

population or other identified needs; and

(3) The proposed project represents an exceptional approach for meeting statutory purposes and requirements.

(c) Quality of the Project Personnel (15)

In determining the quality of project personnel, we will consider 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. We will also consider the following—

(1) The qualifications, including relevant training and experience, of the project director or principal investigator; and

(2) The qualifications, including relevant training and experience, of key project personnel.

(d) Quality of the Management Plan (20)

In determining the quality of the management plan for the proposed project, we will consider 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.

(e) Quality of the Project Evaluation (30)

In determining the quality of the project evaluation, we will consider the extent to which—

(1) The methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project; and

(2) The evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other

specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to <http://www.ed.gov/fund/grant/apply/appforms/appforms.html>.

4. *Performance Measures:* Pursuant to the Government Performance and Results Act of 1993 (GPRA), the Department developed the following three measures for evaluating the overall effectiveness of projects funded under this competition: (1) The quality of project designs, based on an expert panel review; (2) significant gains in academic achievement among target student populations, based on an expert panel review; and (3) the quality of project designs for effective professional development, based on expert panel review. As part of their interim and final performance reports, grantees will be expected to submit data to the Department as needed to assess progress using these measures. Projects that do not include a professional development component will not be assessed through the GPRA measure in (3) in this section.

VII. Agency Contact

*For Further Information Contact:* Teresa Cahalan, U.S. Department of Education, 400 Maryland Avenue, SW., room 5W218, Washington, DC 20202-8343. Telephone: (202) 401-3947 or by e-mail: [jacobk.javits@ed.gov](mailto:jacobk.javits@ed.gov).

If you use a TDD, call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

VIII. Other Information

*Alternative Format:* Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

*Electronic Access to This Document:* You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document

Format (PDF) on the Internet at the following site: [www.ed.gov/news/fedregister](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.

**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>.

Dated: April 16, 2008.

**Kerri L. Briggs,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. E8-8588 Filed 4-18-08; 8:45 am]

**BILLING CODE 4000-01-P**

**DEPARTMENT OF EDUCATION**

**Jacob K. Javits Gifted and Talented Students Education Program**

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

**ACTION:** Notice of final priority.

**SUMMARY:** The Assistant Secretary for Elementary and Secondary Education announces a priority under the Jacob K. Javits Gifted and Talented Students Education Program. The Assistant Secretary will use this priority for competitions in fiscal year (FY) 2008 and later years.

We take this action to support the implementation of models with demonstrated effectiveness in identifying and serving gifted and talented students (including economically disadvantaged individuals, individuals with limited English proficiency, and individuals with disabilities) who may not be identified and served through typical strategies for identifying gifted and talented children. We intend the priority to increase the availability of proven models for increasing the number of students from underrepresented groups participating in gifted and talented education programs.

**EFFECTIVE DATE:** This priority is effective April 21, 2008.

**FOR FURTHER INFORMATION CONTACT:** Teresa Cahalan, U.S. Department of Education, 400 Maryland Avenue, SW., room 5W218, Washington, DC 20202-8243. Telephone: (202) 401-3947 or via Internet: [jacobk.javits@ed.gov](mailto:jacobk.javits@ed.gov).

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

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

#### **SUPPLEMENTARY INFORMATION:**

##### **General**

The purpose of the Jacob K. Javits Gifted and Talented Students Education Program is to carry out a coordinated program of scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of elementary schools and secondary schools nationwide to meet the special educational needs of gifted and talented students.

Pursuant to section 9101(22) of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (ESEA), for purposes of the Jacob K. Javits Gifted and Talented Students Education Program, gifted and talented students are students who give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who need services or activities not ordinarily provided by the school in order to fully develop those capabilities.

Under the statutory authority for the Jacob K. Javits Gifted and Talented Students Education Program, section 5465(b) of ESEA requires that no less than 50 percent of the applications approved in each fiscal year address the general priority described in section 5465(a)(2) of ESEA. This general priority focuses on assisting schools in the identification of, and provision of services to, gifted and talented students (including economically disadvantaged individuals, individuals with limited English proficiency, and individuals with disabilities) who may not be identified and served through traditional assessment methods (see 20 U.S.C. 7253d).

We published a notice of proposed priority for this program in the **Federal Register** on January 14, 2008 (73 FR 2228). Pages 2229 through 2230 of this notice included a discussion of the significant issues pertaining to the proposed priority.

##### **Analysis of Comments and Changes**

In response to our invitation in the notice of proposed priority, 44 parties

submitted comments on the proposed priority. An analysis of the comments and of any changes in the priority since publication of the notice of proposed priority follows.

Generally, we do not address technical and other minor changes—and suggested changes the law does not authorize us to make under the applicable statutory authority.

*Comment:* Several commenters recommended that we clarify whether the priority applies to capacity-building grants authorized under section 5464(c) of ESEA.

*Discussion:* This priority implements the second general priority established in section 5465(a)(2) of ESEA and applies only to competitions for which we invite applications pursuant to that authority. This priority does not apply to, and this year we are not announcing, a competition under section 5464(c) or 5465(a)(1) of the Act.

*Change:* None.

*Comment:* Numerous commenters expressed concern that references in the proposed priority to raising achievement levels suggested that the Department intended to circumvent the statutory intent of ESEA by diverting Jacob K. Javits Gifted and Talented Students Education Program funds from services for gifted and talented students to services for students who are not gifted and talented. These commenters expressed concern that under this priority program funds would be used in a manner that is contrary to the intent of ESEA, to enhance the academic achievement of all students instead of just gifted and talented students. Some of these commenters requested that the priority be modified to demonstrate that the intent of the priority is to implement section 5462 of ESEA by enhancing the ability of elementary and secondary schools to meet the special education needs of gifted and talented students.

*Discussion:* The priority is intended to identify and serve gifted and talented students. The priority is intended to implement the statutory service priority in section 5465(b) of ESEA that requires that no less than 50 percent of the applications approved under 5464(a)(2) of ESEA in a fiscal year be used to assist schools in the identification of, and provision of services to, gifted and talented students from underrepresented groups who may not be identified and served through traditional assessment methods. Funds awarded under this priority are intended to serve the needs of gifted and talented students from underrepresented groups. We note, however, that under section 5463 of ESEA, a grantee can serve gifted and

talented students simultaneously with students who have similar educational needs but who are not gifted and talented, in the same educational settings, as appropriate. Thus, students who are not gifted and talented may benefit from projects funded under this competition.

*Changes:* We have revised the priority to clarify that projects supported through this competition must focus on identifying and educating gifted and talented students from underrepresented groups, by: (1) Revising our definition of the term “scaling up” to indicate that we mean selecting a model designed to increase the number of gifted and talented students from underrepresented groups who, through gifted and talented education programs, perform at high levels of academic achievement that has demonstrated effectiveness on a small scale and expanding the model for use with gifted and talented students in broader settings or with broader populations of gifted and talented students; (2) indicating in paragraph (2) of the priority that the model selected must be shown to have resulted in both the identification of, and the provision of services to, increased numbers of gifted and talented students from underrepresented groups who participate in gifted and talented programs; and (3) adding the words “gifted and talented” to modify the word “students” in several additional places throughout the priority, where we had not already done so.

*Comment:* A few commenters expressed concern that the priority violated the intent of Congress as expressed in the Jacob K. Javits Gifted and Talented Students Education Act of 2001 by targeting programs aimed at what one commenter referred to as “low-performing” students rather than encouraging the development of models and strategies appropriate for teaching gifted and talented students. The commenters requested that we reissue the priority to align it with the statutory purpose and the intent of Congress to target programs that serve primarily students identified as gifted and talented, or that we clarify that the priority is not intended to lower the bar for gifted and talented students.

*Discussion:* As discussed in response to the previous comment, this priority is intended to identify and serve gifted and talented students. The focus of this priority is on the identification of, and provision of services to, gifted and talented students (including economically disadvantaged individuals, individuals with limited English proficiency, and individuals

with disabilities) who may not be identified and served through traditional assessment methods. The priority is designed to ensure that all gifted and talented students are identified and served.

*Change:* We have revised the priority to clarify that projects supported through this competition must focus on the identification of, and provision of service to, gifted and talented students from underrepresented groups.

*Comment:* One commenter expressed concern that under the priority, Jacob K. Javits Gifted and Talented Students Education Program funds would be used to provide what the commenter referred to as outreach to disadvantaged students. The commenter expressed the view that other Federal financial assistance was already available to address the needs of low achieving, underachieving, and disadvantaged students and that projects funded under the Jacob K. Javits Gifted and Talented Students Education Program authority should serve only gifted and talented students.

*Discussion:* Funds under this priority must be used to identify and serve gifted and talented students from underrepresented groups, which could include students who are economically disadvantaged. To the extent that the commenter would consider this activity outreach, it is authorized under the general priority established in section 5465(a)(2) of ESEA, which we are implementing through this priority.

*Change:* None.

*Comment:* Several commenters recommended that we clarify the meaning of the terms “broader settings” and “different populations” as they pertain to the requirement in the priority that applicants propose to scale up a model that has demonstrated effectiveness on a small scale.

*Discussion:* We agree with the commenters that it would be beneficial to clarify the terms “broader settings” and “different populations” in the priority.

*Change:* We have revised the priority by adding examples of “broader settings” and “different populations” for clarification. To clarify that the term “broader settings” refers to the places where models can be implemented, we have listed the following examples of “broader settings”: Multiple schools or multiple grade levels. To clarify that the term “different populations” refers to groupings of students based on common characteristics, we have provided specific examples of “different populations” in the priority. These examples show that projects might test whether findings can be replicated

across groups of students with different socioeconomic, racial, ethnic, and linguistic backgrounds.

*Comment:* Several commenters asked whether eligibility for a grant under this priority is restricted to applicants that demonstrate that they intend to both identify and serve gifted and talented students.

*Discussion:* Section 5465(a)(2) requires that projects under this priority assist schools in both the identification of, and provision of services to, gifted and talented students. Thus, eligibility for a grant under this priority is restricted to applicants that demonstrate that they intend both to identify and serve gifted and talented students.

*Change:* We have revised the priority to make it clear that projects are required both to identify gifted and talented students and to provide these students with gifted and talented education services. Specifically, in paragraphs (2) and (5) of the priority, we have added references both to the identification of, and to the provision of services to, gifted and talented students.

*Comment:* Several commenters requested clarification of the language in paragraph (5) of the priority, in which we refer to students prepared to participate in gifted and talented education programs. The commenters requested that the Department clarify whether, in addressing this element of the priority, an applicant must demonstrate the presence of an established gifted and talented program.

*Discussion:* We have revised paragraph (5) of the priority in response to a previous comment. Specifically, we deleted the language the commenters referenced regarding students prepared to participate in gifted and talented education programs and revised the priority to clarify that applicants must demonstrate how they will provide gifted and talented education services to the students identified through the project. To the extent that applicants are required to use models with demonstrated effectiveness in the identification of, and provision of services to, gifted and talented students from underrepresented groups, these models must include established gifted and talented education programs.

*Changes:* As stated previously in this notice, we have revised the priority to make it clear that projects are required both to identify gifted and talented students and to provide these students with gifted and talented education services. Specifically, in paragraphs (2) and (5) of the priority, we have added references both to the identification of, and to the provision of services to, gifted and talented students.

*Comment:* One commenter recommended that we place greater emphasis on the applicant’s expertise in gifted education, either by requiring that applicants demonstrate that they have significant expertise in this area, or by adding a competitive preference for applicants that include a team leader with gifted education expertise.

*Discussion:* Paragraph (3) of the priority already requires applicants to demonstrate that their leadership team has significant expertise in gifted and talented education. However, we agree with the commenter that highlighting the need for expertise in gifted and talented education may be helpful.

*Change:* We have revised the order of the areas of required expertise listed in paragraph (3) of the priority to place greater emphasis on the need for expertise in gifted and talented education.

*Comment:* One commenter recommended that, in order to expand the advocacy infrastructure for this program, we fund demonstration projects in States that do not house the National Research and Development Center.

*Discussion:* Although we recognize the importance of supporting demonstration projects that address the diverse needs of the different student populations and geographic areas served by gifted and talented education programs, the Department relies upon the advice of experts in our peer review panels to select the proposals that are of highest quality from among those we receive, regardless of the State in which the applicant resides.

*Change:* None.

*Comment:* None.

*Discussion:* Upon further review of this priority, we noticed that we refer to models and interventions and in most instances we mean the same thing. For the sake of clarity, we have revised the priority to refer to “models” throughout. By “models,” we mean instructional approaches, practices, or curricula.

*Changes:* We have replaced references to the term “intervention” with the term “model.”

**Note:** This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

*Absolute priority:* Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

*Competitive preference priority:* Under a competitive preference priority

we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

*Invitational priority:* Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

### Priority

#### *Javits Demonstration Programs*

Under this priority, grantees must “scale up” and evaluate models designed to increase the number of gifted and talented students from underrepresented groups who, through gifted and talented education programs, perform at high levels of academic achievement.

For this priority, “scaling up” means selecting a model designed to increase the number of gifted and talented students from underrepresented groups who, through gifted and talented education programs, perform at high levels of academic achievement that has demonstrated effectiveness on a small scale and expanding the model for use with gifted and talented students in broader settings (such as in multiple schools, grade levels, or districts, or in other educational settings) or with different populations of gifted and talented students (i.e., different populations of these students based on differences such as the socioeconomic, racial, ethnic, geographic, and linguistic backgrounds of the students and their families). With regard to this priority, the term “underrepresented groups” includes economically disadvantaged individuals, individuals with limited English proficiency, and individuals with disabilities.

To meet this priority, applicants must include all of the following in their applications:

(1) Evidence from one or more scientifically based research and evaluation studies indicating that the proposed model has raised the achievement of gifted and talented students from one or more underrepresented groups in one or more core subject areas.

(2) Evidence from one or more scientifically based research and evaluation studies that the proposed

model has resulted in the identification of and provision of services to increased numbers of gifted and talented students from underrepresented groups who participate in gifted and talented education programs.

(3) Evidence that the applicant has significant expertise on its leadership team in each of the following areas: Gifted and talented education, research and program evaluation, content knowledge in one or more core academic subject areas, and working with underrepresented groups.

(4) A sound plan for implementing the model in multiple settings or with multiple populations.

(5) A research and evaluation plan that employs an experimental or quasi-experimental design to measure the impact of the model on the achievement of students in underrepresented groups, including students who are economically disadvantaged or limited English proficient, or who have disabilities, and on the number of these students who are identified as gifted and talented and served through gifted and talented programs.

**Note:** Evaluation methods using an experimental design are best for determining program effectiveness. Thus, when feasible, the project must use an experimental design under which participants (e.g., students, teachers, classrooms, or schools) are randomly assigned to participate in the project activities being evaluated or to a control group that does not participate in the project activities being evaluated.

If random assignment is not feasible, the project may use a quasi-experimental design with carefully matched comparison conditions. This alternative design attempts to approximate a randomly assigned control group by matching participants with non-participants that have similar characteristics before the model is implemented.

#### **Executive Order 12866**

This notice of final priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of final priority are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of final priority, we have determined that the benefits of the final priority justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

We summarized the costs and benefits in the notice of proposed priority.

#### **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 provides 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.

**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>.

(Catalog of Federal Domestic Assistance Number 84.206A Jacob K. Javits Gifted and Talented Students Education Program)

**Program Authority:** 20 U.S.C. 7253.

Dated: April 16, 2008.

**Kerri L. Briggs,**

*Assistant Secretary for Elementary and Secondary Education.*

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**BILLING CODE 4000-01-P**