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DEPARTMENT OF EDUCATION

[CFDA No.: 84.359B]

Early Reading First Program

AGENCY: Department of Education.

ACTION: Notice extending Full Application deadline date for Early Reading First Program for fiscal year (FY) 2002.

SUMMARY: The Secretary extends the deadline date for the submission of Full Applications by certain applicants (see the "Eligibility" section of this notice) under the Early Reading First Program discretionary grant competition for FY 2002. The Secretary takes this action to allow more time for the preparation and submission of applications by potential applicants and their partners in the State of Louisiana that were adversely affected by severe weather conditions resulting from Hurricane Lili. This extension is intended to help these potential applicants and their partners compete fairly with other applicants.

Eligibility: The extension of the deadline date in this notice applies to you if (1) You are an eligible applicant for the Full Application phase of the Early Reading First grant competition for FY 2002, and (2) you or one of your official partners is located in one of the areas of Louisiana listed below that the President has declared a disaster area as a result of Hurricane Lili.

Potential eligible applicants for Early Reading First for the purpose of this notice are defined as those eligible applicants who submitted Pre-Applications and that were invited by the Secretary (through the Office of Elementary and Secondary Education) to submit Full Applications.

The areas of Louisiana affected include the following cites, counties, or parishes: Acadia, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu Cameron East Baton Rouge, Evangeline, Iberia, Iberville, Jefferson Davis, Jefferson, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermillion, Washington, and West Baton Rouge.

DATES: The new deadline date for receipt of Full Applications under the Early Reading First Program from

applicants eligible for this extension is October 18, 2002. If you or a courier or delivery service delivers an application by hand, the deadline on October 18 is 4:30 p.m. For applicants in the above Louisiana areas only, this deadline replaces the original October 11, 2002 receipt deadline for Full Applications. All other instructions for transmitting applications in the Early Reading First application package (pp. E-3 and E-4) remain in effect. The deadline date for the transmittal of State process recommendations by State Single Points of Contact (SPOCs) and comments by other interested parties remains as originally posted.

The invitation to submit applications was originally published in the **Federal Register** on June 7, 2002 (67 FR 39369-39374).

FOR FURTHER INFORMATION CONTACT: Tracy Bethel or Mary Ann Lesiak, Office of Elementary and Secondary Education, 400 Maryland Avenue SW., Washington, DC 20202-6132. Telephone: (202) 260-4555, or via Internet: erf@ed.gov. Applications for, and information about, the Early Reading First program competition are available here: <http://www.ed.gov/offices/OESE/earlyreading/index.html>.

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

If you want to transmit a recommendation or comment under Executive Order 12372, you can find the latest list and addresses of individual SPOCs on the Web site of the Office of Management and Budget at the following address: <http://www.whitehouse.gov/omb/grants>.

If you are an individual with a disability, you may obtain this document in an alternative format (e.g., Braille, large print, audiotope, or computer diskette) on request to either of the contact persons listed in this notice.

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Dated: October 8, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

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DEPARTMENT OF EDUCATION

State Flexibility Program

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

ACTION: Notice of final application requirements, selection criteria, and competition schedule.

SUMMARY: The Secretary announces final application requirements, selection criteria, and the competition schedule for the State Flexibility (State-Flex) program.

EFFECTIVE DATE: November 12, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Milagros Lanauze. Telephone: (202) 401-0039 or via Internet: StateFlex@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, audiotope, or computer diskette) on request to the contact person listed above.

SUPPLEMENTARY INFORMATION: On April 22, 2002, we published in the **Federal Register** (67 FR 19626-19629) a notice of proposed application requirements, selection criteria, and competition schedule for the State-Flex program, which is authorized under sections 6141 through 6144 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 competition schedule for the program.

Note: This notice does not solicit applications. A notice inviting applications under the State-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 competition schedule.

Comment: Two commenters expressed concern about the competition schedule and suggested that the second State-Flex competition be held after the date by which States must submit their definitions of adequate yearly progress (AYP) to the Department. The commenters indicated that a later schedule would also give States sufficient time to prepare their State-Flex applications.

Response: We recognize that some States may need additional time to develop their State-Flex proposals.

Changes: We are revising the competition schedule and will hold the second State-Flex competition no earlier than Spring 2003.

Comment: One commenter recommended that States not be required to submit their State definition of AYP in order to be considered eligible for State-Flex. Instead, the commenter suggested that in applying for State-Flex in the initial round of competition, States be permitted to submit an assurance that they will submit their AYP definition by January 2003.

Response: Implementation of the AYP requirements is fundamental to the State-Flex program. One of the primary purposes of the State-Flex program is to assist States and districts in meeting AYP. Given that the Department has not yet published final Title I AYP regulations, the Department will not require an SEA to submit its State AYP definition at the time it applies for State-Flex authority.

If the Department has not approved a State's AYP definition by the time it applies for State-Flex authority, an SEA may only be granted conditional State-Flex authority. The Department will not grant final approval of an SEA's State-Flex application unless the State submits its AYP definition by the AYP deadline established by the Department and the Department approves that definition.

Changes: The Department has revised the State-Flex application requirements. An SEA will not be required to submit its State AYP definition prior to or as part of its State-Flex application.

Instead, in its application, an SEA will be required to provide an assurance that it will submit the definition by the AYP deadline established by the Department.

In conducting this competition, the Department will review the quality of State-Flex plans, including the quality of the local performance agreements that are submitted as part of those plans. Based on that review, the Department will grant State-Flex authority to up to

four SEAs. If an SEA selected for State-Flex authority has not yet had its AYP definition approved by the Department, that SEA will receive conditional State-Flex authority. An SEA with conditional State-Flex authority will not be able to exercise its State-Flex authority or implement any portion of its State-Flex plan (including the local performance agreements) unless the Department approves the SEA's AYP definition by March 31, 2003.

Comment: One commenter recommended that a State not be required to include in its State-Flex application the five-year performance agreements that the State proposes to enter into with its LEAs. Instead, the commenter suggested that the State be allowed to submit the format for the performance agreements along with LEA demographics and a signed assurance from participating LEAs that they will participate in the program and comply with its requirements.

Response: Section 6141 of ESEA specifically requires a State to submit, as part of its State-Flex application, the performance agreements that the State proposes to enter into with eligible LEAs.

Changes: None.

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) Data indicating the gap between low- and high-achieving students in the districts for which local performance agreements are proposed, as well as data indicating the achievement gap statewide; (2) The number and percentage of schools in each district that qualify for Title I schoolwide programs; (3) 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 (4) Any formula the State and districts would use to target consolidated Federal funds to students most at risk of education failure, as well as strategies to target State-level activities to address the achievement gap.

Response: We agree that there is a need for applicants to provide statewide and LEA student achievement data to enable the Department to assess whether State-Flex authority will be used to address the needs of students most at risk of educational failure. However, we do not believe that the additional information suggested by the commenter is necessary for us to evaluate adequately a State-Flex proposal. On the basis of the selection

criteria and the revised application requirements for this competition, we will be able to focus State-Flex agreements on SEAs serving the needs of students most at risk of educational failure.

Changes: We will require applicants to submit statewide baseline academic data, as well as LEA student achievement profiles. We have clarified in the application requirements section of this notice the contents of local performance agreements, which include baseline academic data for those LEAs.

Comment: One commenter expressed concern that States may use the State-Flex program in a manner that undermines the parent involvement provisions contained in ESEA. The commenter suggested that the Secretary evaluate State-Flex applications based on the degree to which parent involvement requirements contained in ESEA are maintained, and also recommended that the Secretary require an assurance that States will provide parents and other stakeholders with notice and opportunity to comment on the State-Flex application.

Response: In the April 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 required assurances, are discussed in the application package.

In addition, we agree that the Department should evaluate applications, in part, based on the degree to which the SEA and LEAs with proposed performance agreements have included parents in the development of their proposals.

Changes: We have revised the selection criteria to include a factor relating to parental involvement in the development of the proposals.

Comment: One commenter argued that the Department incorrectly stated that the five-year period of State-Flex authority may be shortened or extended contingent on a State's compliance with the State-Flex requirements, and should delete this statement. The commenter suggested, instead, that the overall application process outline a process for reviewing and deciding issues of continued participation in State-Flex or renewal of State-Flex authority.

Response: The legislation states that the Secretary must, after providing notice and an opportunity for a hearing, promptly terminate a State-Flex agreement if an SEA 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 State-Flex agreement if there is evidence that an SEA has failed to comply with the terms of the agreement. In addition, the legislation provides that the Secretary must renew a State's State-Flex authority if the State has met all the terms and requirements of the State-Flex program.

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

Changes: None.

Comment: One commenter suggested that the Secretary evaluate applications for State-Flex based on the degree to which States decline to direct how their LEAs use Title V, Part A funds, as the purpose of Title V, Part A is to support local reform efforts.

Response: The statute allows SEAs that are granted State-Flex authority to specify how all LEAs in the State will use their Title V, Part A funds. This is one of the benefits an SEA receives under its grant of State-Flex authority; discouraging State-Flex participants from taking full advantage of the flexibility afforded to them under the program would be inconsistent with the intent of the legislation.

Changes: None.

Comment: One commenter suggested that an SEA be required to include in its State-Flex proposal a description of how each proposed local performance agreement will meet the general purposes of the programs that the applicable LEAs would consolidate under their agreements.

Response: Although we did not intend to seek public comments on some of the more explicit requirements included in the legislation, we agree that this description should be part of the applications.

Changes: We have modified the application requirements to state expressly that each local performance agreement must, as part of its five-year proposal, include a description of how the LEA will meet the general purposes of the programs that are consolidated.

Comment: One commenter urged us to require each applicant to explain how it 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.

Response: In the April 22, 2002

Federal Register notice of proposed application requirements, selection

criteria, and competition schedule (67 FR 19626–19629), 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.

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 and will continue to comply with all applicable civil rights requirements. We will also require applicants to submit an assurance regarding fiscal control and fund accountability.

Changes: None.

I. Application Requirements

Each State-Flex applicant must submit—

(a) *An assurance that it will submit its State AYP definition required under section 1111(b)(2) of the ESEA by the AYP deadline established by the Department.* Each SEA seeking a grant of State-Flex authority from the Secretary must provide, as part of its application, an assurance that it will submit to the Department its State AYP definition by the AYP deadline established by the Department.

Note: If an SEA selected for State-Flex authority has not yet had its AYP definition approved by the Department, that SEA will receive conditional State-Flex authority. An SEA with conditional State-Flex authority will not be able to exercise its State-Flex authority or implement any portion of its State-Flex plan (including the local performance agreements) unless the Department approves the SEA's AYP definition by March 31, 2003.

(b) *Statewide baseline academic data and LEA achievement profiles.* Each SEA seeking to enter into a State-Flex agreement with the Secretary must provide, as part of its proposed agreement, statewide student achievement data for the most recent available school year, including data from assessments consistent with section 1111(b)(3) of the predecessor ESEA, as well as descriptions of achievement trends. To the extent possible, an SEA must provide data for both mathematics and reading or language arts, and the SEA 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, SEAs may also submit baseline achievement data that are further disaggregated by gender and by migrant status, and 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.

The SEA must also provide a profile of student achievement trends in LEAs across the State, and indicate why it proposes to enter into agreements with particular LEAs rather than others.

(c) *The SEA's strategies for consolidating funds, making AYP, narrowing achievement gaps, and advancing the education priorities of the State.* Each SEA seeking State-Flex authority must submit a five-year plan that describes—

(i) How the SEA would consolidate and use State-level Federal funds from programs included in the scope of the State-Flex authority to assist the SEA in making AYP, narrowing achievement gaps, and advancing the education priorities of the State and the LEAs within the State;

(ii) How the strategies and goals in the LEA agreements support the State's strategies described in this proposal and will assist the State in making AYP and narrowing achievement gaps; and

(iii) The specific limitations, if any, that it would impose on the use of funds provided to LEAs in the State under section 5112(a) of the ESEA, and how these limitations would assist all LEAs in the State in making AYP and narrowing achievement gaps.

(d) *Proposed performance agreements with LEAs.* Each SEA seeking State-Flex authority must submit, as part of its application, five-year performance agreements that the SEA proposes to enter into with not fewer than four, and not more than ten, LEAs (at least half of which must be high-poverty LEAs). The SEA should indicate why it proposes to enter into agreements with these LEAs, rather than with other LEAs in the State.

Each proposed LEA agreement must include:

(i) *Baseline academic data.* For each LEA with which it proposes to enter into a local performance agreement, the SEA must provide, on behalf of that LEA, 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, the SEA must provide data for that LEA for both mathematics and reading or language arts, and 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 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, the SEA may also submit baseline achievement data on behalf of that LEA that are further disaggregated by gender and by migrant status, and 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.

(ii) *Specific, measurable education goals.* For each proposed local performance agreement, the SEA must submit, on behalf of that LEA, a five-year local performance agreement 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 meeting AYP, raising student achievement, and narrowing achievement gaps relative to the baseline achievement data and other baseline data that are submitted.

(iii) *Strategies for meeting its goals and the general purposes of the consolidated programs.* For each proposed local performance agreement, the SEA must submit, on behalf of that LEA, a five-year plan that contains specific strategies for reaching its stated goals. In particular, the plan must describe how the LEA 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 each five-year plan, the SEA must also describe how the LEA will meet the general purposes of the programs that are consolidated under the local performance agreement. In particular, an SEA must describe how each proposed plan would—

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

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

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

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

II. Selection Criteria

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

(a) *Identification of the Need for the State-Flex Authority and the Proposed Performance Agreements.* (25 points) The Secretary considers the SEA's need for State-Flex authority, including the need for the performance agreements that the SEA proposes in its State-Flex application. In determining need, the Secretary considers the extent to which—

(i) The SEA's proposal identifies achievement gaps among different groups of students, particularly in each of the LEAs with which the SEA proposes to enter into a performance agreement.

(ii) The State-Flex authority and proposed performance agreements will address the needs of students most at risk of educational failure.

(iii) The LEAs that would enter into performance agreements with the SEA serve a substantial portion of the students in the State who are most at risk of educational failure.

(iv) Requirements in the Federal programs that the SEA and LEAs with performance agreements plan to consolidate create barriers to implementing specific State and local education reform strategies.

(b) *Quality of SEA and LEA Strategies for Making Adequate Yearly Progress*

(AYP), *Narrowing Achievement Gaps, and Enhancing Education Priorities.* (30 points) The Secretary considers the quality of the strategies that the SEA will implement under its grant of State-Flex authority, including the quality of the strategies in each of the proposed performance agreements, for making AYP, narrowing achievement gaps, and for enhancing State and local education priorities. In determining the quality of these strategies, the Secretary considers the extent to which—

(i) The strategies that the SEA proposes for consolidating and using funds under the scope of the State-Flex authority and for directing how LEAs in the State will use funds under section 5112(a) of the ESEA will likely assist the State in meeting its definition of AYP, narrowing achievement gaps, and advancing its education priorities.

(ii) The performance agreements that the SEA proposes to enter into with LEAs in the State will likely assist the State in meeting its definition of AYP, narrowing achievement gaps, and advancing its education priorities.

(iii) The strategies in each of the proposed performance agreements, especially the strategies for consolidating and using funds under the scope of the agreements, will likely assist each affected LEA in meeting the State's definition of AYP and specific, measurable goals for improving student achievement and narrowing achievement gaps.

(iv) The extent to which the SEA and LEAs with proposed performance agreements included parents, especially parents of children most at risk of educational failure, in the development of the State-Flex proposal and proposed local performance agreements.

(v) The State-Flex proposal and each of the proposed performance agreements represent a coherent, sustained approach for meeting the purposes of the State-Flex program.

(vi) The timelines for implementing the strategies in the State-Flex proposal, including timelines in the proposed performance agreements, are reasonable.

(c) *Quality of the Management Plans.* (30 points) The Secretary considers the quality of the management plans that the SEA and affected LEAs would follow in implementing State-Flex activities. In reviewing the quality of the management plans, the Secretary considers the extent to which—

(i) The SEA will provide effective technical assistance and support to LEAs with performance agreements.

(ii) The SEA and each LEA with a performance agreement will use disaggregated student achievement data and data on other academic indicators

to manage their proposed activities, to monitor their own progress on an ongoing basis, and to make appropriate adjustments to their implementation strategies.

(iii) The SEA will monitor LEA activities under each of the performance agreements, evaluate the effectiveness of each agreement, and propose modifications to LEA activities or to the agreements, as appropriate.

(d) *Adequacy of the Resources.* (15 points) The Secretary considers the adequacy of the resources for the grant of State-Flex authority and the proposed performance agreements. In considering the adequacy of the resources, the Secretary considers the extent to which—

(i) The funds that the SEA proposes to consolidate under the grant of State-Flex authority are adequate to support the strategies that it seeks to implement with these funds.

(ii) The funds that each LEA plans to consolidate under its respective performance agreement are adequate to support the strategies in its agreement.

(iii) The SEA will coordinate the activities supported with funds consolidated under its grant of State-Flex authority with activities funded with other resources to meet the purposes of the State-Flex initiative.

(iv) Each LEA with a performance agreement will coordinate the activities supported with funds consolidated under its agreement with activities funded with other resources to meet the purposes of the agreement.

(v) The costs that the SEA and affected LEAs will incur under the grant of State-Flex authority and the proposed performance agreements are reasonable in relationship to the goals that will be achieved.

III. Application Process

The Secretary will conduct two separate State-Flex competitions. A notice inviting applications for the initial group of State-Flex SEAs 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 four SEAs to receive State-Flex authority during the initial competition.

In conducting this competition, the Department will review the quality of State-Flex plans, including the quality of the local performance agreements that are submitted as part of those plans. Based on that review, the Department will grant State-Flex authority to up to four SEAs. If an SEA selected for State-Flex authority has not yet had its AYP definition approved by the Department,

that SEA will receive conditional State-Flex authority. An SEA with conditional State-Flex authority will not be able to exercise its State-Flex authority or implement any portion of its State-Flex plan (including the local performance agreements) unless the Department approves the SEA's AYP definition by March 31, 2003.

The remaining State-Flex slots will be awarded during a second State-Flex competition to be held no earlier than Spring 2003.

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Program Authority: Sections 6141 through 6144 of the ESEA, as amended by the No Child Left Behind Act of 2001 (Pub.L. 107-110).

Dated: October 8, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

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DEPARTMENT OF EDUCATION

State Flexibility Program; Office of Elementary and Secondary Education, Department of Education; Notice Inviting Applications for State Flexibility Authority

Purpose of the Program: To provide State educational agencies (SEAs), and the local educational agencies (LEAs) with which they have performance agreements, with additional flexibility in order to assist them in meeting the State's definition of adequate yearly progress (AYP) and specific, measurable goals for improving student achievement and narrowing achievement gaps.

Eligible Applicants: SEAs with AYP definitions approved by the Department

or SEAs that submit an assurance that they will provide the Department with a State AYP definition that meets the requirements of section 1111(b)(2) of the Elementary and Secondary Education Act (ESEA) by the AYP deadline established by the Department.

Note: Hawaii, Puerto Rico, and the outlying areas are not eligible to apply for State-Flex because they do not have the minimum number of LEAs required for State-Flex authority.

If one of its LEAs has entered into a Local-Flex agreement with the Secretary, an SEA may subsequently seek State-Flex authority only if that LEA agrees to have its Local-Flex agreement submitted as one of the proposed performance agreements in the SEA's State-Flex application.

Applications Available: October 11, 2002.

Deadline for Transmittal of Applications: January 17, 2003.

Supplementary Information: Sections 6141 through 6144 of the ESEA, as amended by the No Child Left Behind Act of 2001 (Pub. L. 107-110), authorize the Secretary of Education to grant State flexibility (State-Flex) authority to up to seven SEAs, permitting them to (1) consolidate certain Federal education funds that are provided for State-level activities and State administration and use those funds for any educational purpose authorized under the ESEA in order to meet the State's definition of AYP and advance the education priorities of the State and its LEAs; and (2) specify how LEAs in the State will use funds allocated under section 5112(a) of the ESEA (State Grants for Innovative Programs). In addition, an SEA with State-Flex authority must enter into performance agreements with not fewer than four, but no more than ten, LEAs (at least half of which must be high-poverty LEAs), giving those LEAs the flexibility to consolidate certain Federal education funds and to use those funds for any educational purpose permitted under the ESEA in order to meet the State's definition of AYP and specific, measurable goals for improving student achievement and narrowing achievement gaps.

The Secretary will select State-Flex SEAs on a competitive basis in accordance with the selection criteria contained in a notice published elsewhere in this issue of the **Federal Register**. The application requirements and a description of the application process are also provided in that notice.

The Secretary intends to select up to four SEAs for participation in State-Flex under this competition. In conducting this competition, the Department will review the quality of State-Flex plans, including the quality of the local