

NATO SEASPARROW Surface Missile Systems (NSSMS) without RIM-7 missiles, MK57 Installation and Check Out (INCO) Kits, spare and repair parts, support and test equipment, publications and technical documentation, personnel training, U.S. Government (USG) and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated cost is \$50 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of Peru which has been, and continues to be, an important force for political stability and economic progress in South America.

The proposed sale will improve Peru's capability to meet current and future threats of enemy anti-ship weapons. Peru will use the enhanced capability of the MK57 MOD 10 NSSMS on its four LUPO class (aka Aguirre) Class frigates purchased from Italy in 2004. The frigates have MK57 MOD 2 NATO SEASPARROW Systems modified to fire the ASPIDE air defense missile. The systems retain the ability to fire the RIM-7 SEASPARROW missile, and Peru intends to move from the ASPIDE missile to the RIM-7 SEASPARROW in a future purchase. Peru, which already has MK 57 Missile Systems, will have no difficulty absorbing these additional systems into its inventory.

The proposed sale of this equipment will not alter the basic military balance in the region.

The prime contractors will be Raytheon Technical Service Company in Norfolk, VA and Raytheon Integrated Defense Systems in Portsmouth, RI. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Peru.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 11-14

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The sale of the MK 57 Mod 10 NSSMS under this proposed sale will result in the transfer of sensitive technological information to Peru. Both classified and unclassified defense equipment will be involved. Specifically, the MK 73 Mod 3 Solid State Transmitter is Secret and contains sensitive technology.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the

development of a system with similar or advanced capabilities.

[FR Doc. 2011-23181 Filed 9-9-11; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF EDUCATION

RIN 1894-AA01

[Docket ID ED-2011-OS-0008]

Race to the Top Fund Phase 3

AGENCY: Department of Education.

ACTION: Notice of proposed requirements.

SUMMARY: The Secretary of Education (Secretary) proposes requirements for Phase 3 of the Race to the Top program. In this phase the Department would make awards to States that were finalists but did not receive funding under the Race to the Top Fund Phase 2 competition held in fiscal year (FY) 2010. We take this action to specify the information and assurances that applicants must provide in order to receive funding under the Race to the Top Fund Phase 3 award process.

DATES: We must receive your comments on or before October 12, 2011.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID and the term "Race to the Top Fund Phase 3 Awards" at the top of your comments.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "How To Use This Site."

- *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these proposed requirements, address them to the Implementation and Support Unit (*Attention:* Race to the Top Fund Phase 3 Comments), U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-6200.

- *Privacy Note:* The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on

the Federal eRulemaking Portal at <http://www.regulations.gov>. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

FOR FURTHER INFORMATION CONTACT:

Meredith Farace, Implementation and Support Unit, 400 Maryland Avenue, SW., Washington, DC 20202-6200. Telephone: (202) 401-8368 or by e-mail: phase3comments@ed.gov.

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

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final requirements, we urge you to identify clearly the specific proposed requirement that each comment addresses.

We invite you also to assist us in complying with the specific requirements of Executive Order 12866 and Executive Order 13563 and their overall direction to Federal agencies to reduce regulatory burden where possible. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of this program.

During and after the comment period, you may inspect all public comments about this notice by accessing Regulations.gov. You may also inspect the public comments in person in room 7E208, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Purpose of Program: The Race to the Top program, the largest competitive education grant program in U.S. history, is designed to provide incentives to States to implement system-changing reforms that result in improved student achievement, narrowed achievement

gaps, and increased high school graduation and college enrollment rates.

Program Authority: American Recovery and Reinvestment Act of 2009 (ARRA), Division A, Section 14006, Public Law 111–5, as amended by section 310 of Division D, Title III of Public Law 111–117, the Consolidated Appropriations Act, 2010, and section 1832(a)(2) of Public Law 112–10, the Department of Defense and Full-Year Continuing Appropriations Act, 2011. (Note: In the ARRA, the Race to the Top program is referred to as State Incentive Grants.)

Proposed Requirements:

Background

On February 17, 2009, President Obama signed into law the ARRA, historic legislation designed to stimulate the economy, support job creation, and invest in critical sectors, including education. The ARRA laid the foundation for education reform by supporting investments in innovative strategies that are most likely to lead to improved results for students, long-term gains in school and school system capacity, and increased productivity and effectiveness. In particular, the ARRA authorized and provided \$4.35 billion for the Race to the Top Fund, a competitive grant program designed to encourage and reward States creating the conditions for education innovation and reform by implementing ambitious plans in four core areas: Enhancing standards and assessments, improving the collection and use of data, increasing teacher effectiveness and achieving equity in teacher distribution, and turning around struggling schools.

In 2010, the Department awarded approximately \$4 billion in Race to the Top State grant funds in two phases. On March 29, 2010, the Department announced the award of approximately \$600 million to Delaware and Tennessee under the Race to the Top Phase 1 competition. On August 24, 2010, the Department announced the award of approximately \$3.4 billion in Race to the Top funding to the winners of the Phase 2 competition: the District of Columbia, Florida, Georgia, Hawaii, Maryland, Massachusetts, New York, North Carolina, Ohio, and Rhode Island. In addition to these awards to States to implement comprehensive reform plans, the Department awarded approximately \$330 million on September 2, 2010, under a separate Race to the Top Assessment competition, to two groups of States to develop a new generation of assessments aligned with a common set of college- and career-ready standards.

In announcing the winners of the Phase 2 competition, the Secretary

noted that “[we] had many more competitive applications than money to fund them in this round” and expressed the hope that any Race to the Top funding included in the Department’s FY 2011 appropriations would be available for Phase 3 Race to the Top awards. In particular, there were nine finalists in the Phase 2 competition held in the summer of 2010 that did not receive funding despite submitting bold and ambitious plans for comprehensive reforms and innovations in their systems of elementary and secondary education. These nine finalists were Arizona, California, Colorado, Illinois, Kentucky, Louisiana, New Jersey, Pennsylvania, and South Carolina.

On April 15, 2011, President Obama signed into law Public Law 112–10, the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (FY 2011 Appropriations Act), which made \$698.6 million available for the Race to the Top Fund, authorized the Secretary to make awards on “the basis of previously submitted applications,” and amended the ARRA to permit the Secretary to make grants for improving early childhood care and learning under the program. On May 25, 2011, the Department announced that approximately \$500 million of these funds would support the new Race to the Top—Early Learning Challenge program and that approximately \$200 million would be made available to some or all of the nine unfunded finalists from the 2010 Race to the Top Phase 2 competition. While \$200 million is not sufficient to support full implementation of the plans submitted during the Phase 2 competition, the Department believes that making these funds available to the remaining nine finalists is the best way to create incentives for these States to carry out the bold reforms proposed in their applications. The Department may use any unused funds from Race to the Top Phase 3 to make awards in the Race to the Top—Early Learning Challenge program. Conversely, the Department may use any unused funds from the Race to the Top—Early Learning Challenge program to make awards for Race to the Top Phase 3.

In this notice, we propose specific requirements that would apply to Race to the Top Phase 3 awards. To receive a share of the approximately \$200 million in Race to the Top Phase 3 funds, eligible applicants would need to meet these requirements.

As with Race to the Top Phase 1 and Phase 2, it is the Department’s intent to encourage and reward States that are creating and maintaining conditions for education innovation and reform;

achieving significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, ensuring student preparation for success in college and careers; and implementing ambitious plans in the following four core education reform areas:

(a) Adopting internationally benchmarked standards and assessments that prepare students for success in college and the workplace;

(b) Building data systems that measure student success and inform teachers and principals about how they can improve their practices;

(c) Increasing teacher and principal effectiveness and achieving equity in the distribution of effective teachers and principals; and

(d) Turning around our lowest achieving schools.

Under the Race to the Top Phase 3 award process proposed in this notice, eligible applicants would be limited to Race to the Top Phase 2 finalists that did not receive a Phase 2 award, and those eligible applicants could apply for a proportional share of these funds. Race to the Top Phase 3 funding is not at the level of funding that was available for the Race to the Top Phase 1 and Phase 2 competitions. Accordingly, we are proposing that eligible applicants (1) select from among the activities they proposed to implement in their Phase 2 applications those activities that will have the greatest impact on advancing their overall statewide reform plans, (2) use Race to the Top Phase 3 funding to support those specific activities, and (3) ensure that such activities are consistent with the ARRA requirement to allocate 50 percent of Race to the Top funds to local educational agencies (LEAs).

We are further proposing to require that an eligible applicant provide a set of assurances reaffirming its commitment to maintain, at a minimum, the conditions for reform that it established in its Phase 2 application in each of the four core education reform areas. These assurances reflect the importance of the State’s dedication to successfully implementing the comprehensive statewide reforms envisioned under the Race to the Top program.

These proposed requirements also include a requirement that an applicant provide an assurance that the State is in compliance with the Education Jobs Fund maintenance-of-effort (MOE) requirement in section 101(10)(A) of Public Law 111–226. The MOE requirement under the Education Jobs Fund program is more stringent in some

respects than the MOE requirement under the State Fiscal Stabilization Fund (SFSF) program. Unlike the SFSF MOE requirement, which in some cases may allow a State to maintain overall levels of support for education while actually reducing funding for either elementary and secondary education or for public institutions of higher education (IHEs), a State can meet the Education Jobs Fund MOE requirement only by maintaining support for both elementary and secondary education and public IHEs. For this reason, we believe that the Education Jobs Fund MOE requirement is a better measure of whether a State is demonstrating the commitment to funding education needed to create the conditions for education innovation and reform consistent with the Race to the Top program.

Proposed Requirements

The Secretary proposes the following requirements for Race to the Top awards. Except where otherwise indicated in this notice of proposed requirements, the applicable final requirements and definitions of key terms from the notice of final priorities, requirements, definitions, and selection criteria, published in the **Federal Register** on November 18, 2009 (74 FR 59688) apply to the Race to the Top Phase 3 application process.

I. Proposed Award Process

The Department proposes to make awards through a two-part process. Under the first part of this process, States that meet the eligibility requirements would submit an application that (1) meets the application requirements and (2) provides the application assurances.

Under the second part of the Race to the Top Phase 3 application process, the Department would notify all eligible applicants that met the application requirements and provided the assurances required by the first part of the process, and would provide an estimate of the Race to the Top Phase 3 funds available to them based on the number of qualified applicants. Qualified applicants would then be required to submit, for review and approval by the Secretary, a detailed plan and budget describing the activities selected from the State's Phase 2 application that would be implemented with Race to the Top Phase 3 funding in accordance with the Budget Requirements in this notice.

II. Proposed Eligibility Requirements

States that were finalists, but did not receive grant awards, in the 2010 Race

to the Top Phase 2 competition are eligible to receive Race to the Top Phase 3 awards. Therefore, only the States of Arizona, California, Colorado, Illinois, Kentucky, Louisiana, New Jersey, Pennsylvania, and South Carolina are eligible to apply for Race to the Top Phase 3 awards.

III. Proposed Application Requirements

A State must submit an application that includes the signatures of the Governor, the State's chief school officer, and the president of the State board of education, or their authorized representatives (if applicable).

IV. Proposed Application Assurances

The Governor or authorized representative of the Governor of a State must provide the following assurances in the State's Race to the Top Phase 3 application:

(a) The State is in compliance with the Education Jobs Fund maintenance-of-effort (MOE) requirements in section 101(10)(A) of Public Law 111-226.

(b) The State is in compliance with the State Fiscal Stabilization Fund Phase 2 requirements with respect to Indicator (b)(1) regarding the State's statewide longitudinal data system. (*See* notice of final requirements, definitions, and approval criteria for the State Fiscal Stabilization Fund Program published in the **Federal Register** on November 12, 2009 (74 FR 58436).)

(c) At the time the State submits its application, there are no legal, statutory, or regulatory barriers at the State level to linking data on student achievement or student growth to teachers and principals for the purpose of teacher and principal evaluation.

(d) The State will maintain its commitment to improving the quality of its assessments, evidenced by the State's participation in a consortium of States that—

(i) Is working toward jointly developing and implementing common, high-quality assessments aligned with the consortium's common set of K-12 standards; and

(ii) Includes a significant number of States.

(e) The State will maintain, at a minimum, the conditions for reform described in its Race to the Top Phase 2 application, including—

(i) The State's adoption and implementation of a common set of college- and career-ready standards, as specified in section (B)(1)(ii) of the State's Race to the Top Phase 2 application;

(ii) The State's statutory and regulatory framework related to improving teacher and school leader

effectiveness and ensuring an equitable distribution of effective teachers and leaders, as described in section D of the State's Race to the Top Phase 2 application;

(iii) The State's statutory and regulatory framework for implementing effective school and LEA turnaround measures, as described in section E of the State's Race to the Top Phase 2 application; and

(iv) The State's statutory and regulatory framework for supporting the creation and expansion of high-performing charter schools and other innovative schools, as described in section (F)(2) of its Race to the Top Phase 2 application.

(f) The State will maintain its commitment to comprehensive reforms and innovation designed to increase student achievement and to continued progress in the four reform areas specified in the ARRA, including the adoption and implementation of internationally benchmarked standards and assessments, improving the collection and use of data, increasing teacher effectiveness and equity in the distribution of effective teachers, and turning around the State's lowest achieving schools.

(g) The State will select activities for funding that are consistent with the commitment to comprehensive reform and innovation that the State demonstrated in its Race to the Top Phase 2 application.

(h) The State will comply with all of the accountability, transparency, and reporting requirements that apply to the Race to the Top program (*See* the notice of final priorities, requirements, definitions, and selection criteria for the Race to the Top Fund published in the **Federal Register** on November 18, 2009 (74 FR 59688)), with the exception of reporting requirements applicable solely to funds provided under the ARRA. (*Note:* The ARRA section 1512 reporting requirements do not apply to the funds we will award under the Race to the Top Phase 3 award process).

(i) A grantee must comply with the requirements of any evaluation of the program, or of specific activities pursued as part of the program, conducted and supported by the Department.

V. Proposed Budget Requirements

An eligible applicant must apply for a proportional share of the approximately \$200 million available for Race to the Top Phase 3 awards based primarily on its share of the population of children ages 5 through 17 across the nine States. The proposed estimated amounts for which each

eligible State could apply are shown in the following table. The amounts proposed in this table are based on the assumption that all eligible States would apply for a share of available funding; the amounts would increase if one or more eligible States do not apply or do not meet the application requirements.

State	Amount
Colorado	\$12,250,000
Louisiana	12,250,000
South Carolina	12,250,000
Kentucky	12,250,000
Arizona	17,500,000
Illinois	28,000,000
Pennsylvania	28,000,000
New Jersey	28,000,000
California	49,000,000

Once the Department notifies a qualified applicant of the final amount of funds it is eligible to receive for a Race to the Top Phase 3 award, the applicant must submit a detailed plan and budget describing the activities it has selected from its Race to the Top Phase 2 application that it proposes to implement with Race to the Top Phase 3 funding. This detailed plan must include an explanation of why the applicant has selected these activities and why the applicant believes such activities will have the greatest impact on advancing its overall statewide reform plan. The plan also must include a description of the State's process for allocating at least 50 percent of Race to the Top Phase 3 funds to participating LEAs, as required by section 14006(c) of the ARRA. Subgrants to LEAs must be based on their relative shares of funding under Title I, Part A of the ESEA, and LEAs must use these funds in a manner that is consistent with the State's updated plan and the MOU or other binding agreement between the LEA and the State. A State may establish more specific requirements for LEA use of funds provided they are consistent with the ARRA and Race to the Top requirements. (See the notice of final priorities, requirements, definitions, and selection criteria for the Race to the Top Fund published in the **Federal Register** on November 18, 2009 (74 FR 59688))

Final Requirements

We will announce the final requirements for the Race to the Top Phase 3 award process in a notice in the **Federal Register**. We will determine the final requirements after considering any comments submitted in response to this notice and other information available to the Department. This notice does not preclude the Department from proposing additional priorities,

requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these requirements we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Under Executive Order 12866, the Secretary must determine whether a regulatory action is "significant" and therefore subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may (1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities in a material way (also referred to as an "economically significant" rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or local programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

It has been determined that this regulatory action will have an annual effect on the economy of more than \$100 million because the amount of government transfers through the Race to the Top Phase 3 award process exceeds that amount. Therefore, this action is economically significant and subject to OMB review under section 3(f)(1) of Executive Order 12866. Notwithstanding this determination, we have assessed the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action and have determined that the benefits justify the costs.

The Department has also reviewed these proposed requirements pursuant to Executive Order 13563, published on January 21, 2011 (76 FR 3821). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt regulations only upon a reasoned determination that their

benefits justify their costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor their regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

We emphasize as well that Executive Order 13563 requires agencies "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." In its February 2, 2011, memorandum (M-11-10) on Executive Order 13563, improving regulation and regulatory review, the Office of Information and Regulatory Affairs has emphasized that such techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing these proposed requirements only upon a reasoned determination that their benefits justify their costs and we selected, in choosing among alternative regulatory approaches, those approaches that maximize net benefits. Based on the analysis below, the Department believes that these final regulations are consistent with the principles in Executive Order 13563.

In this section we discuss the need for regulatory action, the costs and benefits, as well as regulatory alternatives we considered.

Need for Federal Regulatory Action

These proposed requirements are needed to implement the Race to the Top Phase 3 award process in the manner that the Secretary believes will best enable the program to achieve its objectives of creating the conditions for effective reform and meaningful innovation in education while helping States that were finalists, but did not receive funding under the Race to the

Top Phase 2 competition, to implement selected elements of their comprehensive reform proposals submitted as part of their Race to the Top Phase 2 applications.

Potential Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action and have determined that these proposed requirements would not impose significant additional costs to State applicants or the Federal Government. Most of the proposed requirements involve re-affirming the commitments and plans already completed as part of the 2010 Race to the Top Phase 2 competition or other Federal education programs. As an example of a requirement that would result in minimal additional burden and cost, we have proposed that States applying for Race to the Top Phase 3 funding provide an assurance that they are meeting the MOE requirements of the Education Jobs Fund program. Similarly, other proposed requirements, in particular those related to maintaining conditions for reform required under the Race to the Top Phase 2 competition, would require continuation of existing commitments and investments rather than the imposition of additional burdens and costs. For example, States would be required to continue implementation of common K–12 academic content standards. The Department believes States would incur minimal costs in developing plans and budgets for implementing selected activities from their Race to the Top Phase 2 proposals, because in most cases such planning will entail revisions to existing plans and budgets already developed as part of the Race to the Top Phase 2 application process, and not the development and implementation of entirely new plans and budgets. In all such cases, the Department believes that the benefits resulting from the proposed requirements would exceed their costs.

Regulatory Alternatives Considered

An alternative to promulgation of the types of requirements proposed in this notice would be for the Secretary to use FY 2011 Race to the Top funds to make awards to the one or two highest scoring unfunded applications from the 2010 Race to the Top Phase 2 competition. However, the Department believes that the scores of the unfunded finalists from the Race to the Top Phase 2 competition are too closely grouped to support awarding all FY 2011 Race to the Top funds to the one or two States with the highest scores. Furthermore, the Department believes that the

approximately \$200 million available from the FY 2011 Appropriations Act for the Race to the Top program would not support full implementation of the comprehensive reform plans submitted by unfunded finalists from the 2010 Race to the Top Phase 2 competition. The Department also believes that making available meaningful amounts of FY 2011 Race to the Top funding to all of the unfunded finalists from the 2010 Race to the Top Phase 2 competition offers the greatest promise for sustaining the nationwide reform momentum created by the Race to the Top Phase 1 and Phase 2 competitions.

Finally, the Department believes that simply funding the one or two highest scoring applicants that did not win an award in the 2010 Race to the Top Phase 2 competition would result in a missed opportunity to reward the efforts of all nine unfunded finalists from that competition and to enable them to make meaningful progress on key elements of their comprehensive statewide reform plans.

To assist the Department in complying with the requirements of Executive Order 12866, the Secretary invites comments on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed requirements without impeding the effective and efficient administration of the Race to the Top program.

Accounting Statement

As required by OMB Circular A–4 (available at <http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf>), in the following table, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this proposed regulatory action. This table provides our best estimate of the Federal payments to be made to States under this program as a result of this proposed regulatory action. Expenditures are classified as transfers to States.

ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES

Category	Transfers
Annualized Monetized Transfers.	\$200,000,000
From Whom to Whom?	Federal Government to States.

The Race to the Top Phase 3 award process would provide approximately \$200 million in competitive grants to eligible States.

Paperwork Reduction Act of 1995

These proposed regulations contain information collection requirements. However, because the eligible applicants for Race to the Top Phase 3 awards are fewer than 10, these collections are not subject to approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3502(3)(A)(i)).

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action will not have a significant economic impact on a substantial number of small entities. The small entities that this proposed regulatory action will affect are small LEAs receiving funds under this program.

This proposed regulatory action will not have a significant economic impact on small LEAs because they will be able to meet the costs of compliance with this regulatory action using the funds provided under this program.

The Secretary invites comments from small LEAs as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, requests evidence to support that belief.

Effect on Other Levels of Government

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

Assessment of Educational Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e–4, the Department invites comment on whether these requirements do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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.

Accessible Format

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotope, or computer diskette) on

request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document

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** is available via the Federal Digital System at <http://www.gpo.gov/fdsys>. At this site you can 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). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at <http://www.federalregister.gov>. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: September 6, 2011.

Arne Duncan,

Secretary of Education.

[FR Doc. 2011-23123 Filed 9-9-11; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Tests Determined To Be Suitable for Use in the National Reporting System for Adult Education

AGENCY: Office of Vocational and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary annually announces tests, including test forms and delivery formats, determined to be suitable for use in the National Reporting System for Adult Education (NRS).

FOR FURTHER INFORMATION CONTACT: John LeMaster, Department of Education, 400 Maryland Avenue, SW., room 11159, Potomac Center Plaza, Washington, DC 20202-7240. Telephone: (202) 245-6218 or by e-mail: John.Lemaster@ed.gov.

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

SUPPLEMENTARY INFORMATION: On January 14, 2008, the Secretary published in the **Federal Register** final regulations for 34 CFR part 462, Measuring Educational Gain in the National Reporting System for Adult Education (NRS regulations) (73 FR

2306). The NRS regulations established the process the Secretary uses to determine the suitability of tests for use in the NRS.

On April 16, 2008, the Secretary published a notice in the **Federal Register** providing test publishers an opportunity to submit tests for review under the NRS regulations. (73 FR 20616).

On February 2, 2010, the Secretary published a notice in the **Federal Register** listing the tests and test forms he determined were suitable for use in the NRS (75 FR 5303).

Tests and test forms were determined to be suitable for a period of either seven or three years. A seven-year approval requires no additional action on the part of the publisher, unless the information the publisher submitted as a basis for the Secretary's review was inaccurate or unless the test is substantially revised. A three-year approval is issued with a set of conditions that must be met by the completion of the three-year time period. If these conditions are met, the test is approved for continued use in the NRS.

The Secretary publishes here an update to the list published on February 2, 2010, that includes delivery formats. This update clarifies that some, but not all, tests using computer-adaptive or computer-based delivery formats are suitable for use in the NRS. The staffs of adult education programs are cautioned to ensure that only approved computer delivery formats are used. If a particular computer delivery format is not explicitly specified for a test in this notice, it is not approved for use in the NRS.

Tests Determined To Be Suitable for Use in the NRS for Seven Years

(a) The following test is determined to be suitable for use at all Adult Basic Education (ABE) and Adult Secondary Education (ASE) levels and at all English-as-a-Second-Language (ESL) levels of the NRS for a period of seven years from February 2, 2010 (75 FR 5303):

Comprehensive Adult Student Assessment Systems (CASAS) Reading Assessments (Life and Work, Life Skills, Reading for Citizenship, Reading for Language Arts—Secondary Level). We are clarifying that the computer-based test (CBT) is an approved delivery format in addition to forms 27, 28, 81, 82, 81X, 82X, 83, 84, 85, 86, 185, 186, 187, 188, 310, 311, 513, 514, 951, 952, 951X, and 952X.

Publisher: CASAS, 5151 Murphy Canyon Road, Suite 220, San Diego, CA

92123-4339. Telephone: (800) 255-1036. Internet: <http://www.casas.org>.

(b) The following tests are determined to be suitable for use at all ABE and ASE levels of the NRS for a period of seven years from February 2, 2010 (75 FR 5303):

(1) *Comprehensive Adult Student Assessment Systems (CASAS) Life Skills Math Assessments—Application of Mathematics (Secondary Level)*. We are clarifying that the computer-based test (CBT) is an approved delivery format in addition to forms 31, 32, 33, 34, 35, 36, 37, 38, 505, and 506. *Publisher:* CASAS, 5151 Murphy Canyon Road, Suite 220, San Diego, CA 92123-4339. Telephone: (800) 255-1036. Internet: <http://www.casas.org>.

(2) *Massachusetts Adult Proficiency Test (MAPT) for Math*. We are clarifying that the computer-adaptive test (CAT) is an approved delivery format. *Publisher:* Massachusetts Department of Elementary and Secondary Education and University of Massachusetts Amherst, School of Education, 156 Hills South, University of Massachusetts, Amherst, MA 01003. Telephone: (413) 545-0564. Internet: <http://www.sabes.org/assessment/mapt.htm>.

(3) *Massachusetts Adult Proficiency Test (MAPT) for Reading*. We are clarifying that the computer-adaptive test (CAT) is an approved delivery format. *Publisher:* Massachusetts Department of Elementary and Secondary Education and University of Massachusetts Amherst, School of Education, 156 Hills South, University of Massachusetts, Amherst, MA 01003. Telephone: (413) 545-0564. Internet: <http://www.sabes.org/assessment/mapt.htm>.

(4) *Tests of Adult Basic Education (TABE 9/10)*. We are clarifying that the computer-based test (CBT) is an approved delivery format in addition to forms 9 and 10. *Publisher:* CTB/McGraw Hill, 20 Ryan Ranch Road, Monterey, CA 93940. Telephone: (800) 538-9547. Internet: <http://www.ctb.com>.

(5) *Tests of Adult Basic Education Survey (TABE Survey)*. We are clarifying that the computer-based test (CBT) is an approved delivery format in addition to forms 9 and 10. *Publisher:* CTB/McGraw Hill, 20 Ryan Ranch Road, Monterey, CA 93940. Telephone: (800) 538-9547. Internet: <http://www.ctb.com>.

(c) The following tests are determined to be suitable for use at all ESL levels of the NRS for a period of seven years from February 2, 2010 (75 FR 5303):

(1) *BEST (Basic English Skills Test) Literacy*. Forms B, C, and D. *Publisher:* Center for Applied Linguistics, 4646 40th Street, NW., Washington, DC