



# FEDERAL REGISTER

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Vol. 77

Wednesday,

No. 153

August 8, 2012

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Part II

## Department of Education

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34 CFR Chapter III

Final Priority; Technical Assistance on State Data Collection, Analysis, and Reporting—National IDEA Technical Assistance Center on Early Childhood Longitudinal Data Systems; Rule

**DEPARTMENT OF EDUCATION****34 CFR Chapter III****[CFDA Number 84.373Z]****Final Priority; Technical Assistance on State Data Collection, Analysis, and Reporting—National IDEA Technical Assistance Center on Early Childhood Longitudinal Data Systems****AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.**ACTION:** Final Priority.

**SUMMARY:** The Assistant Secretary for Special Education and Rehabilitative Services announces a priority under the Technical Assistance on State Data Collection program. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2012 and later years. We take this action to focus attention on an identified national need to provide technical assistance (TA) to States to improve their capacity to meet the Individuals with Disabilities Education Act (IDEA) data collection, analysis, and reporting requirements.

We intend this priority to establish a TA center to assist States in developing or enhancing statewide early childhood longitudinal data systems, by which we mean data systems that include child-level data for infants, toddlers, and young children with disabilities (birth through age 5) served through early childhood programs under IDEA Part C and Part B preschool programs. These statewide early childhood longitudinal data systems would be part of a coordinated early learning data system, by which we mean data systems that vertically and horizontally link child, program, and workforce data elements related to children (birth through age 5). This TA will build States' capacity to report high-quality data to meet IDEA reporting requirements.

**DATES: Effective Date:** This priority is effective September 7, 2012.

**FOR FURTHER INFORMATION CONTACT:** Meredith Miceli, U.S. Department of Education, 400 Maryland Avenue SW., Room 4069, Potomac Center Plaza (PCP), Washington, DC 20202–2600. Telephone: (202) 245–6028 or by email: [meredith.miceli@ed.gov](mailto:meredith.miceli@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:**

*Purpose of Program:* The purpose of the Technical Assistance on State Data Collection program is to improve the

capacity of States to meet IDEA data collection and reporting requirements. Funding for the program is authorized under section 611(c)(1) of IDEA, which gives the Secretary the authority to reserve funds appropriated under Part B to provide TA activities authorized under section 616(i). Section 616(i) requires the Secretary to review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of section 616 of IDEA are collected, analyzed, and accurately reported. It also requires the Secretary to provide TA, where needed, to improve the capacity of States to meet the data collection requirements under IDEA.

**Program Authority:** 20 U.S.C. 1411(c), 1416(i), and 1418(c).

**Applicable Program Regulations:** 34 CFR 300.702.

We published a notice of proposed priority (NPP) for this competition in the **Federal Register** on May 4, 2012 (77 FR 26522). That notice contained background information and our reasons for proposing the particular priority.

There are no differences between the proposed priority and this final priority.

**Public Comment:** In response to our invitation in the NPP, we did not receive any comments on the proposed priority.

**Final Priority***National IDEA Technical Assistance Center on Early Childhood Longitudinal Data Systems*

The purpose of this priority is to fund a cooperative agreement to support the establishment and operation of a National IDEA Technical Assistance Center on Early Childhood Longitudinal Data Systems (Center). This Center will provide TA to States on the development and enhancement of statewide early childhood longitudinal data systems to improve the States' capacity to collect, analyze, and report high-quality data required under sections 616 and 618 of IDEA. This Center must provide TA to States on developing or enhancing statewide early childhood longitudinal data systems that horizontally link child-level data on infants, toddlers, and young children with disabilities (birth through age 5) from one data system to child-level data in other early learning data systems (including those developed with funding provided by the Department's Race to the Top—Early Learning Challenge program), vertically link these child-level data to statewide longitudinal data systems (SLDS) for school-aged children (including those developed with funding provided by the

Department's SLDS program), and meet the data system capabilities and elements described under paragraph (b) in the *Technical Assistance and Dissemination Activities* section of this notice. These statewide early childhood longitudinal data systems should allow States to: (1) Accurately and efficiently respond to IDEA-related data submission requirements (e.g., IDEA sections 616 and 618 requirements); (2) continuously improve processes for defining, acquiring, and validating the data; and (3) comply with applicable Federal, State, and local privacy laws, including the requirements of the Family Educational Rights and Privacy Act and privacy requirements in IDEA. This TA must be focused on building the State's capacity to report high-quality data to meet IDEA reporting requirements and must be conducted in coordination with other SLDS work being conducted in the State.

To be considered for funding under this absolute priority, applicants must meet the application requirements contained in this priority. Any project funded under this priority also must meet the programmatic and administrative requirements specified in the priority.

**Application Requirements.** An applicant must include in its application—

(a) A logic model that depicts, at a minimum, the goals, activities, outputs, and outcomes of the proposed project. A logic model communicates how a project will achieve its outcomes and provides a framework for both the formative and summative evaluations of the project; **Note:** The following Web sites provide more information on logic models: [www.researchutilization.org/matrix/logicmodel\\_resource3c.html](http://www.researchutilization.org/matrix/logicmodel_resource3c.html) and [www.tadnet.org/model\\_and\\_performance](http://www.tadnet.org/model_and_performance).

(b) A plan to implement the activities described in the *Project Activities* section of this priority;

(c) A plan, linked to the proposed project's logic model, for a formative evaluation of the proposed project's activities. The plan must describe how the formative evaluation will use clear performance objectives to ensure continuous improvement in the operation of the proposed project, including objective measures of progress in implementing the project and ensuring the quality of products and services;

(d) A plan for recruiting and selecting a minimum of 10 States to receive intensive TA on developing or enhancing their statewide early childhood longitudinal data systems to improve the States' capacity to collect

and report high-quality data required under sections 616 and 618 of IDEA. This TA may include supporting each State in developing a statewide early childhood longitudinal data system that links to other statewide data systems (i.e., other statewide early learning data systems and statewide longitudinal education data systems) in order to accurately and efficiently respond to all of a State's IDEA-related data submission requirements for infants, toddlers, and young children (birth through age 5) with disabilities. The intensive TA may also include enhancing an existing statewide data system (e.g., SLDS) by including the child-level data on infants, toddlers, and young children (birth through age 5) with disabilities that are needed to meet the IDEA reporting requirements. To ensure that the Center provides TA to support States in overcoming the additional challenge of sharing early childhood data between State agencies (e.g., State Department of Health and State Department of Education), when selecting States for intensive TA, a preference must be given to States that have IDEA Part C lead agencies (LAs) that are not the State educational agency (SEA).

**Note:** The Center must obtain approval from OSEP on the final selection of intensive TA States.

(e) To prevent duplication of TA efforts around early childhood data systems, a plan for, and description of, how the Center will collaborate with the SLDS program (including SLDS TA efforts<sup>1</sup>), the Race to the Top—Early Learning Challenge program, the Common Education Data Standards initiative, the Privacy Technical Assistance Center,<sup>2</sup> and, as appropriate, other Federal programs that provide TA in the area of early childhood data (e.g., Comprehensive Centers program<sup>3</sup>);

<sup>1</sup> More information on the SLDS TA efforts is available at <http://nces.ed.gov/programs/slds/pdf/TechAssistance.pdf>.

<sup>2</sup> The Privacy Technical Assistance Center is one component of the Department's comprehensive privacy initiatives. It offers technical assistance to State education agencies, local education agencies, and institutions of higher education related to the Privacy, Security, and Confidentiality of student records. For the Privacy Technical Assistance Center Help Desk, email [PrivacyTA@ed.gov](mailto:PrivacyTA@ed.gov) or call, toll free, 855-249-3072. For more information, see <http://www2.ed.gov/policy/gen/guid/ptac/index.html>.

<sup>3</sup> The Comprehensive Center program "supports 21 comprehensive centers to help increase state capacity to assist districts and schools meet their student achievement goals. The 16 regional centers provide services primarily to State Education Agencies (SEAs) to enable them to assist school districts and schools, especially low performing schools. At a minimum, each regional center provides training and technical assistance in the

(f) A budget for a summative evaluation to be conducted by an independent third party;

(g) A budget for attendance at the following:

(1) A one and one-half day kick-off meeting to be held in Washington, DC, after receipt of the award, and an annual planning meeting held in Washington, DC, with the OSEP Project Officer and other relevant staff during each subsequent year of the project period.

**Note:** Within 30 days of the award a post-award teleconference must be held between the OSEP Project Officer and grantee's project director or other authorized representative.

(2) A three-day Project Directors' Conference in Washington, DC, during each year of the project period.

(3) A two-day Leveraging Resources Conference in Washington, DC, during each year of the project period.

(4) Two two-day trips annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(h) A line item in the proposed budget for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's activities, as those needs are identified in consultation with OSEP.

**Note:** With approval from the OSEP Project Officer, the Center must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period.

*Project Activities.* To meet the requirements of this priority, the Center, at a minimum, must conduct the following activities:

#### Knowledge Development Activities

(a) Conduct a survey of all 56 Part C LAs and 56 IDEA Part B preschool programs administered by SEAs in the first year to assess their capacity to collect, analyze, and report high-quality data required under sections 616 and 618 of IDEA and identify the policies and practices that facilitate or hinder a statewide early childhood longitudinal data system to link to other early learning data systems and the statewide

implementation and administration of programs authorized under the Elementary and Secondary Education Act (ESEA) and the use of research-based information and strategies. The five content centers focus on specific areas, with one center in each of five areas: Assessment and accountability, instruction, teacher quality, innovation and improvement, and high schools. These centers supply much of the research-based information and products in the specific area that regional centers use when working with SEAs." U.S. Department of Education, Comprehensive Centers Program. Retrieved April 17, 2012 from: <http://www2.ed.gov/programs/newccp/index.html>.

longitudinal educational data system for school-aged children (e.g., SLDS). Additionally, review State information from sources such as SPPs and APRs to assess State data system and data quality needs for the 56 LAs that have IDEA Part C programs and 56 SEAs that have IDEA Part B preschool programs. The Center must analyze the information from the surveys, SPPs/APRs, and other sources, as appropriate, and prepare papers that summarize the findings that can be disseminated according to a dissemination plan described in paragraph (f) of the *Technical Assistance and Dissemination Activities* section of this priority. These findings must be used in the selection of States for intensive TA.

(b) Using the findings from the survey described in paragraph (a), identify a minimum of four States to partner with to develop a statewide early childhood longitudinal data system framework (see paragraph (c)). This framework will be a TA resource for other States trying to develop or enhance statewide early childhood longitudinal data systems. Each partnering State must have commitments from its IDEA Part C early intervention and Part B preschool programs to participate in the activities of the Center. Additionally, the partnering States must be a combination of States with Department of Education LAs and non-Department of Education LAs (e.g., State Departments of Health, State Departments of Developmental Services). Factors for consideration in selecting these States could include the demographic and geographic characteristics of the State, the history of data system development in the State, and the collection and analysis of high-quality data required under sections 616 and 618 of IDEA. There may be overlap between these partnering States and those States selected to receive intensive TA. The Center must obtain approval from OSEP on the final selection of partnering States.

**Note:** To fulfill the requirements of paragraph (b) of the *Application Requirements* section of this priority, applicants must describe the methods and criteria they propose to use to recruit and select the four partnering States.

(c) Within the first year of the project period, partner with the States identified in paragraph (b) of this section to develop, implement, and evaluate a statewide early childhood longitudinal data system framework for IDEA Part C early intervention and Part B preschool programs. In developing this framework, the Center must work with the partner States to identify, describe, and document the components

and processes needed to develop or enhance a statewide early childhood longitudinal data system that provides data necessary to accurately and efficiently respond to reporting requirements under sections 616 and 618 of IDEA and addresses the data system requirements and capabilities listed under paragraph (b) of the *Technical Assistance and Dissemination Activities* section of this priority. Through this work, the Center must develop guidance and exemplar tools and processes that any State can use to develop or enhance and implement a statewide early childhood longitudinal data system framework within its unique setting.

(d) Develop documents and resources on best practices and lessons learned that can be used to improve States' capacity to develop or enhance their statewide early childhood longitudinal data systems for the purposes of collecting high-quality data required under sections 616 and 618 of IDEA.

#### **Technical Assistance and Dissemination Activities**

(a) Provide intensive TA to a minimum of 10 States to develop and implement a project management and data governance plan with the goal of a fully implemented statewide early childhood longitudinal data system, as described in paragraph (b) of this section. The intensive TA will be based on the statewide early childhood longitudinal data system framework described in paragraph (b) of the *Knowledge Development Activities* section of this priority.

**Note:** To fulfill the requirements in paragraph (a) in the *Technical Assistance and Dissemination Activities* section of this priority, applicants must describe the methods and criteria they will use to recruit and select States. The Center must obtain approval from OSEP on the final selection of intensive TA States.

(b) The statewide early childhood longitudinal data system must meet the following requirements:

(1) Have the following specific data system capabilities:

(i) Enable the State staff to efficiently respond to all IDEA-related data submission requirements (e.g., sections 616 and 618 data) with accurate and valid IDEA data by—

(A) Improving the quality of IDEA data related to child find, child count, settings, and educational environments data; and Indicators C2, C5, C6, and B6, which are included in Appendices A and B to this notice, by linking early childhood IDEA Part C and Part B preschool child-level data horizontally to other statewide early learning data

systems when available (e.g., child care, home visiting programs, Head Start, Early Head Start, and publicly-funded State preschool programs and services);

(B) Improving the quality of the IDEA data related to early childhood and preschool outcomes; and Indicators C3, C8, B7, and B12 by linking early childhood IDEA Part C and Part B preschool child-level data vertically to other statewide longitudinal education data systems, including those funded under the Department's SLDS grants (e.g., P-12 systems, K-12 systems, P-20 systems, and K-20 systems);

(C) Improving the quality of the IDEA personnel data by linking child-level early childhood IDEA Part C and Part B preschool data with early intervention and preschool service providers so that an individual child may be matched with the particular providers primarily responsible for providing services to that child; and

(D) Improving the quality of the data about personnel providing services under IDEA Part B by linking early intervention and preschool service providers with data on their qualifications, certification, and preparation programs, including the institutions at which providers received their training;

(ii) Enable the State to improve the accuracy of the IDEA data through validity and reliability checks (e.g., data verification) and to provide access to the information needed to analyze and explain progress or slippage in the Parts B and C indicators;

(iii) Enable the State to examine progress in the implementation of IDEA (e.g., improving transitions from Part C to Part B IDEA services) and the outcomes (e.g., social-emotional skills, the use of appropriate behaviors to meet needs, and the acquisition and use of knowledge and skills) over time of infants, toddlers, and young children receiving services under IDEA and ensure data are easily generated for analysis and decision-making, including timely reporting to various IDEA Part C and preschool service providers across the State on the progress of infants, toddlers, and young children receiving services under IDEA; and

(iv) Ensure the quality (i.e., validity and reliability) of all data.

(2) In order to improve the State's capacity to collect and analyze high-quality data, have the following data system elements:

(i) A unique statewide child identifier accepted by, and aligned with, the State's P-20/P-12 unique identifier that does not permit a child to be individually identified by users of the

system (except as allowed by Federal and State law).

(ii) An early intervention and preschool service provider identifier system with the ability to match early intervention and preschool service providers to children;

(iii) Child-level enrollment, demographic, and program participation data.

(iv) Child-level data on the identification of the child under IDEA (including data on the timeliness of the child's evaluation and assessment) and services identified as needed and received, including timeliness of services and service settings.

(v) Child and family outcome<sup>4</sup> data.

(vi) Child-level data about the points at which children start and stop receiving early intervention services or preschool special education services (including reasons for exiting).

(vii) Child-level data about the extent to which children receive timely transition planning to support their movement to preschool and other appropriate community services by their third birthday.

(viii) A State data audit system to assess data quality (i.e., reliability and validity).

(3) Have a data system interoperability plan that—

(i) Allows for linking the statewide early childhood longitudinal data systems to other statewide longitudinal education data systems and other statewide early learning data systems; and

(ii) Complies with applicable Federal, State, and local privacy laws, including the requirements of FERPA and the privacy requirements in IDEA.

(c) Develop and coordinate a national TA network comprised of a cadre of experts that the Center will use to provide TA to States to assist them in developing or enhancing statewide early childhood longitudinal data systems to improve States' capacity to collect and report high-quality data required under sections 616 and 618 of IDEA, which may include the development of open source data system software that addresses the unique needs of each State. General TA will be provided to all States and intensive TA will be provided to a minimum of 10 States.

(d) Provide a continuum of general TA and dissemination activities (e.g.,

<sup>4</sup> An outcome is formed by the impact that services and supports have on the functioning of children and families. Early Childhood Outcome Center. Outcomes 101: ECO Q&A. Available at: [www.fpg.unc.edu/~eco/pages/faqs\\_view\\_item.cfm?id=7](http://www.fpg.unc.edu/~eco/pages/faqs_view_item.cfm?id=7). For further information on early childhood child and family outcomes, see the Early Childhood Outcomes (ECO) Center Web site ([www.fpg.unc.edu/~eco/index.cfm](http://www.fpg.unc.edu/~eco/index.cfm)).

managing Web sites, listservs, and communities of practice, and holding conferences and training institutes) on best practices that promote the efficient collection of accurate and valid data required under sections 616 and 618 of IDEA to improve the educational results and functional outcomes of all children with disabilities.

(e) Maintain a Web site that meets government or industry-recognized standards for accessibility and that links to the Web site operated by the Technical Assistance Coordination Center (TACC).<sup>5</sup>

(f) Prepare and disseminate reports, documents, and other materials on statewide early childhood longitudinal data systems, and related topics as requested by OSEP for specific audiences including IDEA Part C LAs, SEAs, policymakers, local educational agencies, service providers, and teachers. In consultation with the OSEP Project Officer, make selected reports, documents, and other materials available for Part C LAs, SEAs, policymakers, local educational agencies, service providers, and teachers in both English and Spanish.

(g) Develop materials and guidance for States and provide targeted TA related to the performance and compliance indicator(s) on their APRs and SPPs, as requested by OSEP.

#### Leadership and Coordination Activities

(a) Establish and maintain an advisory committee to review the activities and outcomes of the Center and provide programmatic support and advice throughout the project period. At a minimum, the advisory committee must meet annually in Washington, DC, and consist of representatives of IDEA Part C LAs, representatives of SEAs, individuals with disabilities, other TA providers, parents of individuals with disabilities, data system experts, representatives of other early learning and development programs, representatives of other Federal offices working to improve State data systems, and software developers with expertise in statewide longitudinal data systems and interoperability. The Center must submit the names of proposed members of the advisory committee to OSEP for approval within eight weeks after receipt of the award.

(b) Communicate and collaborate, on an ongoing basis, with OSEP-funded projects and other relevant Federal-funded projects, including the SLDS

program, SLDS TA efforts,<sup>6</sup> the Race to the Top—Early Learning Challenge program, the Common Education Data Standards initiative,<sup>7</sup> the Privacy Technical Assistance Center, and, as appropriate, other Federal programs that provide TA in the area of early childhood data (e.g., Comprehensive Centers program). This collaboration could include the joint development of products, the coordination of TA services, and the planning and carrying out of TA meetings and events.

(c) Participate in, organize, or facilitate communities of practice if they align with the needs of the project's target audience. Communities of practice should align with the project's objectives to support discussions and collaboration among key stakeholders. The following Web site provides more information on communities of practice: [www.tadnet.org/communities](http://www.tadnet.org/communities).

(d) Prior to developing any new product, submit a proposal for the product to the TACC database for approval from the OSEP Project Officer. The development of new products should be consistent with the product definition and guidelines posted on the TACC Web site ([www.tadnet.org](http://www.tadnet.org)).

(e) Contribute, on an ongoing basis, updated information on the Center's approved and finalized products and services to a database at the TACC.

(f) Coordinate with the National Dissemination Center for Individuals with Disabilities to develop an efficient and high-quality dissemination strategy that reaches broad audiences. The Center must report to the OSEP Project Officer the outcomes of these coordination efforts.

(g) Maintain ongoing communication with the OSEP Project Officer through monthly phone conversations and email communication.

#### Fourth and Fifth Years of the Project

In deciding whether to continue funding the Center for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of experts selected by the Secretary. This review will be

<sup>6</sup> More information on the SLDS TA efforts is available at <http://nces.ed.gov/programs/slds/pdf/TechAssistance.pdf>.

<sup>7</sup> "The Common Education Data Standards is a specified set of the most commonly used education data elements to support the effective exchange of data within and across States, as students transition between educational sectors and levels, and for federal reporting." National Center for Education Statistics. Common Education Data Standards. Retrieved February 8, 2012 from: <http://nces.ed.gov/programs/ceds/>. For more information, see <http://ceds.ed.gov/Default.aspx>.

conducted during a one-day intensive meeting in Washington, DC, that will be held during the last half of the second year of the project period. The Center must budget for travel expenses associated with this one-day intensive review;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Center; and

(c) The quality, relevance, and usefulness of the Center's activities and products and the degree to which the Center's activities and products have contributed to changed practice and improved the States' capacity to collect and report high-quality data required under sections 616 and 618 of IDEA by developing and enhancing of statewide early childhood longitudinal data systems.

#### Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. 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 (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the 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 priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements. OSEP is under no obligation to make an award for this priority. The decision to make an award will be based on the quality of applications received and available funding.

**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**.

**Executive Orders 12866 and 13563:** Under Executive Order 12866, the

<sup>5</sup> For more information regarding the TACC products and services database, please see: [www.tadnet.org](http://www.tadnet.org).

Secretary must determine whether this 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 loan 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.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(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 its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those

approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing this final priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

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

In accordance with both Executive Orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

*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, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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Dated: August 2, 2012.

**Alexa Posny,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2012–19478 Filed 8–7–12; 8:45 am]

**BILLING CODE 4000–01–P**