Federal Register

Wednesday,
March 3, 2004

Part III

Department of Education

Migrant Education Program (MEP) Consortium Incentive Grant Program; Notices

DEPARTMENT OF EDUCATION

RIN 1810–ZA08

Migrant Education Program Consortium Incentive Grant Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of final requirements.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education announces final requirements under the Migrant Education Program Consortium Incentive Grant Program. The Assistant Secretary establishes these requirements for competitions in fiscal year (FY) 2004 and later years. The Department intends that these requirements will promote the participation of State educational agencies in high-quality consortia.

EFFECTIVE DATE: These requirements are effective April 2, 2004.

FOR FURTHER INFORMATION CONTACT: Elsa Chagolla, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E257, FOB–6, Washington, DC 20202–6135. Telephone: (202) 260–2823, or via Internet: *elsa.chagolla@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Background

The Migrant Education Program (MEP), authorized by Title I, Part C of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001, is a State-operated and State-administered formula grant program. The MEP provides assistance to State educational agencies (SEAs) to support high-quality and comprehensive educational programs that provide migratory children appropriate educational and supportive services to address their special needs in a coordinated and efficient manner, and to give migratory children the opportunity to meet the same challenging State academic content and student academic achievement standards that all children are expected to meet.

Section 1308(d) of the ESEA authorizes the Secretary to ''reserve not more than $3,000,000 to award grants of not more than $250,000 on a competitive basis to State educational agencies that propose a consortium arrangement with another State or other appropriate entity that the Secretary determines, pursuant to criteria that the Secretary shall establish, will improve the delivery of services to migratory children whose education is interrupted.'' Through this program, the Department provides financial incentives to SEAs to participate in high-quality consortia that improve the interstate or intrastate coordination of migrant education programs by addressing key needs of migratory children who have their education interrupted.

We published a notice of proposed requirements for this program in the **Federal Register** on Friday, July 11, 2003 (68 FR 41323) that discussed, and invited public comment on, proposed procedures to award consortium incentive grants in FY 2003 and subsequent years.

Analysis of Comments and Changes

In response to our invitation in the notice of proposed requirements, four parties submitted a total of eight comments on the proposed requirements. An analysis of the comments and of any changes in the requirements since the publication of the notice of proposed requirements is provided in an appendix at the end of this notice of final requirements.

This notice of final requirements contains six significant changes from the notice of proposed requirements. Specifically:

(1) The *Application Requirements* have been revised to require that, to be funded, an applicant must explain how the proposed consortium will improve interstate or intrastate coordination of migrant education programs.

(2) The definition of ''other appropriate entity'' has been revised to include specific examples of public or private entities with which an SEA may establish a consortium.

(3) The discussion regarding grantees' submission of a first-year performance report and a second-year final evaluation report has been revised to clarify that, in these reports, grantees must address their completion of activities and attainment of objectives described in the approved consortium application, rather than describe the uses of their incentive grant funds.

(4) The discussion regarding the applicability of parts 76 and 80 of the Education Department General Administrative Regulations (EDGAR) has been revised to clarify that, while an SEA that receives incentive grant funds does not need to submit performance reports on its use of the incentive grant funds as otherwise required under § 76.720 and § 80.40(b), it must submit the financial reports regarding use of incentive grant funds required by § 76.720 and § 80.41 of EDGAR.

(5) The discussion regarding *Use of Consortium Incentive Grant Funds* has been revised to make the supplement-not-supplant provision of sections 1120A(b) and 1304(c)(2) of the ESEA apply to the use of the incentive grant funds.

(6) The discussion regarding *Amount and Duration of Incentive Grants* has been revised to explain more clearly the funding formula that the Department will use to calculate the amounts of the incentive grant awards.

With these changes, and for the reasons discussed in the notice of proposed requirements (68 FR 41323) and in the *Analysis of Comments and Changes* contained in the appendix to this notice, the Department establishes the following final definitions, requirements, criteria, and procedures to award and use consortium incentive grants in FY 2004 and subsequent years.

Definition for Eligibility To Participate in Consortium Incentive Grants

Section 1308(d) permits an SEA to enter into a consortium with another State or other appropriate entity. The Department defines the term ''other appropriate entity'' to mean any public or private agency or organization, such as a school district, a charter school, a nonprofit or for-profit organization, or an institution of higher education. However, under section 1308(d), only SEAs are eligible applicants to receive consortium incentive grants.

Application Requirements

An application for an incentive grant must be submitted by an SEA that will act as the ''lead SEA'' for the proposed consortium. To be eligible for award, this application must include—

1. The identity of the lead SEA for the consortium, and of each other SEA or entity participating in the consortium;

2. The goals and measurable outcomes of the consortium, and the activities that each participating SEA or entity in the consortium will conduct during each project year to improve the delivery of services to migratory children whose education is interrupted;

3. A concise and cogent explanation of the need for and value of the proposed consortium to each participating SEA, and of how the proposed consortium will improve interstate or intrastate coordination of migrant education programs;

4. A description of the process each participating SEA will use for evaluating its progress in achieving the measurable outcomes of the consortium; and

5. A signed statement from the Chief State School Officer (or his or her authorized representative) of each SEA that is participating in the proposed consortium of his or her SEA's commitment to implement its activities as described in the application.

Absolute Priorities

For competitions in FY 2004 and later years, the Department establishes the following seven absolute priorities that promote key national objectives of the MEP. In order for SEAs to be considered for incentive grants, a proposed consortium in which an SEA would participate must address one or more of the following absolute priorities:

1. Services designed to improve the proper and timely identification and recruitment of eligible migratory children whose education is interrupted;

2. Services designed (based on a review of scientifically based research) to improve the school readiness of pre-school-aged migratory children whose education is interrupted;

3. Services designed (based on a review of scientifically based research) to improve the reading proficiency of migratory children whose education is interrupted;

4. Services designed (based on a review of scientifically based research) to improve the mathematics proficiency of migratory children whose education is interrupted;

5. Services designed (based on a review of scientifically based research) to decrease the dropout rate of migratory students whose education is interrupted and improve their high school completion rate;

6. Services designed (based on a review of scientifically based research) to strengthen the involvement of migratory parents in the education of migratory students whose education is interrupted; and

7. Services designed (based on a review of scientifically based research) to expand access to innovative educational technologies intended to increase the academic achievement of migratory students whose education is interrupted.

Amount and Duration of Incentive Grants

An SEA that participates in a high-quality consortium, as the Department will select by use of the program's selection criteria, shall receive only one incentive grant award regardless of the number of high-quality consortia in which it participates.

In determining the amount of incentive grant awards, the Department will not use a cost analysis as described in § 75.232 of EDGAR. Rather, the Department will determine the amounts of the incentive grant awards on the basis of the following two-tiered funding formula:

The first tier consists of those SEAs participating in high-quality consortia whose MEP Basic State Formula grant allocations are $1 million or more. Each of these SEAs will, subject to the following exceptions, receive an incentive grant award of the same base amount.

The second tier consists of those SEAs participating in high-quality consortia whose MEP Basic State Formula grant allocations are $1 million or less. Each of these SEAs will, subject to the following exceptions, receive an incentive grant award that is twice the base amount.

Within each tier, awards will be of equal size, except that the amount of any SEA's incentive grant award in either tier may not exceed $250,000 (which is the statutory maximum) or the amount of its MEP Basic State Formula grant, whichever is less.

The base amount will be calculated by dividing the total amount reserved for incentive grants by the sum of the total number of SEAs participating in high-quality consortia whose MEP Basic State Formula grant allocations are greater than $1 million and two times the total number of SEAs participating in high-quality consortia whose MEP Basic State Formula grant allocations are $1 million or less.

It must be noted that, because an SEA cannot receive an incentive award that exceeds its MEP Basic State Formula grant allocation or $250,000, whichever is less, it is possible that some SEAs with MEP Basic State Formula allocations of $1 million or less will not receive an incentive grant amount that is actually twice the amount of the awards provided to SEAs whose MEP Basic State Formula allocations are greater than $1 million.

For FY 2004, the Department plans to reserve $2.5 million for consortium incentive awards. The amount reserved for awards in future years will vary and will be announced prior to any future competition. With a $2.5 million reservation of funds, the range of annual awards to SEAs participating in consortia will be between $35,738 (if all 52 SEAs receive grants under this competition) to $250,000 (the statutory maximum). Assuming the number of SEAs that receive consortium incentive grants for FY 2004 is the same as the number of SEAs that received them in FY 2002 (39), the size of an annual award will be $45,997 for SEAs whose MEP allocations are greater than $1 million, and $91,995 for SEAs whose MEP allocations are $1 million or less (and greater than $91,995). The actual size of an SEA's award will depend on the number of SEAs that participate in high-quality consortia and the size of those SEAs' MEP formula grant allocations.

Consortium incentive grants will be awarded for up to two years. (The Department will not conduct a new incentive grant competition in FY 2005; rather, it will make second-year funding available to those SEAs that receive a FY 2004 incentive award.)

In this regard, pursuant to § 75.118 and § 75.590 of EDGAR, each SEA that receives a consortium incentive grant award must submit a performance report (through the consortium's lead State) toward the end of the first project year, and a final evaluation report at the end of the second year. These reports must address the SEA's completion of activities and attainment of objectives of the approved consortium, rather than the activities supported with incentive grant funds. Eligibility of each SEA for second-year awards will depend on the information provided in the first-year performance report regarding the SEA's substantial completion of first-year consortium activities and attainment of the outcomes identified in the approved consortium application.

Selection Criteria

The Department has established selection criteria from the general criteria for competitive grants contained in § 75.210 of EDGAR to evaluate applications for the incentive grants competition. The selection criteria may be found in the application package for the FY 2004 competition. The Department will review and rank applications on the basis of how well the information provided responds to these selection criteria. However, to be funded, an application must also address one or more of the absolute priorities, and the elements described in the *Application Requirements* section of this notice.

Use of Consortium Incentive Grant Funds

An SEA may use incentive grant funds to implement the consortium or to carry out any other activities authorized under the MEP. Because the incentive grants may be used for any activities authorized under the MEP, the

supplement-not-supplant provision of section 1120A(b) and section 1304(c)(2) of the ESEA applies to the use of the incentive grant funds. Moreover, because the MEP is a formula grant program, the use and reporting of the incentive grant funds are governed by the provisions of parts 76 and 80 of EDGAR, which concern State-administered formula grant programs, rather than the provisions of part 75 of EDGAR, which concern discretionary grant programs. In this regard, an SEA receiving an incentive grant must submit the financial reports required under § 76.720 (and § 80.41) of EDGAR. However, under these requirements, an SEA does not need to submit the performance reports on the use of the incentive grant funds otherwise required under § 76.720 and § 80.40(b). Instead, information on the effects of the incentive grant funds will be gathered through the performance reporting to be required by the Department for the MEP Basic State Formula grant.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 does not require you to respond to collection of information unless it displays a valid OMB control number. We display the valid OMB control number assigned to the collection of information in this final notice at the end of this notice.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document is intended to provide early notification of our specific plans and actions for this program.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

You may also view this document in text at the following site: *http://www.ed.gov/ about/offices/ list/oese/ ome/index.html.*

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/ nara/ index.html*

(Approved by the Office of Management and Budget under control number 1810–0649)

(Catalog of Federal Domestic Assistance Number 84.144: (Migrant Education Coordination Program)

Dated: February 26, 2004.

Raymond Simon,

Assistant Secretary for Elementary and Secondary Education.

Appendix—Analysis of Comments and Changes

We group major issues according to subject. Generally, we do not address technical and other minor changes, and suggested changes the law does not authorize us to make under applicable statutory authority.

Eligibility for Consortium Incentive Grants

Comment: One commenter suggested that the notice include clarifying language that charter schools may also be an ''other appropriate entity'' with which an SEA may enter into a consortium. The commenter also suggested that the notice clarify that ''migrant children whose education is interrupted'' would include ''all [such] public school students, including migrant students enrolled in charter schools.''

Discussion: The Department agrees that prospective applicants would benefit from inclusion of examples of ''other appropriate entities.'' However, we do not agree that the notice needs to further clarify the term ''migrant children whose education is interrupted'' since the term already clearly includes any such migrant children whether they are enrolled in public or private school or are out-of-school.

Changes: The definition of ''other appropriate entity'' has been revised to include examples, ''such as a school district, a charter school, a nonprofit or for-profit organization, or an institution of higher education.''

Application Requirements

Comment: One commenter asserted that the requirements of section 1308(a), which focus on interstate and intrastate coordination, apply to all provisions in section 1308. The commenter said that, as a result, the consortia and the incentive grants authorized under section 1308(d) must, as a matter of law, be designed to ''improve the interstate and intrastate coordination among [State and local] agencies' migrant educational programs. * * *''

Discussion: The Department does not agree with the comment. Section 1308 is entitled ''Coordination of Migrant Education Activities,'' and the provisions contained in this section all generally relate to coordination. The specific provision to which the commenter refers is in a subparagraph of section 1308(a), which itself is entitled ''Improvement of Coordination.'' Specifically, subparagraph 1308(a)(1), entitled ''In General,'' authorizes the Department, among other things, to award grants or contracts to various specific agencies in order to improve interstate and intrastate coordination of those agencies' migrant education programs. Neither this subparagraph (a)(1) nor the duration-of-grants provision in subparagraph (a)(2) applies to the specific authorizations and provisions contained in sections 1308(b) through (e). However, while not legally required to do so, the Department has decided that to be considered high-quality consortia selected in this competition under section 1308(d), the proposed consortia must be designed to improve the interstate or intrastate coordination of migrant education programs.

Changes: We have revised the *Application Requirements* to require that, to be funded, an applicant must explain how the proposed consortium will improve interstate and intrastate coordination of migrant education programs.

Absolute Priorities

Comment: One commenter recommended that absolute priority 1 (regarding services to improve the identification and recruitment of migratory children whose education is interrupted) must be put in place before incentive grants are provided for the other absolute priorities. The commenter also urged the Department to develop a nationwide Internet-based data management system that is accessible to all school districts and compatible with standard operating systems. The commenter stated that a system of this kind would enable school districts to access critical information on migrant children, thereby increasing the efficiency and effectiveness of the MEP and its services.

Discussion: The Department agrees that absolute priority 1 is a critical first component of any migrant education program. However, for reasons discussed in the notice of proposed requirements, absolute priorities 2 through 7 reflect areas of national significance for migrant students that warrant award of consortium incentive grants, and there is no reason to delay consortia's efforts to address these six areas while SEAs further their identification and recruitment of migrant students.

In addition, the Department agrees with the commenter that a system that facilitates the timely access to and transfer of student records can be an effective means of reducing the effects of educational disruption on migrant students. Pursuant to section 1308(b)(2), the Department is currently in the process of developing and implementing a migrant student records system for the purpose of electronically exchanging health and educational information regarding migrant children among States. Because this is a separate national initiative, the Department is not addressing it through this grant program.

Changes: None.

Comment: One commenter, believing that migrant education programs do not provide

for the dental and vision needs of migrant children, recommended that dental and vision needs be addressed as an additional priority. The commenter also recommended recognition and support of programs addressing cultural self-identification and self-esteem for migrant children.

Discussion: Dental and vision screenings, as well as activities that promote self-esteem of migrant students, are allowable services under the MEP Basic State Formula grant program to the extent that such services address needs that result from the migratory lifestyle and are educationally-related (*i.e.,* are needed to permit migrant children to function effectively in school). However, while these issues are important for migrant children, the Department does not believe that they reflect the same high level of national significance as do the seven absolute priorities established for the incentive grant competition.

Changes: None.

Reporting Requirements

Comment: One commenter asked whether a grantee must submit a final summary evaluation report at the end of the second year, or whether instead it could submit a developmental evaluation for the second year, continue its work on consortium activities (with the use of other funds) for a third year, and then submit a final summary evaluation report at the end of third year. The commenter noted that the second option would allow a longer window of time to achieve the measurable goals of the consortium.

Discussion: The Department is soliciting applications for consortia that will complete described activities in no more than two years. These applications must include objectives and measurable outcomes to be completed within the maximum two-year performance period. Participating SEAs or other entities in a consortium may continue to support and evaluate the effectiveness of consortium activities that they choose to carry out after the second year. However, participating SEAs must still provide a final report, under § 75.590 of EDGAR, that addresses their success in completing the activities and achieving the objectives and outcomes that were established in their approved consortium applications for completion within the maximum two-year performance period.

Changes: None.

Comment: None.

Discussion: In reviewing the notice, the Department noted a need to clarify the grantee reporting requirements.

Changes: The reporting requirements have been revised to clarify that:

(1) The first-year performance report and the final second-year evaluation report required under § 75.118 and § 75.590 of EDGAR concern the completion of activities of the approved consortium, rather than the use of the awarded incentive grant funds, and

(2) SEAs do not need to submit a performance report on the use of the incentive grant funds. Instead, because an SEA may use incentive grant funds for any activity authorized under the MEP, the effectiveness of the incentive grants will be measured through those performance reports required by the Department for the MEP Basic State Formula grant. However, an SEA receiving an incentive grant must submit the financial reports relating to incentive grant funds required under § 76.720 and § 80.41 of EDGAR.

Use of Consortium Incentive Grant Funds

Comment: None.

Discussion: In reviewing the notice, the Department noted that, because the incentive grants may be used for any activities authorized under the MEP, the supplement-not-supplant provision found in sections 1120A(b) and 1304(c)(2) of the ESEA should be made applicable to the consortium incentive grants.

Changes: The final requirements clarify that the supplement-not-supplant provision of sections 1120A(b) and 1304(c)(2) apply to the use of these incentive grant funds.

Amount and Duration of Incentive Grants

Comment: None.

Discussion: In reviewing the notice, the Department noted the need to explain more clearly the funding formula that it will use to calculate the incentive grant award amounts.

Changes: We have revised the final requirements to clarify the language explaining the funding formula.

[FR Doc. 04–4719 Filed 3–2–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education, Overview Information, Migrant Education Program (MEP) Consortium Incentive Grants Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004

Catalog of Federal Domestic Assistance (CFDA) Number: 84.144.

DATES: Applications Available: March 3, 2004.

Deadline for Transmittal of Applications: May 28, 2004.

Deadline for Intergovernmental Review: May 3, 2004.

Eligible Applicants: State educational agencies (SEAs) receiving MEP Basic State Formula grants.

Estimated Available Funds: $2,500,000.

Estimated Range of Awards: $45,997–$91,995.

Estimated Average Size of Awards: $64,102.

Maximum Award: By statute, the maximum amount that we may award under this program is $250,000.

Estimated Number of Awards: 39.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the MEP Consortium Incentive Grants program is to provide incentive grants to State educational agencies (SEAs) that participate in high-quality consortia with another SEA or other appropriate entity to improve the delivery of services to migrant children whose education is interrupted. Through this program, the Department provides financial incentives to SEAs to participate in high-quality consortia that improve the intrastate and interstate coordination of migrant education programs by addressing key needs of migratory children who have their education interrupted.

Priorities: The priorities for this competition are from the notice of final requirements for this program, published elsewhere in this issue of the **Federal Register.**

Absolute Priorities: For FY 2004, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet one or more of these priorities.

Program Authority: 20 U.S.C. 6398(d).

Applicable Regulations: (a) The Education Department General Regulations (EDGAR) in 34 CFR parts 75 (except 75.232), 76, 77, 79, 80 (except 80.40(b)), 82, 85 and 99; and (b) the notice of final requirements published elsewhere in this issue of the **Federal Register.**

II. Award Information

Type of Award: Formula grants.

Estimated Available Funds: $2,500,000.

Estimated Range of Awards: $45,997–$91,995.

Estimated Average Size of Awards: $64,102.

Maximum Award: By statute, the maximum amount that we may award under this program is $250,000.

Estimated Number of Awards: 39.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* State educational agencies (SEAs) receiving MEP Basic State Formula grants.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching but does involve supplement-not-supplant funding provisions. The notice of final requirements published elsewhere in this issue of the **Federal Register** makes applicable the supplement-not-supplant