

access at: [www.access.gpo.gov/nara/index.html](http://www.access.gpo.gov/nara/index.html).

**Program Authority:** Sections 6151 through 6156 of the ESEA, as amended by the No Child Left Behind Act of 2001 (P.L. 107-110).

Dated: July 15, 2002.

**Susan B. Neuman,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 02-18306 Filed 7-18-02; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

### Local Flexibility Demonstration Program

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

**ACTION:** Notice of final application requirements, selection criteria, and application process.

**SUMMARY:** The Secretary announces final application requirements, selection criteria, and the application process for the Local Flexibility (Local-Flex) Demonstration Program.

**EFFECTIVE DATE:** August 19, 2002.

**SUPPLEMENTARY INFORMATION:** On February 22, 2002, we published in the **Federal Register** (67 FR 8442-8444) a notice of proposed application requirements, selection criteria, and application process for the Local-Flex program, which is authorized under sections 6151 through 6156 of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (Pub. L. 107-110). This notice announces final application requirements, selection criteria, and the application process for the program.

**Note:** This notice does not solicit applications. A notice inviting applications under the Local-Flex competition is published separately in this issue of the **Federal Register**.

### Analysis of Comments and Changes

Four parties submitted various comments in response to the notice of proposed application requirements, selection criteria, and application process.

**Comment:** One commenter suggested that we revise the language concerning the baseline academic data that local educational agencies (LEAs) would submit with their applications. This commenter suggested that LEAs should provide as their baseline the results under their adequate yearly progress (AYP) definition under the predecessor ESEA.

**Discussion:** Recognizing that States are in the process of developing State AYP definitions to meet the requirements in the reauthorized ESEA we are requesting LEAs to submit the best available disaggregated baseline data. These data should be based on assessments consistent with section 1111(b)(3) of the predecessor ESEA.

**Changes:** We have clarified that, in submitting baseline academic data, LEAs must provide student achievement data from assessments consistent with section 1111(b)(3) of the predecessor ESEA.

**Comment:** One commenter suggested that after revising its goals based on the State's new AYP definition, an LEA should be required to submit its revised goals to the Secretary.

**Response:** The Secretary had intended that an LEA be required to submit these revised goals as part of a proposed amendment to its Local-Flex agreement.

**Changes:** We have clarified that an LEA must not only revise its goals, as necessary, after the State develops the State AYP definition, but that it must also submit the revised goals to the Secretary as part of a proposed amendment to its Local-Flex agreement. We have also clarified that LEAs must submit any revised strategies for reaching those goals.

**Comment:** Two commenters expressed concern about the relationship between LEAs that have entered into Local-Flex agreements and State educational agencies (SEAs) that subsequently seek State-Flex authority under sections 6141 through 6144 of the ESEA. One of the commenters indicated that an SEA seeking State-Flex authority should not be required to incorporate Local-Flex agreements into its State-Flex proposal, and the other commenter said that an LEA should not be forced to incorporate its Local-Flex agreement into its SEA's State-Flex proposal.

**Response:** Under the legislation, the Secretary may enter into Local-Flex agreements only with LEAs in States that do not have State-Flex authority. Furthermore, if an SEA notified the Secretary, by May 8, 2002, that it intended to apply for State-Flex authority, an LEA in that State is precluded from applying for Local-Flex until the Department makes a final determination concerning the SEA's State-Flex application. The May 8, 2002 notification deadline essentially gave SEAs an opportunity to seek State-Flex before permitting their LEAs to seek Local-Flex authority.

The application process that we described in the February 28, 2002 **Federal Register** notice is consistent with the statutory provisions. Under

this process, an SEA initially decided whether it intended to apply for State-Flex authority and to preclude its LEAs from entering into Local-Flex agreements with the Secretary. If an SEA chose not to notify the Department, by May 8, 2002, that it intended to apply for State-Flex, its LEAs may participate in the Local-Flex competition.

Once an LEA in a State has entered into a Local-Flex agreement, an SEA may subsequently receive State-Flex authority only if any LEA in the State with a Local-Flex agreement agrees to be part of the SEA's State-Flex proposal.

**Changes:** In the notice inviting applications published elsewhere in this issue of the **Federal Register**, we have clarified that if an LEA has entered into a Local-Flex agreement with the Secretary and its SEA later seeks to apply for State-Flex authority, the SEA may not force the LEA to be part of the State-Flex proposal. The SEA may seek State-Flex only if each of its LEAs that has a Local-Flex agreement with the Secretary agrees to be part of the SEA's submission. SEAs and LEAs are encouraged to work cooperatively to minimize potential disputes regarding the implementation of State-Flex and Local-Flex.

**Comment:** One commenter suggested that applicants be required to submit the following information to enable the Secretary to evaluate whether they are focusing on serving the needs of students most at risk of educational failure: (1) The number and percentage of schools in the district that qualify for schoolwide programs; (2) The amount of local education funds spent per pupil at Title I schools compared to the per-pupil spending at non-Title I schools; and (3) Any formula the district would use to target consolidated Federal funds to students most at risk of education failure.

**Discussion:** An applicant must submit detailed baseline academic data and specific measurable goals, with annual objectives, that it seeks to achieve by consolidating and using funds in accordance with the terms of its proposed agreement. The goals must relate to raising student achievement and narrowing achievement gaps relative to the baseline data that are submitted. In addition, the applicant must propose specific strategies for reaching the stated goals. On the basis of the application requirements and the selection criteria that will be used for this competition, we will be able to focus Local-Flex agreements on LEAs serving the need of students most at risk of educational failure competition.

**Changes:** None.

*Comment:* One commenter suggested that each applicant be required to describe how its proposed Local-Flex plan will meet the general purposes of the programs included in the consolidation. This commenter also urged us to require each applicant to document parental involvement in the planning process, to explain how the applicant will continue to comply with all applicable civil rights requirements, and to include in its application a description of the accounting procedures and safeguards that it would employ to ensure proper disbursement of, and accounting for, Federal funds.

*Discussion:* In the February 22, 2002 **Federal Register** notice, we did not include all of the statutory application requirements. We did not believe that it was necessary to seek public comments on some of the more explicit requirements included in the legislation. However, all of the statutory application requirements, including those addressed in this notice, are discussed in the application package.

The comments referenced in the preceding paragraph concerning parental involvement and fiscal responsibility are addressed in the application package. We have made changes to the application requirements and selection criteria in this notice to address the comment concerning the general purposes of the programs included in the consolidations. With respect to the comment on civil rights compliance, all applicants, as mandated by the legislation, will be required to submit an assurance that they are complying with all applicable civil rights requirements.

*Changes:* We have modified the application requirements to state expressly that each applicant must, as part of its five-year proposal, describe how it will meet the general purposes of the programs that are consolidated. In addition, we have modified the "Quality of the Local-Flex Plan" selection criterion to include a factor relating to the general purposes of the consolidated programs.

*Comment:* One commenter suggested that under the application requirements, migrant status should be listed as one of the subgroups by which the baseline academic data should be disaggregated.

*Discussion:* We do not agree because migrant status is not one of the required subgroups for determining AYP under Part A of Title I. Given that an LEA's progress in implementing Local-Flex will be measured on the basis of its AYP status, we believe that it is important to obtain, at a minimum, disaggregated baseline data that reflect the AYP subgroups. While it is not mandatory,

applicants may also submit other disaggregated data, such as migrant status, which are required for reporting assessment results under section 1111(b)(3) of the reauthorized ESEA.

*Changes:* None.

*Comment:* One commenter suggested that under the "Quality of the Local-Flex Plan" selection criteria, we add a factor about the extent to which the LEA included parents in the development of its Local-Flex proposal, particularly parents of subgroups of significant size.

*Discussion:* We agree that the selection criteria should include a factor relating to parental involvement in the development of the Local-Flex proposals, particularly the parents of students most at risk of educational failure.

*Changes:* We have modified the "Quality of the Local-Flex Plan" criterion to add a factor relating to the involvement of parents, particularly the parents of students most at risk of educational failure, in the development of the Local-Flex proposal.

*Comment:* One commenter stated that the overall application process should outline a process for reviewing and deciding issues of continued participation in Local-Flex if the LEA does not meet its stated targets for student achievement over a two-to three-year period.

*Discussion:* The legislation states that the Secretary must, after providing notice and an opportunity for a hearing, promptly terminate a Local-Flex agreement if an LEA fails to make adequate yearly progress for two consecutive years. The legislation also provides that, after providing notice and an opportunity for a hearing, the Secretary may terminate a Local-Flex agreement if there is evidence that an LEA has failed to comply with the terms of the agreement.

The Secretary does not believe that it is necessary to issue, at this time, additional guidance on the termination of a Local-Flex agreement.

*Changes:* None.

### I. Application Requirements

In order that the Secretary can select Local-Flex participants in accordance with section 6151 of the ESEA, Local-Flex applicants must submit the following information, together with the other information set forth in the legislation and outlined in the Local-Flex application package.

(a) *Baseline academic data.* Each LEA seeking to enter into a Local-Flex agreement with the Secretary must provide, as part of its proposed agreement, student achievement data for the most recent available school year,

including data from assessments under section 1111(b)(3) of the predecessor ESEA, as well as descriptions of achievement trends. To the extent possible, an LEA must provide data for both mathematics and reading or language arts, and the LEA must disaggregate the results by each major racial and ethnic group, by English proficiency status, by disability status, and by status as economically disadvantaged. (These are the categories, among others, by which an LEA will disaggregate data for determining AYP under section 1111(b)(2) of the reauthorized ESEA. Furthermore, these are the categories, among others, by which an LEA had to disaggregate data for reporting assessment results under section 1111(b)(3) of the predecessor ESEA.)

In addition to submitting baseline achievement data that are disaggregated, to the extent possible, by the categories noted above, LEAs may also submit baseline achievement data that are further disaggregated by gender and by migrant status, or baseline data on other academic indicators, such as grade-to-grade retention rates, student dropout rates, and percentages of students completing gifted and talented, advanced placement, and college preparatory courses. To the extent possible, the baseline data on other academic indicators should also be disaggregated.

(b) *Specific, measurable education goals.* Each applicant must submit a five-year Local-Flex plan that contains specific, measurable educational goals, with annual objectives, that the LEA seeks to achieve by consolidating and using funds in accordance with the terms of its proposed agreement. The goals must relate to raising student achievement and narrowing achievement gaps relative to the baseline achievement data and other baseline data that are submitted.

At the time an LEA submits its initial proposed Local-Flex agreement, the goals in its proposal will not have to relate to the State's definition of AYP under section 1111(b)(2) of the ESEA because those definitions are just being developed. However, as soon as its State definition of AYP is submitted to and approved by the Secretary, each LEA that has entered into a Local-Flex agreement must revise its goals, as necessary, based on that definition. (**NOTE:** State definitions of AYP under section 1111(b)(2) of the ESEA must be submitted no later than January 31, 2003, and implemented by the end of the 2002–2003 school year.) The LEA must submit its revised goals as part of

a proposed amendment to its Local-Flex agreement.

(c) *Strategies for meeting its goals and the general purposes of the consolidated programs.* Each applicant must propose a five-year plan that contains specific strategies for reaching its stated goals. In particular, the plan must describe how the applicant will consolidate and use funds received under Subpart 2 of Part A of Title II (Teacher and Principal Training and Recruitment); Subpart 1 of Part D of Title II (Enhancing Education Through Technology); Subpart 1 of Part A of Title IV (Safe and Drug-Free Schools and Communities); and Subpart 1 of Part A of Title V (Innovative Programs).

As part of its five-year plan, an applicant must also describe how it will meet the general purposes of the programs that are consolidated under the Local-Flex agreement. In particular, an applicant must describe how its proposed plan would—

(i) Improve teacher and principal quality and increase the number of highly qualified teachers in classrooms (Title II, Part A);

(ii) Improve teaching and student academic achievement through the use of technology in schools (Title II, Part D);

(iii) Support programs that prevent violence in and around schools and that prevent the illegal use of alcohol, tobacco, and drugs (Title IV, Part A);

(iv) Support local education reform efforts that are consistent with and support statewide education reform efforts (Title V, Part A).

Once a Local-Flex LEA's State definition of AYP has been established and the LEA has modified its goals, as necessary, to reflect that definition, the LEA must modify, as appropriate, the strategies that it would implement to reach its revised educational goals. The LEA must submit these modifications as part of a proposed amendment to its Local-Flex agreement.

## II. Selection Criteria

The Secretary will use the following criteria to select the LEAs with which he will enter into Local-Flex agreements:

(a) *Identification of the Need for the Local-Flex Agreement.* (25 points) The Secretary considers the LEA's description and analysis of its need for a Local-Flex agreement. In determining the quality of the description and analysis, the Secretary considers the following factors:

(i) The extent to which the LEA's baseline achievement data and data on other academic indicators are objective,

valid, and reliable, and provide disaggregated results.

(ii) The extent to which the proposal identifies achievement gaps among different groups of students.

(iii) The extent to which the Local-Flex agreement will focus on serving or otherwise addressing the needs of students most at risk of educational failure.

(iv) The extent to which the additional flexibility provided under the Local-Flex agreement would enable the LEA to meet more effectively the State's definition of adequate yearly progress and specific, measurable goals for improving student achievement and narrowing achievement gaps.

(b) *Quality of the Educational Goals.* (25 points) The Secretary considers the quality of the goals that the LEA sets in its proposed Local-Flex agreement. In determining the quality of the LEA's goals, the Secretary considers the following factors:

(i) The extent to which the goals in the proposed Local-Flex agreement are clearly specified and measurable.

(ii) The significance of the improvement in student achievement and in narrowing achievement gaps proposed in the agreement.

(iii) The extent to which the goals relate to the needs identified in the LEA's baseline achievement data and data on other academic indicators.

(iv) The extent to which the goals support the intent and purposes of the Local-Flex program.

(c) *Quality of the Local-Flex Plan.* (35 points) The Secretary considers the quality of the LEA's Local-Flex plan. In determining the quality of the Local-Flex plan, the Secretary considers the following factors:

(i) The extent to which the LEA will use funds consolidated under the Local-Flex agreement to address the needs identified in the baseline achievement data in order to assist the LEA in achieving its educational goals.

(ii) The extent to which the LEA's Local-Flex plan constitutes a coherent, sustained approach for reaching the LEA's goals, and to which the timelines for implementing strategies in the plan are reasonable.

(iii) The extent to which the LEA will use achievement data and data on other academic indicators to manage the proposed activities and to monitor progress toward reaching its goals on an ongoing basis.

(iv) The extent to which the LEA demonstrates that it will meet the general purposes of the programs that would be consolidated under its Local-Flex agreement;

(v) The extent to which the LEA included parents, especially parents of children most at risk of educational failure, in the development of the Local-Flex proposal.

(d) *Adequacy of the Resources.* (15 points) The Secretary considers the adequacy of the resources for the proposed Local-Flex agreement. In considering the adequacy of the resources, the Secretary considers the following factors:

(i) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement are adequate to support the strategies in its Local-Flex plan.

(ii) The extent to which the funds that the LEA proposes to consolidate under the Local-Flex agreement will be integrated with other resources to meet the goals of the proposed agreement.

(iii) The extent to which costs that the LEA will incur under the Local-Flex agreement are reasonable in relationship to the goals that will be achieved under the agreement.

## III. Application Process

The Secretary will conduct two separate Local-Flex competitions. A notice inviting applications for the initial group of Local-Flex LEAs is published elsewhere in this issue of the **Federal Register**. Depending on the number and quality of the applications submitted, the Secretary intends to select up to 40 LEAs with which to enter into Local-Flex agreements during the initial competition. The Secretary will reserve the remaining Local-Flex slots for a subsequent Local-Flex competition.

**FOR FURTHER INFORMATION CONTACT:** Ms. Milagros Lanauze. Telephone: (202) 401-0039 or via Internet: [LocalFlex@ed.gov](mailto:LocalFlex@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 notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed above.

## Electronic Access to This Document

You may view this document, as well as 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/legislation/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.

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

**Program Authority:** Sections 6151 through 6156 of the ESEA, as amended by the No Child Left Behind Act of 2001 (P.L. 107-110).

Dated: July 15, 2002.

**Susan B. Neuman,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 02-18307 Filed 7-18-02; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Rocky Flats

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

**DATES:** Thursday, August 1, 2002, 6 p.m. to 9:30 p.m.

**ADDRESSES:** Jefferson County Airport Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield, CO.

**FOR FURTHER INFORMATION CONTACT:** Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO, 80021; telephone (303) 420-7855; fax (303) 420-7579.

#### SUPPLEMENTARY INFORMATION:

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

#### Tentative Agenda

1. Discussion and approval of new quarterly update schedule and priorities.
2. End-state discussion on surface water regulatory issues.
3. Review and discuss draft recommendation language: end-state issues related to surface and subsurface soil remediation.

4. Other Board business may be conducted as necessary.

**Public Participation:** The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

**Minutes:** The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420-7855. Hours of operations for the Public Reading Room are 8:30 a.m. to 4:30 p.m., Monday-Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC on July 12, 2002.

**Belinda Hood,**

*Acting Deputy Advisory Committee Management Officer.*

[FR Doc. 02-18245 Filed 7-18-02; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL02-97-000]

#### East Kentucky Power Cooperative, Inc. v. Louisville Gas and Electric Company and Kentucky Utilities; Notice of Conference

July 15, 2002.

Pursuant to Rule 601 of the Commission's Rules and Practice and Procedure 18 CFR 385.601, the Dispute Resolution Service will convene a Conference on Thursday and Friday, July 25 and 26, 2002, to discuss how Alternative Dispute Resolution processes and procedures may assist the participants in resolving disputes arising in the above docketed proceeding. The conference will be held at the Sheraton Suites Lexington, 2601 Richmond Rd, Lexington, KY (859-268-

0060), beginning at 1 p.m. on July 25 and ending approximately 1 p.m. July 26.

Jerrilynne Purdy, acting for the Dispute Resolution Service, will convene the Conference. She will be available to communicate in private with any participant prior to the conference. If a participant has any questions regarding the conference, please call Ms. Purdy at 202-208-2232 or email [jerrilynne.purdy@ferc.gov](mailto:jerrilynne.purdy@ferc.gov). Parties may also communicate with Richard Miles, the Director of the Commission's Dispute Resolution Service at 1-877FERC ADR (337-2237) or email [richard.miles@ferc.gov](mailto:richard.miles@ferc.gov).

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02-18285 Filed 7-18-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP98-53-025]

#### Kinder Morgan Interstate Gas Transmission LLC; Notice of Filing of Refund Report

July 15, 2002.

Take notice that on June 28, 2002, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing a report regarding Kansas ad valorem tax refunds. KMIGT states that this filing is being made in compliance with Commission order issued March 18, 2002 in Docket Nos. RP98-53-024, *et al.* Among other things, that order approved a settlement of these matters and extended the deadline for KMIGT's report to July 1, 2002. KMIGT states that a copy of this filing was served on all intervenors in the subject proceedings, the Appendix B parties, and relevant state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed on or before August 2, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).