

**U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY**

DEPARTMENTAL PERSONNEL MANUAL (DPM) SYSTEM

DPM LETTER NO. 792-1

DATE: March 19, 2002

SUBJECT: Childcare Tuition Assistance Program

I. General

- a. This DPM Letter outlines the basic requirements for use in the development of childcare tuition assistance programs within the U.S. Department of Transportation. All programs shall be developed with the intent of helping eligible employees afford quality childcare.

II. Authority

- a. In September 1999, Public Law 106-58, Section 643 was enacted by Congress, allowing Federal agencies to use appropriated funds to assist lower income employees with their childcare costs through September 30, 2000.
- b. Public Law 106-554, Section 633 extended the authority through September 30, 2001.
- c. Public Law 107-67, Section 630 signed on November 12, 2001 provides the permanent authority for Federal agencies to use appropriated funds to assist lower income employees with their childcare costs.
- d. This letter authorizes operating administrations and departmental offices to use available appropriated funds from salaries and expenses to assist lower income employees within the Department with their childcare costs.

III. Eligibility

- a. Employees within the Department who meet guidelines established by their respective operating administration or departmental office are eligible for this program.
- b. Eligible employees must have a child/children age 13 or under or have a child/children disabled and under age 18 in licensed childcare.

- c. The definition of a child for this program is:
- a biological child who lives with the Federal employee;
 - an adopted child;
 - a stepchild;
 - a foster child;
 - a child for whom a judicial determination of support has been obtained, or
 - a child of a non-custodial parent, who because of regular and substantial contributions is able to claim the child for income tax purposes.

IV. Policy

- a. The policy of the Department is to provide lower income DOT employees with childcare tuition assistance subsidies if they meet established criteria and their operating administration or departmental office is able to fund and administer such a program. The Department values the work of its employees and acknowledges that work/life programs assist in the accomplishment of the agency's mission. A childcare tuition assistance subsidy is a work/life benefit that can assist in ensuring that lower income employees are able to provide quality childcare for their children.
- b. Childcare tuition assistance subsidies will be available on a first-come-first-served basis up to the maximum amount allocated to the program by an organization. Employees applying for the program who are deemed eligible after all available funds have been dispersed will be placed on a waiting list until funds become available.
- c. Operating administrations and departmental offices will determine income thresholds and may establish other eligibility criteria for their employees.
- d. Total family income will be determined by referring to the adjusted gross income on Internal Revenue Service (IRS) Tax Return Form 1040 or IRS Tax Return Form 1040A.
- e. The amount an eligible employee may receive in childcare tuition assistance subsidies will be reduced by the amount of other state or local childcare subsidies received by the employee.
- f. If both parents are employees of the U.S. Department of Transportation, only one parent may apply for a childcare tuition assistance subsidy. Two employees cannot obtain assistance for the same qualifying child.
- g. If both parents are employees of Federal agencies that offer childcare tuition assistance subsidies, only one such subsidy may be used for each qualifying child.

-
- h. Childcare tuition assistance benefits may be implemented for bargaining unit employees only after appropriate labor relations obligations have been fulfilled.
 - i. Operating administrations and departmental offices are responsible for ensuring that childcare tuition assistance programs do not adversely impact the organization's mission.

V. System of Records

- a. All operating administrations and departmental offices will use the Office of Personnel Management (OPM) Forms 1643 and 1644 as their application forms for this program. A system notice has already been published for these forms.
- b. OPM Form 1643, Childcare Tuition Assistance Application Form, in Appendix A shall be used for the collection of information from employees. This form may be modified if necessary and after notification to the Departmental Program Manager.
- c. OPM Form 1644, Childcare Provider Information Form, in Appendix B shall be used for the collection of information from childcare providers. This form has been approved by the Office of Management and Budget and may not be modified.

VI. Notification to Congress

- a. Each operating administration and departmental office that chooses to implement a childcare tuition assistance program must prepare a notice to Congress. Appendix C is a sample Congressional notification memorandum.
- b. The completed Congressional notification is to be submitted to the Departmental Program Manager, Office of the Secretary, Departmental Office of Human Resource Management for review and clearance before submission to the appropriate congressional subcommittee.

VII. Program Administration

- a. Operating administrations and departmental offices may choose to administer the program themselves or contract with an outside organization for administration of the program. Appendix D provides a sample statement of work.

VIII. Tax Implications

- a. A Dependant Care Assistance Program (DCAP) will be created and implemented for the entire Department by the Departmental Program Manager. This will eliminate the requirement for each operating administration or departmental office to develop a DCAP as it determines to implement a program.
- b. The DCAP will allow a maximum of \$2,500 per year (if married, filing separately) or \$5,000 per year (if filing as a married couple, single person or head of household) of tax-free tuition assistance subsidies. All subsidies above the maximum identified will be considered taxable income.
- c. In order to qualify for tax exempt tuition assistance subsidies under the DCAP, the IRS requires the following:
 - Care must be for children under age 13 or children who are disabled and under age 18.
 - Both parents (or the sole parent in a single parent family) must work.
 - The DOT parent applying for assistance must be the parent entitled to the tax deduction for the child.
 - The DOT parent must be the custodial parent or have the most contact if there is a joint custody arrangement.
- d. Each operating administration or departmental office policy will encourage employees to contact their individual tax advisor for information as to how their taxes will be affected upon receiving childcare tuition assistance subsidies from the Department.

IX. Program Evaluation

- a. Each organization will include a method of evaluating its program. The evaluation will at a minimum include a review to determine if the income threshold is adequate and sufficient funding has been provided. Additionally, the review will determine if appropriate marketing efforts have been utilized to publicize the program to employees and to ensure employees are aware of the program and how it works. This information will be used to determine if programs need to be reevaluated and/or modified.

X. Contact Information

- a. Each operating administration and departmental office that implements a childcare tuition assistance program shall identify a program coordinator. The coordinator will, at a minimum, be responsible for addressing employee concerns, assisting employees with questions about the application process, marketing the program to employees within that organization and evaluating the program.

-
- b. The Departmental Program Manager for the Childcare Tuition Assistance Program is located in the Office of the Secretary, Departmental Office of Human Resource Management.



Mari Barr Santangelo
Director, Departmental Office of
Human Resource Management

Filing Instructions: File with Chapter 792 Letters

Distribution: Human Resource Council Members

OPI: OST/M-13/DeShawn Shepard/202-366-8085

Appendix A

Childcare Tuition Assistance Application Form

This form is to be completed by the parent.

OPM Form 1643
April 2000

Childcare Tuition Assistance Application Form Department X

The (insert name of organization administering the program) may contact the applicant to request clarification on the tuition assistance application. You must attach the following documents:

1. Pay statements for the most recent two pay periods for each parent or guardian;
2. A copy of your most recent Federal and State income tax returns;
3. A Childcare Provider Information Form (OPM Form 1644) completed by your provider; and
4. A copy of your childcare provider's most recent license or statement of compliance with State and/or local childcare regulations.

Applications that are not fully completed or do not contain the information listed below will not be processed and will be returned to the applicant. If you do not provide all of the information requested, you will not receive a tuition assistance award. When more than one parent works for the Federal Government, tuition assistance cannot be awarded for the child/children by more than one Federal agency.

Mother/guardian: _____ **Home Phone:** _____

Address: _____

Employer's Name and Address: _____

Work Phone: _____ **Grade (if Federal):** _____

Father/guardian: _____ **Home Phone:** _____

Address: _____

Employer's Name & Address: _____

Work Phone: _____ **Grade (if Federal):** _____

Application is being made for tuition assistance for:

Child: _____ Date of birth: _____

SSN: _____ Weekly tuition cost: _____

Enrolled now? _____ Will be enrolled? _____ Date of enrollment: _____

Childcare provider: _____

Address: _____

Phone: _____ Center-based care _____ Family childcare home _____

Child: _____ Date of birth: _____

SSN: _____ Weekly tuition cost: _____

Enrolled now? _____ Will be enrolled? _____ Date of enrollment: _____

Childcare provider: _____

Address: _____

Phone: _____ Center-based care _____ Family childcare home _____

Child: _____ Date of birth: _____

SSN: _____ Weekly tuition cost: _____

Enrolled now? _____ Will be enrolled? _____ Date of enrollment: _____

Childcare provider: _____

Address: _____

Phone: _____ Center-based care _____ Family childcare home _____

Child: _____ Date of birth: _____

SSN: _____ Weekly tuition cost: _____

Enrolled now? _____ Will be enrolled? _____ Date of enrollment: _____

Childcare provider: _____

Address: _____

Phone: _____ **Center-based care** _____ **Family childcare home** _____

Family Income:

Gross annual salary of mother or guardian: \$ _____

Gross annual salary of father or guardian: \$ _____

Total gross family income (as reported on most recent IRS tax return):

\$ _____

State/County/Local Subsidies:

Do you currently receive any tuition assistance from State/County/local childcare

subsidy funds? Yes _____ **No** _____ **If so, from what source?** _____

Address: _____

Contact person: _____

What is the weekly amount? \$ _____

**List the amount and name of each child for whom you receive the State/County/
Local subsidy:**

Name of child: _____ **Weekly subsidy amount: \$** _____

Name of child: _____ **Weekly subsidy amount: \$** _____

Name of child: _____ **Weekly subsidy amount: \$** _____

Name of child: _____ **Weekly subsidy amount: \$** _____

I/We state that everything we have stated in this application is true and correct to the best of our knowledge. I/We understand that failure to truthfully set forth this information could result in loss of tuition assistance from Department X. I/We further agree to inform _____ within 10 days if any of the
changes. I/We understand that application for tuition assistance is made on a first-come, first-served basis. I/We understand that failure to inform _____
of any changes in status may jeopardize our chances of receiving tuition assistance through Department X's tuition assistance program.

Signature of Mother/Guardian _____
Date _____

Signature of Father/Guardian _____
Date _____

Attached:

- 1. Pay statements for the most recent 2 pay periods for each parent or guardian.**
- 2. Most recent Federal and State income tax forms.**
- 3. A Childcare Provider Information Form (OPM Form 1644) completed by your provider.**
- 4. Provider's most recent license or statement of compliance with State and/or local regulations.**

Privacy Act Statement

Public Law 106-554, § 633 (September 29, 2000) confers regulatory authority on OPM for agency use of appropriated funds for childcare costs for lower income Federal employees. Public Law 104-134 (April 26, 1996) requires that any person doing business with the Federal Government furnish a Social Security Number or tax identification number. This is an amendment to title 31, Section 7701. The primary use of these Social Security Numbers will be for identification purposes in determining eligibility for childcare tuition assistance. In addition to all standard routine uses, the primary use of information regarding family income (copies of pay slips and tax returns), name of current childcare provider, copies of the provider's license, statement of compliance, and information about other childcare subsidies shall be used to determine eligibility for childcare tuition assistance. Disclosure of the above information is voluntary, but failure to provide all of the requested information may result in denial of your application.

Appendix B

Child Care Provider Information Form

This form is to be completed by the childcare provider.

**Child Care Provider Information For
Child Care Tuition Assistance Program for Federal Employees
Department of Transportation**

This information is requested by the Department of Transportation, (insert Operating Administration or Departmental Office) administrator for their Child Care Tuition Assistance Program to verify licensure and/or regulation status. Once you are notified by a Federal employee that they have submitted an application for childcare tuition assistance from their Federal agency, please complete this form and mail it to:

(Program Administrator Name and Address)

1. Child Care Provider

a. Name: _____

b. Address: _____

c. Check one: Family Child Care _____ Center-based Child Care _____

2. Organization(s) that licenses or regulates your child care program and the current expiration date of your license or regulatory approval:

a. Name _____ Date: _____

b. Name _____ Date: _____

*Attach your most recent license or other notification of approval to operate.

3. Children of Federal employees who have applied for tuition assistance:

Name _____ Weekly tuition: _____

Parent Names _____

Weekly subsidy amount from State or local governments: \$ _____

Name _____ Weekly tuition: _____

Parent Names _____

Weekly subsidy amount from State or local governments: \$ _____

To list additional children, use attached sheet.

I certify that the above statement is correct as I know it. I understand it is a Federal crime under USC, Title 18, section 1001, to make a false statement on this form. If I make a false statement, I may be subject to criminal prosecution and punishment including a fine, imprisonment, or both.

Signature of individual completing this form: _____

Name of individual completing this form: _____

Title: _____ Telephone: _____

Federal ID or SSN#: _____ Fax: _____

Date: _____

Remember to attach your most recent license, proof of license or other notification of approval to operate.

Privacy Act Statement:

Public Law 106-554, Section 633 (September 29, 2000) confers regulatory authority on OPM for agency use of appropriated funds for childcare costs for lower income Federal employees. Public Law 104-134 (April 26, 1996) requires that any person doing business with the Federal Government furnish a Social Security Number or tax identification number. This is an amendment to title 31, Section 7701. The primary use of these Social Security Numbers and tax identification numbers will be for identification purposes in assuring licensure and/or regulation compliance. This compliance is necessary for the purpose of determining Federal employee eligibility for childcare tuition assistance. Disclosure of the above information is voluntary, but failure to provide all of the requested information may result in denial of your application.

Public Burden Statement:

We think this form takes an average of 10 minutes to complete including the time for getting the needed data and reviewing both the instructions and completed form. Send comments regarding our estimate or any other aspect of this form, including suggestions for reducing completion time, to the Office of Personnel Management (OPM), Reports and Forms Manager, Paperwork Reduction (3206-0240), Washington, DC 20415-7900. The OMB Number, 3206-0240, is currently valid. OPM may not

collect this information, and you are not required to respond, unless this number is displayed.

3. Continuation

Children of Federal employees who have applied for tuition assistance:

Name _____ **Weekly tuition:** _____

Parent Names _____

Weekly subsidy amount from State or local governments: \$ _____

Name _____ **Weekly tuition:** _____

Parent Names _____

Weekly subsidy amount from State or local governments: \$ _____

Name _____ **Weekly tuition:** _____

Parent Names _____

Weekly subsidy amount from State or local governments: \$ _____

Name _____ **Weekly tuition:** _____

Parent Names _____

Weekly subsidy amount from State or local governments: \$ _____

Name _____ **Weekly tuition:** _____

Parent Names _____

Weekly subsidy amount from State or local governments: \$ _____

Name _____ **Weekly tuition:** _____

Parent Names _____

Weekly subsidy amount from State or local governments: \$ _____

This page may be photocopied if additional space is needed.

Appendix C

Sample Congressional Notification

---SAMPLE LETTER---

(Date)

The Honorable
Chairman, Subcommittee on
Committee on
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The U.S. Department of Transportation, (*indicate operating administration or departmental office*) has decided to use the authority provided by Section 633 of Public Law 106-554 to spend appropriated funds to assist our lower income employees with child care expenses. As required by the conference report accompanying Public Law 106-554, we hereby notify the Subcommittee that (*indicate operating administration or departmental office*) will obligate \$x for this purpose.

If I can be of further assistance, please contact me on (Head of Operating Administration or Departmental Office).

Sincerely,

Appendix D

Sample Statement of Work

I. BACKGROUND

The Agency is soliciting proposals from qualified organizations to administer the Agency's childcare tuition assistance program. Congress enacted Public Law 106-58, Sec. 643, on September 29, 1999. This legislation permits Federal agencies to administer a program to assist their lower income Federal employees with the costs of childcare. The contractor will administer the program on behalf of the agency for the period from the date of award through (*insert date*). Tuition assistance can reduce the amount of tuition parents pay for childcare by providing subsidies directly to the childcare provider. To be eligible to participate, a childcare provider must be a family childcare home or childcare center licensed and/or regulated by the State and/or local authorities (i.e., the provider must meet all requirements of its particular jurisdiction) where the service is provided.

II. REQUIREMENTS OVERVIEW

(Operating Administration or Departmental Office) requires a contractor to demonstrate it has the ability to effectively manage (Operating Administration or Departmental Office) childcare tuition assistance subsidy program. In responding to this RFP each offeror must submit a technical proposal that demonstrates its ability to perform the following services:

- A. Handle all administrative tasks associated with the tuition assistance program appropriately and efficiently.
- B. Help the Department of Transportation design publicity materials and make any necessary modifications to the agency's tuition assistance applications.
- C. Maintain confidentiality of all the information contained in the tuition assistance applications.
- D. Notify the parents and the childcare provider of the amount of the tuition assistance that each family will receive and the effective dates.
- E. Determine the eligibility of childcare providers to receive Federal funds (all must comply with all applicable licensing and other regulatory requirements) by:
 - (1) Requiring each childcare provider to submit a copy of any current license and any statement of compliance from any body charged with regulating that provider;
 - (2) Requiring childcare providers to submit their taxpayer identification numbers; and

- (3) Insuring that licensed childcare providers understand that if, for whatever reason, the provider is no longer licensed or subject to regulatory oversight or is not in compliance with applicable regulations, the provider will immediately notify the contractor and the Federal employee whose child is enrolled in the childcare program. In such cases, the provider will no longer be permitted to receive the tuition subsidy; and
- F. Review monthly invoices for the tuition assistance amounts from the childcare providers, and provide payment if appropriate, based on the invoiced amount no later than 30 calendar days after the date of the invoice. The contractor will pay the tuition assistance directly to the childcare provider, and not to the Federal employee.
 - (1) Insure that the childcare provider submits a written invoice, on a monthly basis, to the contractor.
 - (2) Tuition assistance will be quoted as weekly amounts and the invoices must be prepared using full week amounts unless the child leaves the program during a particular week.
- G. Provide the agency with monthly reports for tax purposes if payments do not qualify for the DCAP exclusion.

III. TUITION ASSISTANCE ELIGIBILITY AND DETERMINATION OF TUITION ASSISTANCE SUBSIDY AMOUNT

The contractor will issue quarterly reports to the Agency on the status of the Agency's tuition assistance program. Reports will contain the following information and will be due on the fifteenth day following the end of the quarter.

- A. The amount of tuition assistance disbursed in a given month;
- B. The number of children enrolled whose parents receive the tuition assistance subsidy;
- C. The number of Federal employees from the agency who qualified for a subsidy and who are receiving the subsidy;
- D. The total family income of each family that receives a tuition subsidy;
- E. The amount of the weekly tuition subsidy for each recipient;
- F. The name and address of each childcare provider that provides services for the tuition assistance recipients;
- G. The number of total applicants for the month;
- H. The number of applications in process;

- I. The number of new tuition assistance subsidies and the number of applicants who were ineligible;
- J. The number of applicants who were denied assistance due to lack of agency funds; and
- K. The remaining balance of the agency's funds.

IV. PROPOSAL SUBMISSION REQUIREMENTS

A. Technical Proposal

Offerors must submit an original and two copies of a technical proposal that demonstrates the approach they will use to provide all the services described in this statement of work. Additionally, offerors should include in their technical proposals information demonstrating they have experience in administering similar programs, and references to contact to determine their past performance in administering similar programs.

B. Price Proposal

Offerors must submit an original and one copy of a pricing proposal that indicates the total, firm, fixed price for providing these services. The total price should be broken down to show the individual pricing elements that go into the total price proposed.

V. PROPOSAL EVALUATION

Offeror's technical proposals will be evaluated against the following criteria. They are stated in descending order of importance:

- A. Offeror's proposed approach to administering this program.
- B. Offeror's corporate experience in administering similar programs.
- C. Offeror's past performance in performing similar programs.

VI. AWARD DETERMINATION

The successful offeror will be chosen primarily on the basis of their ability to successfully perform these services as demonstrated in their technical proposal. The (Operating Administration or Departmental Office) will also consider the total cost to perform these services in making its award decision. However, in making the award decision, technical excellence will be more important than cost and the government reserves the right to make award to the offeror whose proposal provides the best value to the government, even if that offeror did not offer the lowest cost bid.

**Department of Transportation
DCAP Plan**

**DEPARTMENT OF TRANSPORTATION
DEPENDENT CARE ASSISTANCE PLAN DOCUMENT UNDER
SEC. 129 OF INTERNAL REVENUE CODE**

ARTICLE 1 - PURPOSE OF THE PLAN

- 1.1. The Department of Transportation establishes this Plan under Public Law 107-67, Section 630, to subsidize a portion of the cost of dependent care incurred by the Department's employees.
- 1.2. The Department of Transportation (DOT) also intends that the Plan qualify as a plan providing dependent care assistance under Internal Revenue Code (Code) Section 129. Only the subsidies provided under the Plan for Eligible Child Care Expenses on behalf of a Qualifying Child who is also a Qualifying Dependent will be eligible for exclusion from the Participant's gross income under Code Section 129(a). Subsidies disbursed on behalf of a Qualifying Child who is not also a Qualifying Dependent must be included in the Participant's gross income.

ARTICLE 2 - DEFINITIONS

- 2.1. **"Benefits"** means the amounts paid to Participants under the Plan to subsidize Eligible Child Care Expenses paid or incurred by the Participant.
- 2.2. **"Child"** means a member of a household maintained by an Employee who bears the following relationship to the Employee:
 - (a) a biological child who lives with the Employee;
 - (b) an adopted child;
 - (c) a stepchild;
 - (d) a foster child;
 - (e) a child for whom a judicial determination of support has been obtained; or
 - (f) a child to whose support the Employee who is a parent or legal guardian makes regular and substantial contributions.

- 2.3. **“Child Care Tuition Assistance Program Coordinator”** means the official within each OA or Departmental Office who has been delegated the authority to implement childcare subsidies under this Plan for employees within that OA or Departmental Office.
- 2.4. **Code**” means the Internal Revenue Code of 1986, as amended.
- 2.5. **“Dependent”** means any individual who is a dependent of a Participant within the meaning of Code Section 152(a).
- 2.6. **“Earned Income”** means all income, as defined under Code Section 32(c)(2), including income from wages, salaries, tips and other employee compensation, and net earnings from self-employment, but does not include any amounts received: (i) as pre-tax benefits under Code Section 129 on behalf of a Qualifying Dependent under the Plan or any other dependent care assistance program; (ii) as a pension or annuity; or (iii) as unemployment or workers’ compensation.
- 2.7. **“Educational Institution”** means any college or university, the primary function of which is the presentation of formal instruction and that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on.
- 2.8. **“Effective Date”** means March 19, 2002.
- 2.9. **“Eligible Child Care Expenses”** means expenses incurred by a Participant for Qualifying Services which are paid to a Qualifying Provider who is not: (i) a Dependent of a Participant or a Dependent of the Spouse of a Participant, (ii) a child of a Participant under the age of 19, and which are incurred to enable the Participant or the Participant's Spouse to be gainfully employed.
- 2.10. **“Eligible Employee”** means an individual employed on a full time basis by an OA or Departmental Office of DOT that offers childcare subsidies and meeting the eligibility requirements described in the employing OA or Departmental Office.
- 2.11. **“Employee”** means an employee of DOT.
- 2.12. **“DOT”** means Department of Transportation.
- 2.13. **“Departmental Offices”** means one of the following offices within the Department of Transportation: Office of the Inspector General (OIG), the Transportation Administrative Service Center (TASC), the Bureau of Transportation Statistics (BTS), and the Office of the Secretary (OST)
- 2.14. **“Maintaining a Household”** means that an Employee or, if married, an Employee and Spouse together furnish over one half the cost of maintaining a household.

-
- 2.15. **“Operating Administration (OA)”** means one of the following agencies within the Department of Transportation: Federal Aviation Administration, Coast Guard, Research and Special Programs Administration, Federal Transit Authority, Federal Highway Administration, Federal Railroad Administration, National Highway and Transportation Safety Administration, Office of the Inspector General, MARAD (spell out), Federal Motor Carrier Safety Administration, Saint Lawrence Seaway Development Corporation, and the Surface Transportation Board.
- 2.16. **“Participant”** means any Employee who has satisfied the eligibility requirements of Section 3.1, who has made application and been accepted by DOT for benefits under this Plan.
- 2.17. **“Plan”** means the Department of Transportation Child Care Tuition Assistance Plan.
- 2.18. **“Plan Administrator”** means the Program Manager in the Departmental Office of Human Resources Management.
- 2.19. **“Plan Year”** means the 12-month period commencing on January 1 and ending on December 31.
- 2.20. **“Program Coordinator”** means the Child Care Tuition Assistance Program Coordinator.
- 2.21. **“Qualifying Child”** means a Child of a Participant who is: (a) age 13 or younger; or (b) under age 18 and is physically or mentally incapable of caring for himself or herself.
- 2.22. **“Qualifying Day Care Center”** means a day care center, as described in Code Section 21 and regulations hereunder, that (i) complies with all applicable laws and regulations of the State and town, city or village in which it is located, (ii) is licensed to provide day care services in the state or location in which the day care center operates, (iii) provides care for more than six individuals (other than individuals who reside at the day care center) and (iv) receives a fee, payment or grant for services for any of the individuals to whom it provides services (regardless of whether the facility is operated for a profit).
- 2.23. **“Qualifying Dependent”** means: (i) a Dependent of a Participant who is under the age of 13; or (ii) a Dependent of a Participant who is under the age of 18 and who is physically or mentally incapable of caring for himself or herself.
- 2.24. **“Qualifying Provider”** means an individual or a Qualifying Day Care Center licensed to provide child care services in the state or location in which they operate.
- 2.25. **“Qualifying Services”** means services performed:
- (a) in the home of the Participant, or outside the home of the Participant, or at a Qualifying Day Care Center;

- (b) for the care of a Qualifying Child or Qualifying Dependent of the Participant;
- (c) to enable the Participant or the Participant's Spouse to remain gainfully employed; and
- (d) for the primary purpose of assuring the Qualifying Child's or Qualifying Dependent's well being and protection

Qualifying Services do not include services provided at a camp where the Qualifying Child or Qualifying Dependent stays overnight.

- 2.26. **“Spouse”** means the husband or wife of a Participant but does not include an individual legally separated from a Participant under a decree of legal separation.
- 2.27. **“Student”** means an individual who during each of five calendar months during a Plan Year is a full time student at an Educational Institution.

ARTICLE 3 - ELIGIBILITY AND PARTICIPATION

- 3.1. An Employee is eligible for this Plan immediately upon becoming an Eligible Employee.
- 3.2. An Eligible Employee will become a Participant in the Plan upon application for Benefits to and approval by the employing Operating Administration or Departmental Office's Program Coordinator.
- 3.3. If a Participant ceases to be an Eligible Employee, he or she will no longer be eligible to receive Benefits under the Plan. If the Employee again becomes an Eligible Employee, he or she may again become a Participant in the Plan by applying and being accepted.

ARTICLE 4 - BENEFITS

- 4.1. A Participant in the Plan will be eligible to receive Benefits under the Plan for all Eligible Child Care Expenses incurred by the Participant or his or her Spouse subject to the limitations of Article 6.
- 4.2. Benefit Amounts.

- (a) Benefits will be provided as a percentage of the Eligible Child Care Expenses according to a schedule based on the Participant's total family income or as set dollar amount based on the Participant's total family income..
 - (b) The current schedules of benefits are shown as Attachments to this Plan.
 - (c) A Childcare Tuition Assistance Program Coordinator may adjust the payment schedule of the Operating Administration or Departmental Office from time to time based on the availability of funding for the program and to maintain an equitable distribution of benefits for all Eligible Employees within the Operating Administration or Departmental Office.
 - (d) An Operating Administration or Departmental office may sign a new Attachment noting the effective date and provisions of the adjusted Benefits under the Plan and the new Attachment will become a part of this Plan.
- 4.3. A Participant will be entitled to Benefits under this Plan only for Eligible Child Care Expenses incurred after the later of: (a) the date he or she becomes a Participant in the Plan; or (b) the Effective Date of the Plan.
- 4.4. Each Participant who desires to receive a Benefit under the Plan for Eligible Child Care Expenses incurred by the Employee for Qualifying Services must submit to the Program Coordinator, on a form to be provided by DOT, a statement containing the following information:
- (a) Name, home address and employment information for each of the child's parents;
 - (b) Name, date of birth, child care enrollment information and weekly cost for each child to be covered;
 - (c) Gross annual salaries of the father, mother and/or guardian, as appropriate, and total gross family income as reported on the most recent Federal income tax return;
 - (d) Amount and source of any other state, county or local child care subsidies or tuition assistance;
 - (e) Completed and signed child care provider information form, which includes the name and address of the child care provider, the Provider's Federal tax identification number or a statement indicating that the Provider is a 501(c)(3) organization, along with proof of the Provider's licensure; and

-
- (f) Such other information or documents as the Operating Administration or Departmental Office may require in administering the Plan.
- 4.5. Following receipt of the information required in Section 4.4, the Program Coordinator will notify the Participant whether he or she is eligible to receive Benefits under the Plan.
 - 4.6. Approval for and payment of Benefits will be subject to the availability of appropriated funds.
 - 4.7. If a Participant ceases to be an Eligible Employee:
 - (a) No benefits will be paid for Eligible Child Care Expenses incurred after the date the Participant ceases to be an Eligible Employee; and
 - (b) Unless the Participant was discharged from employment for cause, requests for benefits may be made after the date of termination for Eligible Child Care Expenses incurred prior to the date of termination.
 - 4.8. The Participant is responsible for notifying the Program Coordinator immediately of any change to information submitted for the purpose of qualifying for benefits under this Plan.

ARTICLE 5 - AUTHORIZATION AND PAYMENT OF BENEFITS

- 5.1. At the end of each calendar month, the Program Coordinator will send an invoice approval form to the Qualifying Provider named by the Participant on his or her Benefits application.
- 5.2. The Qualifying Provider will certify on the invoice approval form that the Qualifying Services for that billing period were actually performed on behalf of the Participant's Qualifying Child.
- 5.3. The Participant will certify on the invoice approval form that the Qualifying Services for that billing period were in fact received by the Participant's Qualifying Child.
- 5.4. The Qualifying Provider will then submit the completed invoice approval form to the Program Coordinator for review and payment.

- 5.5. The Program Coordinator will review the submitted invoice approval form and pay the Benefit amount directly to the Qualifying Provider.

ARTICLE 6 - LIMITATIONS ON BENEFITS

- 6.1. The following amounts will not be subject to exclusion from the Participant's gross income:
- (a) benefits payable for Eligible Child Care Expenses on behalf of a Qualifying Child who is not a Qualifying Dependent; or
 - (b) benefits payable for Eligible Child Care Expenses that exceed the following maximum amounts for the calendar year:
 - (i) For a Participant who is not married at the close of the calendar year, the lesser of the Participant's Earned Income for the Plan Year (after all reductions in compensation), or \$5,000;
 - (ii) For a Participant who is married at the close of the calendar year, the least amount of the following:
 - (A) the Participant's Earned Income for the calendar year;
 - (B) the Earned Income of the Participant's Spouse for the calendar year;
 - (C) \$5,000, if the Participant and his or her Spouse file a joint Federal income tax return; or
 - (D) \$2,500, if the Participant and his or her Spouse file separate Federal income tax returns.

If the foregoing amounts are changed by an amendment to Code Section 129, the amounts set forth automatically shall be adjusted to reflect the new amounts.

- 6.2. For purposes of Section 6.1, a Spouse of a Participant who is either physically or mentally incapable of caring for himself or herself or is a Student and is not employed during any month in which the Participant incurs Eligible Child Care Expenses, will be deemed to have Earned Income for such month of:

- (a) \$200, if there is one Qualifying Dependent for whom the Participant incurs Eligible Child Care Expenses; or
- (b) \$400, if there is more than one Qualifying Dependent for whom the Participant incurs Eligible Child Care Expenses.

ARTICLE 7 - FUNDING

7.1. Operating Administrations and Departmental Offices will contribute the amounts required to pay Benefits under this Plan out of appropriated funds – normally allocated for salaries and expenses. There will be no special fund provided, out of which Benefits are paid, nor will Participants be required to make a contribution as a condition of receiving Benefits.

ARTICLE 8 - PLAN ADMINISTRATION

8.1. Operating Administrations and Departmental Offices will administer the Plan according to established terms and subject to applicable law, for the exclusive benefit of persons entitled to participate in the Plan, without discrimination among them. In addition to all other powers provided by this Plan, DOT has authority to:

- (a) Make and enforce rules and regulations as it deems necessary or proper to efficiently administer the Plan;
- (b) Interpret the Plan in good faith, and its interpretations will be final and conclusive on all persons claiming benefits under the Plan;
- (c) Decide all questions concerning the Plan and the eligibility of any person to participate in the Plan;
- (d) Appoint agents, counsel, accountants, consultants and other persons as needed to help administer the Plan; and
- (e) Allocate and delegate, in writing, its responsibilities under the Plan and to designate other persons to carry out any of its responsibilities under the Plan.

8.2. Operating Administrations and Departmental Offices which elect to offer childcare subsidies under this Plan must submit to the Plan Administrator a statement in a format that includes:

- (a.) The formula for determining eligibility for childcare subsidies in that Operating Administration or Departmental Office;
 - (b.) Procedures for notifying employees of the availability of benefits;
 - (c.) The application process;
 - (d.) The name, phone number and mailing address of the Child Care Tuition Assistance Program Coordinator;
 - (e.) Whether the program will be administered in-house or under contract; and
 - (f.) The name and mailing address of the official designated to serve as the reviewing official for denial of claims under Article 9 below, if different from the Child Care Tuition Assistance Program Coordinator.
- 8.3. The Program Coordinator will make available to each Eligible Employee such records under the Plan as pertain to the Eligible Employee, by request under the Privacy Act.
- 8.3. In administering the Plan, DOT will be entitled, to the extent permitted by law, to rely conclusively on all tables, valuations, certificates, opinions and reports that are furnished by accountants, counsel or other experts employed or engaged by DOT.
- 8.4. Whenever, in the administration of the Plan, any discretionary action by DOT is required, DOT will exercise its authority in a nondiscriminatory manner so that all persons similarly situated will receive substantially the same treatment.
- 8.5. The Program Coordinator will provide to each Participant receiving Benefits under the Plan during the Plan Year a statement of the amount of Benefits received by the Participant during that Plan Year. This statement will be furnished to the Participant by the January 31st following the end of the Plan Year. The amount of dependent care subsidies provided to the Employee will be reported on the Employee's Form W-2.

ARTICLE 9 - CLAIMS PROCEDURE

- 9.1. A Participant may make a claim for Benefits by completing the invoice approval form in conjunction with the Qualified Provider, as described in Article 5.

9.2. If a claim is wholly or partially denied, notice of the decision will be furnished to the Participant and to the Qualifying Provider within a reasonable period of time, not to exceed 90 days after receipt of the claim by the Plan Administrator, unless special circumstances require an extension of time for processing the claim. If an extension of time is required to make a decision, the Program Coordinator will notify the Participant prior to the end of the initial 90-day period. The extension may not exceed 90 days from the end of the initial period. The notification will include:

- (a) the specific reason(s) for the denial;
- (b) a description of any additional information necessary to make a decision; and
- (c) an explanation of the Plan's claims review procedure, as described in Section 9.3.

9.3. If a claim is denied, the Participant may request in writing that the Plan Administrator review the claim. Upon receipt of a request for review, the Plan Administrator will review the decision and respond to the Participant within 60 days of receipt of the written request. If the Program Coordinator affirms the original denial of the claim, the Participant may invoke the applicable grievance procedure, either:

- (a) the negotiated grievance procedure outlined in the collective bargaining agreement between the Operating Administration or Departmental Office and the union; or
- (b) the administrative grievance procedure contained in the DOT Departmental Personnel Manual, as currently in effect.

9.4. If a dispute arises on any matter under this Plan, the Plan Administrator may refrain from taking any other or further action in connection with the matter involved in the controversy until the dispute has been resolved.

ARTICLE 10 - AMENDMENT AND TERMINATION OF PLAN

10.1. DOT may amend or terminate this Plan at any time. The benefits hereunder are not guaranteed and may be reduced by Plan amendment.

ARTICLE 11 - MISCELLANEOUS PROVISIONS

- 11.1. This Plan and the benefits it offers do not provide any additional rights to Participants or Employees other than those expressly set forth herein.
- 11.2. This Plan will be interpreted, administered and enforced according to the laws of the United States of America.

Adopted as of the Effective Date by:

By: *Mari Barr Santangelo*
Mari Barr Santangelo, Director
Departmental Office of Human Resource Management
Office of the Secretary
Department of Transportation

Date: March 19, 2002