

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 99-45 and this final exemption, refer to the proposed exemptions and the grant notices which are cited above.

Signed at Washington, DC, this 31st day of October, 2001.

Ivan L. Strasfeld,

*Director of Exemption, Determinations,
Pension and Welfare Benefits,
Administration, U.S. Department of Labor.*

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2001-43; [Exemption Application No. D-10916 and D-10917, et al.]

Grant of Individual Exemptions; The FHP International Corporation 401(k) Savings Plan; and The FHP International Corporation PAYSOP (Together, the Plans) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the code and the procedures set forth in 29 CFR part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The FHP International Corporation 401(k) Savings Plan; and The FHP International Corporation PAYSOP (together, the Plans)

Located in Santa Ana, California

[Prohibited Transaction Exemption 2001-43; Exemption Application Nos. D-10916 and D-10917]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, from April 21, 1997 through May 20, 1997, to: (1) The past receipt by the Plans of certain rights (the Talbert Rights) to purchase shares of common stock, par value \$.01 per share, of Talbert Medical Management Holding Corporation (Talbert); (2) the past holding of the Talbert rights by the Plans; and (3) the disposition or exercise of the Talbert Rights by the Plans; provided that the following conditions are satisfied:

(A) The Plans' acquisition and holding of the Talbert Rights resulted from independent acts of FHP International Corporation (FHP) and Talbert as corporate entities, and all holders of common stock of FHP (FHP Common Stock) were treated in a like manner, including the Plans;

(B) With respect to Talbert Rights allocated to the Plans, the Talbert Rights were acquired solely for the accounts of participants who had directed investment of all or a portion of their

account balances in FHP Common Stock pursuant to Plan provisions for individually-directed investment of participant accounts; and

(C) With respect to Talbert Rights allocated to the Plan, all decisions regarding the holding, disposition or exercise of the Talbert Rights were made, in accordance with Plan provisions for individually-directed investment of participant accounts, by the individual Plan participants whose accounts in the Plans received Talbert Rights, including all determinations regarding the exercise or sale of the Talbert Rights, except for those participants who failed to file timely and valid instructions concerning the exercise of the Talbert Rights (in which event the Talbert Rights were sold).

EFFECTIVE DATE: This exemption is effective from April 21, 1997 through May 20, 1997.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 7, 2001 at 66 FR 46840.

Written Comments and Hearing Requests: The Department received one letter from a commentator which did not address any issues relating to the proposed exemption, but sought more information concerning the transaction. The Department provided the additional information to the person via telephone. In addition, the Department received a number of telephone calls from other Plan participants requesting further information. Each of these inquiries was responded to by telephone and no additional questions were raised. The Department received no requests for a hearing with respect to the proposed exemption.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, Telephone (202) 219-8881. (This is not a toll-free number.)

Anthem Insurance Companies, Inc. (Anthem)

Located in Indianapolis, IN

[Prohibited Transaction Exemption 2001-44; Exemption Application No. D-10979]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective October 24, 2001, to the receipt, by an employee benefit plan (the Plan) or by a Plan participant (the Plan Participant) that is an eligible

member (the Eligible Member), by reason of the ownership of an insurance policy or contract issued by Anthem, of common stock (Common Stock) issued by Anthem, Inc. (the Parent Company), a newly-formed holding company or cash (Cash), in exchange for such Plan's or Plan Participant's mutual membership interest in Anthem, in accordance with a plan of conversion (the Plan of Conversion) adopted by Anthem and implemented under Indiana law.

This exemption is subject to the following conditions set forth below in Section II.

Section II. General Conditions

(a) The Plan of Conversion is subject to approval, review and supervision by the Commissioner of Insurance of the Indiana Department of Insurance (the Commissioner) and is implemented in accordance with procedural and substantive safeguards imposed under Indiana law.

(b) The Commissioner reviews the terms and options that are provided to Eligible Members as part of such Commissioner's review of the Plan of Conversion, and the Commissioner approves the Plan of Conversion following a determination that such Plan is fair, reasonable and equitable to Eligible Members.

(c) Each Eligible Member has an opportunity to vote to approve the Plan of Conversion after full written disclosure is given to the Eligible Member by Anthem.

(d) Any determination to receive Common Stock or Cash by an Eligible Member which is a Plan, pursuant to the terms of the Plan of Conversion, is made by one or more Plan fiduciaries which are independent of Anthem and its affiliates and neither Anthem nor any of its affiliates exercises any discretion or provides "investment advice" within the meaning of 29 CFR 2510.3-21(c), with respect to such decisions.

(e) Any determination to receive Common Stock or Cash by an Eligible Member which is a Plan Participant, pursuant to the terms of the Plan of Conversion, is made by such participant and neither Anthem nor any of its affiliates exercises any discretion or provides "investment advice" within the meaning of 29 CFR 2510.3-21(c), with respect to such decisions.

(f) After each Eligible Member entitled to receive shares of Common Stock is allocated at least 21 shares, additional consideration may be allocated to Eligible Members based on actuarial formulas that take into account each Eligible Member's contribution to Anthem's statutory surplus, which

formulas are subject to review and approval by the Commissioner.

(g) All Eligible Members that are Plans or Plan Participants participate in the transactions on the same basis and within their class groupings as all Eligible Members that are not Plans or Plan Participants.

(h) No Eligible Member pays any brokerage commissions or fees in connection with their receipt of Common Stock or in connection with the implementation of the commission-free purchase and sale program.

(i) All of Anthem's policyholder obligations remain force and are not affected by the Plan of Conversion.

Section III. Definitions.

For purposes of this exemption,

(a) The term "Anthem" means Anthem Insurance Companies, Inc.

(b) An "affiliate" of Anthem includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Anthem; (For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.) and

(2) Any officer, director or partner in such person.

(c) A "policy" is defined as (1) Any individual insurance policy or health care benefits contract that has been issued by Anthem and under which the holder thereof has membership interests in Anthem; (2) any certificate issued by Anthem under a group insurance policy or health care benefits contract under which certificate the holder thereof has membership interests in Anthem; or (3) certificates of membership issued by Anthem in or under guaranty policies under which certificate the holder thereof is a member of Anthem with membership interests.

(d) The term "membership interests" means (1) voting rights of Anthem's members as provided by law and Anthem's Articles of Incorporation and Bylaws, and (2) the rights of members to receive cash, stock, or other consideration in the event of conversion to a stock insurance company under Indiana Demutualization Law or a dissolution of Anthem as provided by Indiana insurance law and Anthem's Articles of Incorporation and Bylaws.

(e) The term "Eligible Member" or "Eligible Statutory Member" means a person or entity (1) whose name appears on Anthem's records as the holder of one or more in force policies issued by Anthem as of both the date the Board of Directors adopts the Plan of

Conversion and the effective date of the Plan of Conversion, and (2) who has had continuous health care benefits coverage with the same insuring company during the period between those two dates under any policy without a break of more than one day.

(f) The term "Parent Company" refers to a corporation organized and existing under the Indiana Business Corporation Law. Prior to the conversion, the Parent Company will be a wholly owned subsidiary of Anthem. Upon the conversion of Anthem to a stock company, the Parent Company will serve as the "Indiana parent corporation" of Anthem for purposes of Indiana law. Upon the effective date of the Plan of Conversion, the Parent Company will complete an initial public offering (the IPO) of shares of Parent Company Common Stock for cash.

Effective Date: This exemption is effective as of October 24, 2001.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on August 3, 2001 at 66 FR 40743.

Written Comments

The Department received two written comments with respect to the proposed exemption. The first comment, which was submitted on behalf of the UFCW Unions and Employers Health and Welfare Plan of Central Ohio, a Plan policyholder of Anthem, by legal representatives for the Plan's board of trustees (the Trustees), requests that the Department revise the final exemption and require that Anthem distribute the demutualization proceeds solely to the Plan, instead of to Plan Participants. Due to the substantive nature of the issue presented, the comment was forwarded to Anthem for response. The second comment, which was submitted by Anthem, clarifies and updates the proposed exemption in a number of areas.

Following is a discussion of the comments received, including the responses made by Anthem and/or the Department.

Plan Policyholder Comment

As noted above, the commenter states that it represents the Trustees of a multiemployer health and welfare plan which is funded exclusively through employer contributions. The Plan has offered participants the choice of either a self-insured option or a fully-insured option through an Anthem affiliate.

The commenter notes that Anthem's Plan of Conversion generally proposes to distribute the demutualization

consideration to individual certificate holders as opposed to group policyholders. The commenter asserts that group policyholders which contracted with certain companies prior to their merger with Anthem are deemed entitled to the proceeds of the demutualization. However, due to the timing of the Plan's contracting with the Anthem affiliate, the commenter explains that Anthem intends to distribute the demutualization proceeds to Plan Participants and not to the Plan. This, according to the commenter, creates an inequitable result because the premiums are paid entirely out of the Plan's assets and only those Plan Participants who have selected the fully insured option will be entitled to receive the proceeds from the demutualization.

In addition, the commenter indicates that the Trustees believe that the proceeds of the demutualization should be distributed to the Plan to be held in trust and utilized for the benefit of all Plan Participants and beneficiaries because it would be consistent with the Department's position on whether a Plan policyholder is entitled to keep the proceeds of a demutualization. Assuming the proceeds are "plan assets," the commenter questions on what basis Anthem can distribute the proceeds to any party but the Plan.

Finally, the commenter notes that neither Anthem's Plan of Conversion nor the proposed exemption appear to contemplate the Plan as a policyholder but instead focus on the terms "employer" or "association" when describing a group policyholder or a plan sponsor. The unique nature of the Plan, according to the commenter, justifies different policyholder treatment and distribution of demutualization consideration to the Plan as opposed to a limited percentage of Plan Participants. Therefore, the commenter requests that the Department revise the final exemption and require Anthem to distribute the demutualization consideration to the Plan.

In response to the commenter, Anthem states that it is an Indiana-domiciled mutual insurance company owned by its Statutory Members, which are certain Anthem customers who have both voting and other ownership rights in the insurer. As an Indiana-domiciled mutual company, Anthem explains that Indiana Demutualization Law exclusively governs its conversion to a stock company and requires the fair market value of the company to be paid to

Eligible Statutory Members upon the demutualization.¹

In addition, Anthem explains that Indian Demutualization Law requires that the question of who qualifies as a Statutory Member be determined by reference to the mutual company's articles of incorporation, by-laws and records. Anthem points out that its membership rules are found primarily in its By-Laws. With respect to group health benefits contracts, Anthem notes that its By-Laws provide that Statutory Members are those persons who have been granted membership rights under insurance agreements between Anthem and the employer (or other person, including an employer association or employee organization) acting for and on the persons' behalf. Anthem further explains that its By-Laws have provided for deceased that a certificate holder with health benefits coverage from the insurer is granted membership rights rather than the holder of the group contract, regardless of who pays the premiums for health benefits coverage.

With respect to the commenter, Anthem confirms that the Plan received its group health benefits contract from an Anthem affiliate and that the Plan Participants were issued certificates of membership from Anthem. In addition, Anthem indicates that the Plan was issued a "guaranty policy" under which it would not be considered a Statutory Member. Instead, the certificate holders (i.e., the Plan Participants who elected the Plan's insured option) were granted membership rights. As Statutory Members, Anthem asserts that the Plan Participants were given the right to vote in the election of Anthem's Board of Directors and to vote on any proposition that the Board submits to a vote of the Statutory Members in accordance with Indiana law. Furthermore, Anthem explains that Indiana law requires that these Plan Participants (as Statutory Members) also have the right to receive consideration in the event of Anthem's demutualization.

¹ Under its Plan of Conversion, Anthem indicates that "Eligible Statutory Members" will be those persons (or entities) who were Statutory Members on June 18, 2001 (the date Anthem's Board of Directors adopted the Plan of Conversion), who continue to be Statutory Members on the effective date of the conversion and who have had continuous health care benefits coverage with the same company (either Anthem or its Blue Cross and Blue Shield subsidiaries in Kentucky, Ohio or Connecticut) during the period between those two dates without a break in coverage of more than one day. As used herein "Eligible Statutory Members" refer also to "Eligible Members."

In addition, Anthem's Plan of Conversion states that a Statutory Member is, as of any specified date, any person, who in accordance with the records, Articles of Incorporation or By-Laws of Anthem, is the holder of an "in force" policy.

The Department has considered the comment and has determined not to adopt the commenter's recommendation that the exemption be revised to require that Anthem distribute the demutualization consideration to the Plan. In this regard, the Department notes that Indiana Demutualization Law mandates that Anthem's Articles of Incorporation and By-Laws govern who is accorded membership interests in the company and to whom the demutualization consideration is to be paid. The Department also notes that Anthem's By-Laws predate the Plan's contractual arrangement with the company. Lastly, the Trustees, as fiduciaries of the Plan, determined to enter into, and be subject to the terms of, a group health benefits contract with an Anthem affiliate which conferred certain ownership and voting rights on Plan Participants that are Eligible Members of Anthem. Although the demutualization may not have been contemplated at contract execution by the Trustees, nevertheless, one of these ownership rights is the right to receive consideration in the event of Anthem's demutualization.

Anthem's Comment

1. Operative Language Changes and Effective Date. In Section I of the proposed exemption, in the operative language, the first sentence of the initial paragraph states, in part, that if the exemption is granted the restrictions and sanctions imposed under the Act and the Code will not apply to the receipt of certain demutualization consideration, by a Plan, or a Plan Participant, both of which are Eligible Members by reason of their ownership of an insurance policy or contract issued by Anthem. Anthem requests that this sentence be revised to delete the definition of "Eligible Member" because it believes the definition conflicts with the correct definition of Eligible Member, as set forth in Section III of the proposal.

In addition, Anthem requests that the final exemption be made effective as of October 24, 2001, and that this effective date be referenced in the grant notice. On October 29, 2001, Anthem represents that it anticipates entering into binding agreements to sell the Common Stock to underwriters on November 2, 2001. Because the granting of the exemption is a condition to the closing of the sale, Anthem states that it will not be able to deliver the Common Stock on November 2, 2001, pursuant to the agreements unless the exemption is signed and effective.

Therefore, Anthem suggests that the initial paragraph of the operative

language be revised to read as follows in the final exemption:

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(a)(1)(A) through (D) of the Code, shall not apply, effective October 24, 2001, to the receipt, by an employee benefit plan (the Plan) or by a Plan participant (the Plan Participant) that is an eligible member (the Eligible Member), by reason of the ownership of an insurance policy or contract * * *

In addition, Anthem requests that the final exemption reflect an effective date.

In response to these comments, the Department has made the requested changes to the operative language and has also added a new section to the final exemption captioned "Effective Date."

2. *Allocation of Common Stock to Eligible Members.* Section II(f) of the proposed exemption provides, in relevant part, that after each Eligible Member entitled to receive shares of Common Stock is allocated at least 21 shares, additional consideration will be allocated to Eligible Members who own participating policies based on actuarial formulas that take into account each participating policy's contribution to Anthem's statutory surplus and are subject to review and approval by the Commissioner. Anthem requests that Section II(f) be revised as follows to reflect more accurately how additional consideration will be allocated to Eligible Members:

After each Eligible Member entitled to receive shares of Common Stock is allocated at least 21 shares, additional consideration may be allocated to Eligible Members based on actuarial formulas that take into account each Eligible Member's contribution to Anthem's statutory surplus, which formulas are subject to review and approval by the Commissioner.

Anthem represents that its policies are generally issued and renewed for a term of one year. In order to compensate Eligible Members fairly for their membership interests, Anthem explains that the actuarial formulas used to allocate consideration take into account an Eligible Member's total contribution to the insurer's statutory surplus based on all of the policies and certificates under which the Eligible Member has had continuous coverage, rather than the actuarial contribution of a single policy or certificate held on the date used to calculate each Eligible Member's contribution to surplus. In addition, Anthem states that it decided to delete references to "participating" policies because it does not have any policies that require the payment of dividends or as to which any person has any

reasonable expectation for the payment of dividends.

In response to this comment, the Department has revised Section II(f) of the final exemption, accordingly.

3. *Definition of Anthem.* Section III(a) of the proposed exemption defines the term "Anthem" to include any affiliate of Anthem, as defined in paragraph (b) of Section III. Anthem requests that the reference to the phrase "any affiliate of Anthem, as defined in paragraph (b) of this Section III" be deleted from the definition because Anthem and its affiliates are defined separately in the exemption application and many of the provisions from the exemption application have been incorporated into the proposal. Anthem notes that by treating it and its affiliates as the same entity changes the meaning of many of those provisions, as defined in the proposal. In this regard, Anthem points out that the clearest example of this is in the definition of "Eligible Member" in Section III(e). Without distinguishing between it and its affiliates, Anthem notes that the definition would incorrectly denote persons with policies issued by affiliates of Anthem as members of Anthem. Anthem further points out that policyholders of its affiliates are not Anthem members and, thus, will not have voting rights or receive compensation.

4. *Notice to Interested Persons.* In the Section of the proposal captioned "Notice to Interested Persons," the first sentence of the third paragraph states, at 40748, that Anthem will provide a copy of the proposed exemption to interested persons within 15 days of the publication of the proposal in the **Federal Register**. Anthem states that this paragraph should be revised to reflect that the comment period for the proposed exemption was extended because "The Member Information Statement" (the MIS), which contained the "Notice of Application for Prohibited Transaction" (the Notice) was mailed over a period of several days, rather than on a single date. Anthem states that it began mailing the MIS on August 17, which was within 15 days of the date that the proposed exemption was published in the **Federal Register**. However, Anthem explains that it recognized that the mailing would take several days to complete, so the comment period was extended from September 17, 2001, to October 1, 2001, to allow members enough time from the date of the final mailing to file comments with the Department. Anthem further explains that its Notice informed members of the extended comment period.

In response, the Department notes this revision to the proposal.

5. *Transaction Change.* Finally, Anthem states that it wishes to update the Department concerning a change in the demutualization process. In this regard, Anthem notes that the six month lock-up period (referred to in Representation 12) during which all Eligible Members are prohibited from selling their shares of Common Stock has been eliminated for many Eligible Members. Anthem explains that Eligible Members will generally be free to sell their shares of Common Stock in the open market after they receive their notification of share ownership. However, Anthem indicates that a small number of Eligible Members (i.e., certain large group customers) who receive and continue to hold 30,000 or more shares of Common Stock in exchange for their membership interests will still be restricted from selling, transferring, pledging, hypothecating or otherwise assigning their shares for 180 days following the effective date of the Plan of Conversion, except where the transfer (a) Is in accordance with a Large Holder Sale program,² (b) occurs by operation of law,³ or (c) occurs with the written consent of Anthem. After the expiration of the 180 day period, Anthem states that the large group Eligible Members will be free to sell their Common Stock in the open market.

Accordingly, after giving full consideration to the entire record, including the written comments, the Department has decided to grant the exemption subject to the modifications and clarifications described above.

For further information regarding the comments and other matters discussed herein, interested persons are

² The Large Holder Sale Program is designed to help ensure that the public trading market for the Common Stock is not adversely affected by the sale of large blocks before the trading market has time to achieve mature trading characteristics. The program applies only during the first 180 days following the effective date of the Plan of Conversion, and it applies only to "Large Holders," a relatively small number of large group customers who will receive 30,000 or more shares of Common Stock in the demutualization. If Large Holders want to sell their shares of Common Stock during that 180 day period, they have to follow special procedures designed to limit the total number of shares sold by Large holder in the open market on any one trading day during that period. The Large Sale Holder Program cannot be changed without the consent of the Commissioner.

³ A "transfer by operation of law" refers to a transfer of stock that occurs, not because of a voluntary sale or contractual assignment of the stock, but as the legal consequence of some other event. For example, if one corporation merges into another corporation in a statutory merger transaction, the assets of the merging corporation are deemed by the state corporate law merger statute to be transferred to the surviving corporation.

encouraged to obtain copies of the exemption application file (Exemption Application No. D-10979) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N-1513, U.S. Department Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of Section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 31st day of October, 2001.

Ivan Strasfield,

*Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
U.S. Department of Labor.*

[FR Doc. 01-27753 Filed 11-5-01; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Emergency Clearance; Public Information Collection Requirements Submitted to the Office of Management and Budget; Notice

AGENCY: National Science Foundation.

ACTION: Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB).

SUMMARY: The National Science Foundation (NSF) is announcing plans to request approval of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), we are providing an opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted below, comments on these information collection and record keeping requirements must be received by the designees referenced below by November 13, 2001.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to splimpto@nsf.gov, and Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503. Attn: Lauren Wittenberg, NSF Desk Officer.

Comments: Written comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292-7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Request For Emergency Clearance for Data Collection in Support of a Cross-Site Evaluation of National Science Foundation's Directorate For Education and Human Resources The Urban Systemic Program

OMB Approval Number: OMB 3145-(new).

Expiration Date: Not applicable.

Abstract: The National Science Foundation (NSF) requests a six-month (180 days) emergency clearance for the Evaluation of the Urban Systemic Program (USP), a study that has been on-going since October 1999 under OMB 3145-0136. Due to a change in OMB terms of clearance for OMB 3145-0136, NSF is seeking to establish an independent clearance for the USP study. A four-month delay (for standard OMB clearance) would negatively impact the baseline data collection by placing the resumption of scheduling of data collection at the end of the 2001-2002 school year. Participating school districts (respondents) work on a nine-month schedule. Scheduling evaluator's visits at the height of end-of-year events and on the eve of summer vacation is inconvenient for the respondents. Furthermore, when the school year ends key interviewees including teachers are unavailable.

As part of the study, four site visits have been scheduled for fall of 2001. The inconvenience to these districts