



February 7, 2006

MEMORANDUM

To: Sylvia Sloan, Fiscal Services Unit Chief
Division of Family and Children Services

From: Robert Dorr, Director
DHR Office of Audits

Subject: Banking Policy

In response to your request, we have researched the policy and legal mandates supporting the DFCS policy prohibiting State and Federal funds from being deposited into interest bearing checking accounts. The origin of this policy appears to be based upon language contained in the 1980 Monetary Control Act, which suggests that governmental units should not maintain NOW accounts (interest-bearing checking accounts). This position was clarified in the *Federal Register* dated September 23, 1981 for “governmental units” unless “. . . the funds are in the name of, or are to be used exclusively by schools, libraries, colleges, universities and hospitals or other educational or medical facilities.” This apparent prohibition was operationalized by DFCS through a memorandum from the Director of DFCS, L. Patricia Johnson, Ph.D., to the District Directors, instructing the Directors to ensure that all county NOW accounts should be immediately closed. The Division of Family and Children Services, Administrative Services Policy and Procedures Manual Part II, Section I entitled *Interest Bearing Accounts in County DFCS*, was amended to prohibit the co-mingling of Grant-In-Aid funds with local funds in interest-bearing accounts.

Our research into subsequent Federal legislation revealed that the prohibition of governmental agencies using NOW accounts for deposit of funds, was revisited in 12CFR204.130, to generally allow governmental agencies to “maintain NOW accounts at member banks”. We believe that this clarification removed the mandate for the DFCS policy. We can find no indication that the policy was evaluated or amended at any time subsequent to the initial determination.

Based upon our understanding of monetary and banking requirements and State and Departmental policy, we feel that the following conditions are representative of current banking requirements as they relate to DFCS accounts:

- The make-up of daily account balances existing in DFCS Operating accounts consists of State funds and accumulated County or local funding. This conclusion is based upon the assumption that Federal funds are drawn down in response to completed expenditures and therefore are simply reimbursing State funds that were advanced to the Counties through the

annual advance process. The only exclusion to this would be for Federal Grant advances made under specific agreements, usually with local agencies. Funds in the Operating accounts would therefore be exempt from Federal interest repayment requirements.

- State Funds may earn interest provided that the interest is remitted to the Office of Treasury and Fiscal Services, as earned. DFCS may not retain those earnings.
- Accumulated local funds (Fund Balance) may earn interest which would be retained by DFCS as prescribed by local funding agreements/ Board directives.
- Fiduciary responsibility for making the most effective use of public funds suggests that Division of Family and Children Services management should develop banking policy based upon the model used by DHR and other State agencies. Banking fees and interest rates should be negotiated and when possible, leveraged to obtain the highest possible earnings on public funds.

Our work is based upon examination of the following documents, policy and legal requirements:

12CFR204.130

45CFR92.25

Office of Management and Budget Circular A-87

Office of Management and Budget Circular A-102

Intergovernmental Cooperation Act of 1968, P.L. 90-577 (82 Stat. 1098)

Depository Institutions Deregulation and Monetary Control Act of 1980

Federal Register, Vol. 46, No 184, Wednesday, September 23, 1981

Internal DFCS Memorandum dated September 8, 1981 from L. Patricia Johnson, Director Division of Family and Children Services, Administrative Services, Policy and Procedures Manual, Part II

We recommend that Fiscal Services present this guidance to the DHR Office of Legal Services for comment and verification before acting upon it.

We also recommend that DHR require any Divisions charged with making policy determinations, to demonstrate that controls have been implemented to ensure that all such policy determinations are evaluated on an on-going basis and kept current.

Thank you

c: Jim Sanregret, Deputy Commissioner/CFO

Alan Davis, Director, Fiscal Services, Division of Family and Children Services