



Federal Register

**Friday,
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Part IV

Department of Education

**Office of Innovation and Improvement—
Public Charter Schools Program (PCSP);
Notice Inviting Applications for New
Awards for Fiscal Year (FY) 2003; Notice**

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.282A, 84.282B, and 84.282C]

Office of Innovation and Improvement—Public Charter Schools Program (PCSP); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2003

Purpose of Program: The purpose of the PCSP is to increase national understanding of the charter school model and to expand the number of high-quality charter schools available to students across the Nation by providing financial assistance for the planning, program design, and initial implementation of charter schools and evaluating the effects of charter schools, including the effects on students, student academic achievement, staff, and parents.

Eligible Applicants: (a) State educational agencies (SEAs) in States with a specific State statute authorizing the establishment of charter schools may apply for funding. The Secretary awards grants to SEAs to enable them to conduct charter school programs in their States. SEAs use their PCSP funds to award subgrants to “eligible applicants,” as defined in this notice, for planning, program design, and initial implementation of a charter school; and to support the dissemination of information about, including successful practices in, charter schools. A charter school may apply to an SEA for funds to carry out dissemination activities, whether or not the charter school has applied for or received funds under the PCSP for planning or implementation, if the charter school has been in operation for at least three consecutive years and has demonstrated overall success, including—

- (1) Substantial progress in improving student achievement;
- (2) High levels of parent satisfaction; and
- (3) The management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

(b) Non-SEA eligible applicants may apply for funding directly from the U.S. Department of Education (Department) if the SEA in the State elects not to participate in the PCSP or does not have an application approved under the program. An “eligible applicant” is defined as a developer that has applied to an authorized public chartering authority to operate a charter school and has provided to that authority adequate and timely notice, and a copy, of its PCSP application, except that the Secretary or the SEA may waive these requirements in the case of a pre-charter

planning grant. If an SEA’s application is approved in this competition, applications received from non-SEA eligible applicants in that State will be returned to the applicants. In such a case, the non-SEA eligible applicant should contact the SEA for information related to the State’s subgrant competition.

Note: The following States currently have approved applications under this program: Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Utah and Wisconsin. In these States, only the SEA is eligible to receive an award under this competition. Eligible applicants in these States should contact their respective SEAs for information about participation in the State’s charter school subgrant program. Non-SEA eligible applicants in States that are not listed must apply directly to the Department on or before the deadline for transmittal of applications in order to be considered for funding in this competition.

Applications Available: March 14, 2003.

Deadline for Transmittal of Applications: April 28, 2003.

Deadline for Intergovernmental Review: June 27, 2003.

Estimated Available Funds: \$24,750,000.

Estimated Range of Awards: State educational agencies: \$500,000–\$8,000,000 per year. Other eligible applicants: \$10,000–\$150,000 per year.

Estimated Average Size of Awards: State educational agencies: \$3,000,000 per year. Other eligible applicants: \$150,000 per year.

Estimated Number of Awards: State educational agencies: 4–6. Other eligible applicants: 50–75.

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

Project Period: Up to 36 months.

Note: Planning and implementation grants or subgrants awarded by the Secretary or an SEA directly to non-SEA eligible applicants will be awarded for a period of up to 36 months, no more than 18 months of which may be used for planning and program design; and no more than two years of which may be used for the initial implementation of a charter school. Dissemination grants are awarded for a period of up to two years.

Applicable Regulations and Statute: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75 (except § 75.210), 76, 77, 79, 80, 81, 82, 85, 86, 97, and 99; and (b) Title V, Part B, Subpart 1 (formerly Title X, Part C) of the Elementary and Secondary Education

Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), 20 U.S.C. 7221–7221j.

SUPPLEMENTARY INFORMATION: As part of wider education reform efforts to improve student achievement, the development of charter schools is an innovative approach to improving public education and expanding parental options in education. While charter school laws vary by State, public charter schools are granted greater flexibility in exchange for accountability for results. They are also public schools of choice in that all students, parents, and faculty associate with charter schools voluntarily. They are intended to stimulate the creativity and commitment of teachers, parents, students, and citizens to improve student academic achievement.

Congress reauthorized the PCSP in January 2002, in amendments to the ESEA that were included in NCLB. Under the new legislation, a non-SEA eligible applicant for PCSP funds must submit an application for a charter to an authorized public chartering authority and provide adequate and timely notice, and a copy, of its PCSP application to that agency. The SEA or the Secretary, as appropriate, may waive these requirements in cases where the eligible applicant is applying for a pre-charter planning grant or subgrant.

The new legislation also added a specific provision prohibiting local educational agencies (LEAs) from deducting funds for administrative fees or expenses from a subgrant awarded to an eligible applicant, unless the eligible applicant voluntarily enters into a mutually agreed upon arrangement for administrative services with the LEA.

When developing their proposals, applicants should be aware of Department regulations governing conflicts of interest. PCSP grantees must avoid apparent and actual conflicts of interest when administering grants and entering into contracts for equipment or services. Among other things, Federal grant recipients must develop written procurement procedures and conduct all procurement transactions in a manner that provides open and free competition. Department regulations also prohibit a person from participating in an administrative decision regarding a project if (a) the decision is likely to benefit that person or his or her immediate family member; and (b) the person has a family or business relationship with the grantee. The Department’s conflict of interest regulations can be found generally at 34 CFR 74.40–74.48 and 75.524–75.525. Additional information about the PCSP,

including an application checklist, assurances, certifications, ED forms, waivers, and instructions for transmittal, is provided in the application package for this program.

The Department will hold three (3) separate competitions under this program. All SEA applicants must apply for grant funds under CFDA No.

84.282A. Non-SEA eligible applicants that propose to use grant funds for planning, program design, and implementation must apply under CFDA No. 84.282B; and Non-SEA eligible applicants that are requesting funds for dissemination activities must submit their applications under CFDA No. 84.282C.

Application Requirements and Selection Criteria for the PCSP: All SEA and Non-SEA applicants applying for PCSP grant funds must address both the application requirements and selection criteria. All SEA and Non-SEA applicants applying for PCSP grant funds may choose to respond to the application requirements in the context of their response to the selection criteria.

(1) *SEAs (CFDA No. 84.282A).*

(A) *Application Requirements (CFDA No. 84.282A).* (1) Describe the objectives of the SEA's charter school grant program and describe how these objectives will be fulfilled, including steps taken by the SEA to inform teachers, parents, and communities of the SEA's charter school grant program;

(2) Describe how the SEA will inform each charter school in the State about Federal funds that the charter school is eligible to receive and Federal programs in which the charter school may participate;

(3) Describe how the SEA will ensure that each charter school in the State receives the school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the school;

(4) Describe how the SEA will disseminate best or promising practices of charter schools to each local educational agency in the State;

(5) If an SEA elects to reserve part of its grant funds (no more than 10 percent) for the establishment of a revolving loan fund, describe how the revolving loan fund would operate;

(6) If an SEA desires the Secretary to consider waivers under the authority of the PCSP, include a request and justification for any waiver of statutory or regulatory provisions that the SEA believes is necessary for the successful operation of a charter school; and

(7) Describe how charter schools that are considered to be LEAs under State

law and LEAs in which a charter school is located will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act.

(B) *Selection Criteria (CFDA No. 84.282A).* SEAs that propose to use a portion of their grant funds for dissemination activities must address each selection criterion (1) through (8) individually and title each accordingly. SEAs that do not propose to use a portion of their grant funds for dissemination activities must address selection criteria (1) through (7) only, and need not address selection criterion (8).

The maximum possible score is 130 points for SEAs that do not propose to use grant funds to support dissemination activities, and 150 points for SEAs that propose to use grant funds to support dissemination activities.

The maximum possible score for each criterion is indicated in parentheses following the criterion.

To ensure fairness, if an SEA is not proposing to use grant funds to support dissemination activities, the Secretary will not consider points awarded under criterion (8) in determining whether to approve an application for funding.

In evaluating an application from an SEA, the Secretary considers the following criteria:

(1) The contribution the charter school grant program will make in assisting educationally disadvantaged and other students to achieve State academic content standards and State student academic achievement standards (25 points).

(2) The degree of flexibility afforded by the SEA to charter schools under the State's charter school law (20 points).

(3) The ambitiousness of the objectives for the State charter school grant program (15 points).

(4) The quality of the SEA's strategy for assessing achievement of those objectives (15 points).

(5) The likelihood that the charter school grant program will meet those objectives and improve educational results for students (15 points).

(6) The number of high-quality charter schools to be created in the State (20 points).

(7) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (20 points).

(8) In the case of SEAs that propose to use grant funds to support dissemination activities under section 5204(f)(6) of the ESEA, the quality of the

dissemination activities and the likelihood that those activities will improve student achievement (20 points).

(2) *Non-SEA Applicants (CFDA No. 84.282B and 84.282C).* The application requirements for all non-SEA applicants are listed in paragraph A in this section.

The selection criteria for non-SEA applicants for *Planning, Program Design, and Implementation Grants (CFDA No. 82.282B)* are listed in paragraph B in this section.

The selection criteria for non-SEA applicants for *Dissemination Grants (CFDA No. 84.282C)* are listed in paragraph C in this section.

(A) *Application Requirements (CFDA Nos. 84.282B and 84.282C).* (1) Describe the educational program to be implemented by the proposed charter school, including how the program will enable all students to meet challenging State student performance standards, the grade levels or ages of students to be served, and the curriculum and instructional practices to be used;

(2) Describe how the charter school will be managed;

(3) Describe the objectives of the charter school and the methods by which the charter school will determine its progress toward achieving those objectives;

(4) Describe the administrative relationship between the charter school and the authorized public chartering agency;

(5) Describe how parents and other members of the community will be involved in the planning, program design and implementation of the charter school;

(6) Describe how the authorized public chartering agency will provide for continued operation of the charter school once the Federal grant has expired, if that agency determines that the charter school has met its objectives;

(7) If the charter school desires the Secretary to consider waivers under the authority of the PCSP, include a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

(8) Describe how the grant funds will be used, including how these funds will be used in conjunction with other Federal programs administered by the Secretary;

(9) Describe how students in the community will be informed about the charter school and be given an equal

opportunity to attend the charter school; and

(10) Describe the extent of community support for the application.

(B) *Selection Criteria (CFDA No. 84.282B)*. Non-SEA Planning, Program Design, and Initial Implementation Grant applicants must address each selection criterion (1) through (9) individually and title each accordingly.

The maximum possible score for all of the criteria in this section is 145 points.

The maximum possible score for each criterion is indicated in parentheses following the criterion.

In evaluating an application from a non-SEA eligible applicant for Planning, Program Design, and Implementation, the Secretary considers the following criteria:

(1) The quality of the proposed curriculum and instructional practices (25 points).

(2) The degree of flexibility afforded by the SEA and, if applicable, the (LEA) to the charter school (10 points).

(3) The extent of community support for the application (10 points).

(4) The ambitiousness of the objectives for the charter school (15 points).

(5) The quality of the strategy for assessing achievement of those objectives (20 points).

(6) The likelihood that the charter school will meet those objectives and improve educational results for students during and after the period of Federal financial assistance (20 points).

(7) The extent to which the proposed project encourages parental involvement (10 points).

(8) The qualifications, including relevant training and experience, of the project director; and the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (10 points).

(9) The contribution the charter school will make in assisting educationally disadvantaged and other students to achieve to State academic content standards and State student academic achievement standards (25 points).

(C) *Selection Criteria (CFDA No. 84.282C)*. Non-SEA applicants for Dissemination Grants must address each selection criterion (1) through (5) individually and title each accordingly.

The maximum possible score for all of the criteria in this section is 125 points.

The maximum possible score for each criterion is indicated in parentheses following the criterion.

In evaluating an application from a non-SEA eligible applicant for a

dissemination grant, the Secretary considers the following criteria:

(1) The quality of the proposed dissemination activities and the likelihood that those activities will improve student achievement (30 points).

(2) The extent to which the school has demonstrated overall success, including—

(a) Substantial progress in improving student achievement (25 points);

(b) High levels of parent satisfaction (10 points); and

(c) The management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school (10 points).

(3) The extent to which the results of the proposed project will be disseminated in a manner that will enable others to use the information or strategies (20 points).

(4) The qualifications, including relevant training and experience, of the project director; and the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (10 points).

(5) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (20 points).

Priorities

Invitational Priority. The Secretary invites applications that propose to increase the capacity of charter schools to offer public school choice in those communities with the greatest need for public school choice by addressing the following factors:

(a) The extent to which the applicant would plan, design, and implement one or more high-quality charter schools in geographic areas, including urban and rural areas, in which a large proportion or number of public schools have been identified for improvement, corrective action, or restructuring under Title I, Part A of the ESEA; and

(b) The extent to which the applicant will plan, design, and implement one or more high-quality charter schools in geographic areas in which a large proportion of students have difficulty meeting State academic content and student achievement standards.

Under 34 CFR 75.105(c)(1), the Department does not give an application that meets this invitational priority a

competitive or absolute preference over other applications.

Competitive Preference. In accordance with 34 CFR 75.105(c)(2)(i) and section 5202(e) of the ESEA, in awarding grants to SEAs under this competition, the Secretary gives priority to States to the extent that the State meets the statutory criterion described in paragraph (a) of this section, and one or more of the statutory criteria described in paragraphs (b) through (d) of this section.

An SEA that meets priority (a) but does not meet one or more of the other priorities will not receive any priority points.

An SEA that does not meet priority (a) but meets one or more of the other priorities will not receive any priority points.

In order to receive preference, an applicant must identify the priorities that it meets and provide documentation supporting its claims.

The maximum number of priority points for all of the priorities in this section is 40 points.

(a) *Periodic Review and Evaluation.*

The State provides for periodic review and evaluation by the authorized public chartering agency of each charter school at least once every 5 years to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as provided under State law or the school's charter (10 points).

(b) *Number of High-Quality Charter Schools.* The State has demonstrated progress in increasing the number of high-quality charter schools that are held accountable in the terms of the school's charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which an SEA or eligible applicant applies for a grant under this competition (10 points).

(c) *One Authorized Public Chartering Agency Other than an LEA, or an Appeals Process.* The State—

(1) Provides for one authorized public chartering agency that is not an LEA, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to State law; or

(2) In the case of a State in which LEAs are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school (10 points).

(d) *High Degree of Autonomy.* The State ensures that each charter school has a high degree of autonomy over the

charter school's budgets and expenditures (10 points).

Other Statutory Provisions: The following definitions, amount criteria, allowable activities, and authorized uses of funds for dissemination activities are taken from the PCSP authorizing statute, in Title V, Part B, Subpart 1 of the ESEA. They are repeated in this application notice for the convenience of the applicant. Other statutory requirements also apply to this program.

Definitions. The following definitions apply to this program:

(a) *Charter school* means a public school that—

(1) In accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this definition;

(2) Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(3) Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(4) Provides a program of elementary or secondary education, or both;

(5) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(6) Does not charge tuition;

(7) Complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, as amended, and part B of the Individuals With Disabilities Education Act;

(8) Is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(9) Agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless the requirements are specifically waived for the purposes of this program;

(10) Meets all applicable Federal, State, and local health and safety requirements;

(11) Operates in accordance with State law; and

(12) Has a written performance contract with the authorized public chartering agency in the State that

includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

(b) *Developer* means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

(c) *Eligible applicant* means a developer that has—

(1) applied to an authorized public chartering authority to operate a charter school; and

(2) provided adequate and timely notice to that authority under section 5203(d)(3) of the ESEA.

Note: Section 5203(d)(3) requires the eligible Non-SEA applicant to provide the authority with timely notice, and a copy, of its application for PCSP funds. The Secretary or SEA may waive these requirements in the case of an application for a precharter planning grant or subgrant.

(d) *Authorized public chartering agency* means an SEA, LEA, or other public entity that has the authority under State law and is approved by the Secretary to authorize or approve a charter school.

Amount Criteria. In determining the amount of a grant to be awarded under this competition to an SEA, the Secretary shall take into consideration the number of charter schools that are operating or approved to open in the State.

Allowable Activities. An eligible applicant receiving a grant or subgrant under this program may use the grant or subgrant funds only for—

(a) Post-award planning and design of the educational program, which may include—

(1) Refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

(2) Professional development of teachers and other staff who will work in the charter school; and

(b) Initial implementation of the charter school, which may include—

(1) Informing the community about the school;

(2) Acquiring necessary equipment and educational materials and supplies;

(3) Acquiring or developing curriculum materials; and

(4) Other initial operating costs that cannot be met from State or local sources.

Use of Funds for Dissemination Activities. An SEA may reserve not more than 10 percent of the grant funds to support dissemination activities. A charter school may use those funds to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school through activities such as—

(a) Assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

(b) Developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

(c) Developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

(d) Conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student achievement.

For Applications and Further Information Contact: Dean Kern, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E116, Washington, DC 20202-6140. Telephone (202) 260-1882 or via Internet: dean.kern@ed.gov.

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Dated: March 10, 2003.

Nina S. Rees,

Deputy Under Secretary for Innovation and Improvement.

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