996.

V. Discussion of Comments and the Development's Response Part 1355— General

Section 1355.40 Foster care and adoption data collection. The letters from the State agencies related primarily to the usefulness of the financial information and how States are to report it.

Comment: One comment was that the request for such information appears duplicative in light of the information submitted by the States in accordance with the ACYF–PI–92–11, issued on August 21, 1992.

Response: Although the data is similar, the Program Instruction requires States submittal of quarterly financial data with a submitted monthly average number of children for the quarter. The AFCARS financial data element will, for the first time, allow for the analysis of a payment per child in foster care, unlike the current average dollars per child based on an average monthly number of children. The result is the opportunity to develop demographic profiles of children and the specific payments each receives. This information can result in more comprehensive cost projections for children meeting particular demographic profiles during their foster care episodes.

Comment: Given that AFCARS' reporting frequency is semi-annual, how would monthly amounts be reflected?

Response: Monthly amounts would be reflected in the most recent full monthly payment made on behalf of the child during the report period.

Comment: Why is this information necessary on a per child basis, since the information can be calculated using the Federal Medical Assistance Percentage (FMAP) rate?

Response: The information is being requested on title IV–E and non IV–E children; therefore the FMAP is not always applicable. The information on a per child basis can be useful in a number of ways, such as:

• Examining costs per placement setting type; and

• Examining costs per child based on a child's demographic profile, more specifically, number of disabilities versus costs, age vs. costs, etc.

The understanding of costs as identified above are necessary for accurate cost projections.

Comment: Did you intend that this question would include the administrative and training dollars expended?

Response: No, only the maintenance dollars.

Comment: Is the data necessary for non-title IV–E children?

Response: Yes, all children as defined by the AFCARS reporting population.

Comment: For which classes of title IV–E children will the information be required?

Response: The information is required for all children in foster care (title IV–