

explanation of how the exemption applies to the records withheld, and the reasons for asserting it, if different from those described by the Assistant Legal Counsel, FOIA Programs, the District Director, or the District Director's designee under § 1610.9. The decision on appeal shall indicate that the person making the request may, if dissatisfied with the decision, file a civil action in the United States District Court for the district in which the person resides or has his principal place of business, for the district where the records reside, or for the District of Columbia.

(d) No personal appearance, oral argument or hearing will ordinarily be permitted in connection with an appeal to the Legal Counsel or the Assistant Legal Counsel, FOIA Programs.

(e) On appeal, the Legal Counsel or designee, or the Assistant Legal Counsel, FOIA Programs, as appropriate, may reduce any fees previously assessed.

(f) In the event that the Commission terminates its proceedings on a charge after the District Director or the District Director's designee denies a request, in whole or in part, for the charge file but during consideration of the requester's appeal from that denial, the request may be remanded for redetermination. The requester retains a right to appeal to the Assistant Legal Counsel, FOIA Programs, from the decision on remand.

11. Revise § 1610.13 to read as follows:

**§ 1610.13 Maintenance of files.**

The Legal Counsel or designee, the Assistant Legal Counsel, FOIA Programs, and the District Directors or designees shall maintain files containing all material required to be retained by or furnished to them under this subpart. The material shall be filed by individual request.

12. Amend § 1610.14 by revising paragraph (a) to read as follows:

**§ 1610.14 Waiver of user charges.**

(a) Except as provided in paragraph (b) of this section, the Legal Counsel or designee, the Assistant Legal Counsel, FOIA Programs, and the District Directors or designees shall assess fees where applicable in accordance with § 1610.15 for search, review, and duplication of records requested. They shall also have authority to furnish documents without any charge or at a reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the

government and is not primarily in the commercial interest of the requester.

\* \* \* \* \*

13. Amend § 1610.15 by adding paragraph (g) to read as follows:

**§ 1610.15 Schedule of fees and method of payment for services rendered.**

\* \* \* \* \*

(g) A search fee will not be charged to requesters specified in paragraphs (a)(1) and (a)(3) of this section, and a duplication fee will not be charged to requesters specified in paragraph (a)(2) of this section, if the Commission issues an untimely determination and the untimeliness is not due to unusual or exceptional circumstances.

14. Amend § 1610.18 by revising the introductory text and adding paragraph (h) to read as follows:

**§ 1610.18 Information to be disclosed.**

The Commission will provide the following information to the public. This information will also be made available electronically:

\* \* \* \* \*

(h) Underlying annual FOIA report data.

15. Amend § 1610.19 by removing paragraph (b)(2), redesignating paragraph (b)(3) as paragraph (b)(2), and removing the word "working" wherever it appears in paragraphs (d) and (e) and add in its place the word "business."

16. Remove and reserve § 1610.20.

**§ 1610.20 [Removed and Reserved]**

17. Revise § 1610.21 to read as follows:

**§ 1610.21 Annual report.**

The Legal Counsel shall, on or before February 1, submit individual Freedom of Information Act reports for each principal agency FOIA component and one for the entire agency covering the preceding fiscal year to the Attorney General of the United States. The reports shall include those matters required by 5 U.S.C. 552(e), and shall be made available electronically on the agency Web site.

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**DEPARTMENT OF EDUCATION**

**34 CFR Subtitle A**

[DOCKET ID ED-2012-OII-0013]

RIN 1855-AA08

**Proposed Priorities, Requirements, Definitions, and Selection Criteria—Supporting Effective Educator Development**

[CFDA Number: 84.367D.]

**AGENCY:** Office of Innovation and Improvement, Department of Education.

**ACTION:** Proposed priorities, requirements, definitions, and selection criteria.

**SUMMARY:** The Assistant Deputy Secretary for Innovation and Improvement proposes priorities, requirements, definitions, and selection criteria under the Supporting Effective Educator Development (SEED) Grant program. We may use these priorities, requirements, definitions, and selection criteria for competitions of the SEED Grant program for fiscal year (FY) 2012 and later years. We intend for the priorities, requirements, definitions, and selection criteria to help national not-for-profit organizations to build evidence on how best to recruit, train, and support effective teachers and school leaders; recruit and prepare effective science, technology, engineering, and mathematics teachers; and invest in efforts that enhance the teaching and school leadership professions.

**DATES:** We must receive your comments on or before October 4, 2012.

**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 email. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID and the phrase "Supporting Effective Educator Development" at the top of your comments.

• *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using [Regulations.gov](http://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." A direct link to the docket page is also available at [www.ed.gov/programs/innovation/index.html](http://www.ed.gov/programs/innovation/index.html).

• *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these proposed

priorities, requirements, definitions, and selection criteria, address them to Office of Innovation and Improvement (Attention: Supporting Effective Educator Development Comments), U.S. Department of Education, 400 Maryland Avenue SW., room 4C131, Washington, DC 20202.

• **Privacy Note:** The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** Richard Wilson Telephone: (202) 453-6709 or by email: [seed@ed.gov](mailto:seed@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, 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 priorities, requirements, definitions, and selection criteria, we urge you to identify clearly the specific proposed priority, requirement, definition, or selection criterion that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from the proposed priorities, requirements, definitions, and selection criteria. 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 the Department's programs and activities.

During and after the comment period, you may inspect all public comments about this notice by accessing Regulations.gov. You may also inspect the comments in person, in room 4W335, 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** in the **SUMMARY** section of this notice.

*Purpose of Program:* The SEED Grant program provides funding for grants to national not-for-profit organizations for projects that support teacher or principal training or professional enhancement activities and are supported by at least moderate evidence of effectiveness (as defined in this notice).

*Program Authority:* Department of Education Appropriations Act, 2012 (Pub. L. 112-74, Title III, Division F).

*Proposed Priorities*

This notice contains seven proposed priorities.

*Background*

**The Statutory Context**

The Department of Education Appropriations Act, 2012, requires the Secretary to reserve up to 1.5 percent of the funds for the Elementary and Secondary Education Act's (ESEA) Title II, Part A programs for competitive awards to national not-for-profit organizations for teacher or principal training or professional enhancement activities.

**Overview of the SEED Grant program**

Reforming and improving schools with high concentrations of high-need students is a key priority for the Department. Strengthening teacher and principal leadership is an essential part of any strategy to make a difference in these schools. Research shows that teachers are a critical element in improving student learning.<sup>1</sup> Additionally, there is compelling evidence that strong principals have positive, although indirect, effects on student learning.<sup>2</sup> The Department is using the SEED Grant program as a

<sup>1</sup> Lee S. Shulman, *Knowledge and Teaching: Foundations of the New Reform*, Harvard Educational Review, Vol. 57, No. 1 (February 1987), pages 1-22; Eric A. Hanushek, John F. Kain, & Steven G. Rivkin, *Teachers, Schools, and Academic Achievement* (NBER Working Paper No. 6691) (1998), National Bureau of Economic Research, Retrieved April 25, 2012, from <http://www.nber.org/papers/w6691.pdf>; Thomas J. Kane & Douglas O. Staiger, *Gathering Feedback for Teaching: Combining High-Quality Observations with Student Surveys and Achievement Gains*, Bill & Melinda Gates Foundation (January, 2012).

<sup>2</sup> Kyla L. Wahlstrom, Karen Seashore-Louis, Kenneth Leithwood, & Stephen E. Anderson, *Learning from Leadership: Investigating the Links to Improved Student Learning*, Center for Applied Research and Educational Improvement, University of Minnesota, Ontario Institute for Studies in Education at the University of Toronto, sponsored by the Wallace Foundation (July, 2010).

mechanism to identify and support projects that will strengthen teaching and school leadership specifically for high-need schools. As proposed in this notice, applicants must demonstrate how they will build evidence on how best to recruit, prepare, and support effective teachers and principals.

The following priorities focus on this goal.

**Proposed Priority 1: Teacher or Principal Recruitment, Selection, and Preparation**

*Background*

This proposed priority would support projects that will recruit, select, and prepare teachers, principals, or both who are able to increase student achievement and student learning, particularly in high-need schools. Although we included a similar priority in our September 8, 2011, notice inviting applications (76 FR 55658-55664) (2012 SEED NIA), that priority focused only on teachers. The Department of Education Appropriations Act, 2012, provides that projects may serve principals, teachers, or both and, therefore, we are modifying this priority accordingly. Additionally, we propose to include a more explicit focus on schools with high concentrations of high-need students (as defined in this notice) and to provide more direction on required project activities.

*Proposed Priority 1*

Under this proposed priority, the Secretary would fund projects that will create or expand practices and strategies that increase the number of highly effective teachers (as defined in this notice) or highly effective principals (as defined in this notice) by recruiting, selecting, and preparing talented individuals to work in schools with high concentrations of high-need students (as defined in this notice). Projects would include activities that focus on creating or expanding high-performing teacher preparation programs, principal preparation programs, or both. Activities may include but are not limited to expanding clinical experiences, re-designing and implementing program coursework to align with State standards and district requirements for their P-12 teachers, providing induction and other support for program participants in their classrooms and schools, and developing strategies for tracking the effect of program graduates on the achievement of their students or their schools.

In addition, an applicant would need to propose a plan demonstrating a

rigorous, competitive selection process to determine which aspiring teachers or principals participate in the applicant's proposed activities.

**Proposed Priority 2: Professional Development for Teachers of English Language Arts With a Specific Focus on Writing**

*Background*

This proposed priority is based on Absolute Priority 2 published in the 2012 SEED NIA. We propose changing the priority by requiring that the professional development be aligned with State standards. We also propose to require that the professional development align with district needs and include a rigorous evaluation of the effectiveness of teachers who participate in the professional development.

*Proposed Priority 2*

Under this proposed priority, the Secretary would fund projects designed to improve student literacy and writing skills by creating or expanding practices and strategies that increase the number of highly effective teachers (as defined in this notice) of English language arts by improving their knowledge, understanding, and teaching of English language arts, with a specific focus on teaching writing. Projects would focus on increasing student achievement (as defined in this notice) in English language arts by providing high-quality professional development to teachers in schools with high concentrations of high-need students (as defined in this notice).

An applicant would be required to describe the need of the proposed districts to be served for teacher professional development in English language arts and demonstrate alignment of its proposed project with State standards.

In addition, applicants would have to describe how they plan to measure the impact the professional development has on the effectiveness of teachers served by the project. Applicants would need to determine teacher effectiveness through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

**Proposed Priority 3: Advanced Certification and Advanced Credentialing**

*Background*

This proposed priority would support projects that will develop or enhance systems to develop and recognize

teachers, principals, or both who will serve as models, coaches, and mentors from whom other teachers, principals, or both can learn and strengthen their practices. We propose changing this priority from Absolute Priority 3 in the 2012 SEED NIA by encouraging applicants to target services to teachers, principals, or both who are working or agree to work in schools with high concentrations of high-need students (as defined in this notice). We also propose adding requirements for the selection of participants and the evaluation of outcomes or effectiveness of participants.

*Proposed Priority 3*

Under this proposed priority, the Secretary would fund projects that will create or expand practices and strategies that increase the number of highly effective teachers (as defined in this notice), highly effective principals (as defined in this notice), or both, who work in schools with high concentrations of high-need students (as defined in this notice).

Applicants would be required to focus their proposed projects on encouraging and supporting teachers, principals, or both, who seek a nationally recognized, standards-based advanced certificate or advanced credential through high-quality professional enhancement projects designed to improve teaching and learning for teachers who would take on career ladder positions (as defined in this notice), principals, or both who would serve as models, mentors, and coaches for other teachers, principals, or both working in schools with high concentrations of high-need students (as defined in this notice).

In addition, effectiveness of teachers or principals who receive advanced certification or credentialing would need to be determined through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

Finally, an applicant would need to propose a plan demonstrating a rigorous, competitive selection process to determine which teachers or principals participate in the applicant's proposed activities.

**Proposed Priority 4: Promoting Science, Technology, Engineering, and Mathematics (STEM) Education**

*Background*

This proposed priority would support projects that will improve professional development for STEM teachers and

increase the number of STEM teachers from traditionally underrepresented groups. Improving STEM education is critical in developing a globally competitive workforce.

This priority was not used in the 2012 SEED NIA. We propose adding this priority because it would respond to the high demand for highly effective STEM teachers, particularly in high-need schools. We also note that this proposed priority is based on the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486–78511), and corrected on May 12, 2011 (76 FR 27637–27641) (Supplemental Priorities). However, in both subsections (a) and (b) of this proposed priority, we removed the term “other educators” because the appropriations language for the SEED Grant program allows projects that provide services only to teachers, principals, or both.

*Proposed Priority 4*

Under this proposed priority, the Secretary would fund projects that address one or both of the following priority areas:

(a) Increasing the opportunities for high-quality preparation of, or professional development for, teachers of STEM subjects.

(b) Increasing the number of individuals from groups traditionally underrepresented in STEM, including minorities, individuals with disabilities, and women, who are teachers of STEM subjects and have increased opportunities for high-quality preparation or professional development.

In addition, applicants would have to describe how they plan to measure the impact the proposed project activities have on teacher effectiveness. Applicants would need to determine teacher effectiveness through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

**Proposed Priority 5: Professional Development for Teachers of Core Academic Subjects**

*Background*

This proposed priority would support projects that will provide professional development to teachers of core academic subjects, including special education teachers, to help them continue to improve their pedagogy, increase their knowledge of core subjects, and become highly effective

teachers in schools with high concentrations of high-need students (as defined in this notice). We propose adding this priority to support the creation and expansion of high-quality professional development projects that strengthen instruction and raise student achievement across core academic subjects. The priority would require that the professional development be aligned with State standards. We also propose to include requirements for the selection of participants that align with district needs and for the evaluation of the effectiveness of participants.

#### *Proposed Priority 5*

Under this proposed priority, the Secretary would fund projects that will create or expand practices and strategies that increase the number of highly effective teachers (as defined in this notice) by providing professional development opportunities to teachers, including special education teachers, in schools with high concentrations of high-need students (as defined in this notice). Projects would focus on increasing student achievement (as defined in this notice) in core academic subjects by providing high-quality professional development to teachers. The academic subjects that may be addressed through professional development under this priority include foreign languages, civics and government, economics, arts, history, physical education, geography, environmental education, and financial literacy.

Applicants would be required to describe the need of the proposed districts to be served for teacher professional development in the selected high-need core academic subjects and to demonstrate alignment of its proposed project with State standards.

In addition, applicants would have to describe how they plan to measure the impact the professional development has on teacher effectiveness. Applicants would need to determine teacher effectiveness through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

#### **Proposed Priority 6: Improving Efficiency**

##### *Background*

This proposed priority would support projects that identify cost-effective strategies to improve project outcomes. In order to meet this priority, applicants would be required to demonstrate how

they will efficiently improve educational outcomes, including student achievement. We propose changing the language in this priority from the Competitive Preference Priority 2 in the 2012 SEED NIA in order to emphasize the use of cost-effective strategies.

##### *Proposed Priority 6*

Under this proposed priority, the Secretary would fund projects that will identify strategies for providing cost-effective, high-quality services at the State, regional, or local level by making better use of available resources. Such projects may include innovative and sustainable uses of technology, modification of school schedules and teacher compensation systems, use of open educational resources (as defined in this notice), or other strategies.

#### **Proposed Priority 7: Supporting Practices and Strategies for Which There Is Strong Evidence of Effectiveness**

##### *Background*

This proposed priority would support projects that are supported by strong evidence. The Department firmly believes that the strongest available evidence should inform educational funding and policy decisions. Creating a larger pool of evidence-supported implementation sites will provide more opportunities to scale up projects that have a history of success and to improve educational outcomes for more students. We propose to leave this priority unchanged from the 2012 SEED NIA; however, we propose a slightly different definition of “strong evidence of effectiveness”, as explained in the *Definitions* section of this notice.

##### *Proposed Priority 7*

Under this proposed priority, the Secretary would fund projects that are supported by strong evidence of effectiveness (as defined in this notice).

#### **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, as specified by 34 CFR 75.105(c)(3), we would consider only applications that meet the priority.

*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 preference over other applications (34 CFR 75.105(c)(1)).

#### **Proposed Requirements**

The Secretary proposes the following requirements for the SEED Grant program. We may apply these requirements in any year in which this program is in effect.

*Eligible applicants:* To be eligible for a SEED Grant program grant, an entity must be a national not-for-profit organization (as defined in this notice). Each applicant must provide in its application documentation that it is a national not-for-profit organization (as defined in this notice).

*Evidence of effectiveness:* To be eligible for funding, an applicant must demonstrate that its proposed project is supported by at least moderate evidence of effectiveness (as defined in this notice).

Each applicant must provide in its application documentation that its proposed project is supported by at least moderate evidence of effectiveness. An applicant that applies for Proposed Priority 7 also must provide documentation that its proposed project is supported by strong evidence of effectiveness. An applicant must ensure that all evidence is available to the Department from publically available sources and provide links, references, or copies of the evidence in the application. If the Department determines that an applicant has provided insufficient evidence that its proposed project meets the definition of “moderate evidence of effectiveness,” or “strong evidence of effectiveness,” the applicant will not have an opportunity to provide additional evidence to support its application.

*Evaluations:* An applicant receiving funds under this program must comply with the requirements of any evaluation of the program conducted by the Department. In addition, an applicant receiving funds under this program must make broadly available through formal (e.g., peer-reviewed journals) or informal (e.g., newsletters) mechanisms, and in print or electronically, the results of any evaluations it conducts of its funded activities.

### Proposed Definitions

The Secretary proposes the following definitions for this competition. We propose to modify the definition of “national not-for-profit organization” from the definition used in the 2012 SEED NIA to add more objective criteria for determining what type of organizations meet the definition. Additionally, the definitions relating to levels of evidence have both been changed to align more closely with other Department definitions of levels of evidence. We may apply one or more of these definitions in any year in which this program is in effect.

*Career ladder positions* means school-based instructional leadership positions designed to improve instructional practice, which teachers may voluntarily accept, such as positions described as master teacher, mentor teacher, demonstration or model teacher, or instructional coach, and for which teachers are selected based on criteria that are predictive of the ability to lead other teachers.

*High-need students* means students at risk of educational failure, such as students who are living in poverty, who are English learners, who are far below grade level or who are not on track to becoming college- or career-ready by graduation, who have left school or college before receiving, respectively, a regular high school diploma or a college degree or certificate, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who are pregnant or parenting teenagers, who have been incarcerated, who are new immigrants, who are migrant, or who have disabilities.

*Highly effective principal* means a principal whose students, overall and for each subgroup as described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act, as amended (ESEA) (i.e., economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency), achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that principal effectiveness is evaluated, in significant part, based on student growth. Supplemental measures may include, for example, high school graduation rates; college enrollment rates; evidence of providing supportive teaching and learning conditions, support for ensuring effective instruction across subject areas for a well-rounded education, strong

instructional leadership, and positive family and community engagement; or evidence of attracting, developing, and retaining high numbers of effective teachers.

*Highly effective teacher* means a teacher whose students achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that teacher effectiveness is evaluated, in significant part, based on student growth. Supplemental measures may include, for example, multiple observation-based assessments of teacher performance or evidence of leadership roles (which may include mentoring or leading professional development learning communities) that increase effectiveness of other teachers in the school or local educational agency (LEA).

*Large sample* means a sample of 350 or more students (or other single analysis units) who were randomly assigned to a treatment or control group, or 50 or more groups (such as classrooms or schools) that contain 10 or more students (or other single analysis units) and that were randomly assigned to a treatment or control group.

*Moderate evidence of effectiveness* means one of the following conditions is met:

(1) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards without reservations;<sup>3</sup> found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse); and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(2) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards with reservations,<sup>4</sup> found a statistically significant favorable

<sup>3</sup> See What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: <http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19>.

<sup>4</sup> See What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: <http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19>.

impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice, and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice) (**Note:** multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph).

*Multi-site sample* means more than one site, where site can be defined as an LEA, locality, or State.

*National level* describes the level of scope or effectiveness of a process, product, strategy, or practice that is able to be effective in a wide variety of communities, including rural and urban areas, as well as with different groups (e.g., economically disadvantaged, racial and ethnic groups, migrant populations, individuals with disabilities, English learners, and individuals of each gender).

*National not-for-profit organization* means an entity that meets the definition of “nonprofit” under 34 CFR 77.1(c) and is of national scope, meaning that the entity provides services in multiple States to a significant number or percentage of recipients and is supported by staff or affiliates in multiple States.

*Open educational resources* means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits their free use or repurposing by others.

*Relevant outcome* means the student outcome or outcomes (or the ultimate outcome if not related to students) that the proposed project is designed to improve, consistent with the specific goals of a program.

*Strong evidence of effectiveness* means that one of the following conditions is met:

(1) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards without reservations;<sup>5</sup> found a statistically

<sup>5</sup> See What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: <http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19>.

significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse); includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice) (Note: multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph).

(2) There are at least two studies of the effectiveness of the process, product, strategy, or practice being proposed, each of which meets the What Works Clearinghouse Evidence Standards with reservations,<sup>6</sup> found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the studies or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice, and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice).

*Student achievement* means—

(a) For tested grades and subjects: (1) A student's score on the State's assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across schools.

(b) For non-tested grades and subjects: alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools.

*Student growth* means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. An applicant may also include other measures that are rigorous and comparable across classrooms.

<sup>6</sup> See What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: <http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19>.

## Proposed Selection Criteria

### Background

The proposed selection criteria are intended to ensure that applicants can demonstrate that they have the experience and capacity to expand or develop practices and strategies to recruit, select, and prepare or provide professional enhancement activities for teachers, principals, or both.

In the absence of specific selection criteria for the SEED Grant program, the Department would use the general selection criteria in 34 CFR 75.210 of the Education Department General Administrative Regulations (EDGAR) in selecting grant recipients. While many of the selection criteria subfactors are taken directly from EDGAR at 34 CFR 75.210, they have been combined in some cases or organized under different criteria in other cases. In addition, some subfactors have been edited to focus on that which would affect the ability of the applicant to implement an effective project that meets the SEED Grant program's purposes.

Under the proposed selection criteria, the Secretary would assess the extent to which an applicant would be able to sustain a project once Federal funding through the SEED Grant program is no longer available. Thus, eligible applicants should propose activities that they will be able to sustain without funding from the program and should include in their management plan the specific steps they will take for sustained implementation of the proposed project.

### Proposed Selection Criteria

The Secretary proposes the following selection criteria for evaluating an application under the SEED Grant program. We may apply one or more of these criteria, as well as other criteria or factors established in 34 CFR 75.210, in any year in which this program is in effect. In the notice inviting applications or the application package, or both, we will announce the maximum possible points assigned to each criterion.

(a) *Significance*. The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers:

(1) The significance of the proposed project on a national level (as defined in this notice).

(2) The potential contribution of the proposed project to the development and advancement of teacher and school leadership theory, knowledge, and practices.

(3) The importance or magnitude of the results or outcomes likely to be

attained by the proposed project, especially improvements in teaching and student achievement.

(b) *Quality of the Project Design and Services*. The Secretary considers the quality of the design and services of the proposed project. In determining the quality of the design and services of the proposed project, the Secretary considers:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified, aligned, and measurable.

(2) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(3) The extent to which the training or professional development services to be provided by the proposed project will be of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(c) *Quality of the Management Plan and Personnel*. The Secretary considers the quality of the management plan for the proposed project and of the personnel who will carry out the proposed project. In determining the quality of the management plan and the project personnel, the Secretary considers:

(1) The qualifications, including relevant training and experience, of the project director, key project personnel, and project consultants or subcontractors.

(2) 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.

(3) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(4) The extent to which the proposed management plan includes sufficient and reasonable resources to effectively carry out the proposed project, including the project evaluation.

(d) *Sustainability*. The Secretary considers the adequacy of resources to continue the proposed project after the grant period ends. In determining the adequacy of resources and the potential for utility of the proposed project's activities and products by other organizations, the Secretary considers:

(1) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(2) The extent to which the proposed project is likely to yield findings and products (such as information, materials, processes, or techniques) that may be used by other agencies and organizations.

(3) The extent to which the applicant will disseminate information about results and outcomes of the proposed project in ways that will enable others, including the public, to use the information or strategies.

(e) *Quality of the Project Evaluation.* The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers one or more of the following factors:

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

(2) The extent to which the evaluation includes the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data.

(3) The extent to which the evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(4) The extent to which the proposed project plan includes sufficient resources to carry out the project evaluation effectively.

**Note:** We encourage applicants to review the following technical assistance resources on evaluation: (1) What Works Clearinghouse Procedures and Standards Handbook: <http://ies.ed.gov/ncee/wwc/references/idocviewer/doc.aspx?docid=19&tocid=1>; and (2) IES/NCEE Technical Methods papers: [http://ies.ed.gov/ncee/tech\\_methods/](http://ies.ed.gov/ncee/tech_methods/).

#### *Final Priorities, Requirements, Definitions, and Selection Criteria*

We will announce the final priorities, requirements, definitions, and selection criteria in a notice in the **Federal Register**. We will determine the final priorities, requirements, definitions, and selection criteria after considering responses to this notice and other information available to the Department. This notice does not preclude us 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 these priorities, requirements, definitions, and selection criteria, we invite applications through a notice in the **Federal Register**.

#### *Executive Orders 12866 and 13563*

This proposed 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 proposed 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 on 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 practical—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 behavior changes.”

We are taking this proposed regulatory action only on a reasoned determination that the benefits justify the costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. The Department believes that this proposed regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would 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 of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

#### **Summary of Costs and Benefits**

The costs of carrying out activities would be paid for with program funds and with matching funds provided by private-sector partners. Thus, the costs of implementation would not be a burden for any eligible applicants, including small entities.

#### **Paperwork Reduction Act of 1995**

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: the public understands the Department’s collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

We estimate that each applicant would spend approximately 176 hours of staff time to address the proposed requirements and selection criteria, prepare the application, and obtain necessary clearances. The total number of hours for all expected applicants is an estimated 2,640 hours. We estimate the total cost per hour of the applicant-level staff who will carry out this work to be \$57 per hour. The total estimated cost for all applicants is estimated to be \$150,480.

Under the PRA, the Department has submitted to OMB for its review a copy of the information collection (including the burden estimates) for the SEED discretionary grant application using the proposed priorities, requirements, definitions, and selection criteria. Through this NPP, OII seeks comment on this information collection. If you want to comment on the proposed information collection, please send your comments to the Office of Information and Regulatory Affairs, OMB, Attention:



Desk Officer for U.S. Department of Education. Send these comments by email to [OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov) or by fax to (202) 395-6974. You may also send a copy of these comments to the Department contact named in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

In preparing your comments you may want to review the ICR, which we maintain in the Education Department Information Collection System (EDICS) at <http://edicsweb.ed.gov>. Click on Browse Pending Collections. This proposed collection is identified as proposed collection (04833) 1855-New. This ICR is also available on OMB's RegInfo Web site at [www.reginfo.gov](http://www.reginfo.gov).

We consider your comments on this proposed collection of information in—

- Deciding whether the proposed collection is necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collection, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

OMB is required to make a decision concerning the collection of information contained in these proposed priorities, requirements, and selection criteria between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives your comments on the proposed collection within 30 days after publication. This does not affect the deadline for your comments to us on the proposed priorities, requirements, definitions, and selection criteria.

Please note that a Federal agency cannot conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number. We will provide the OMB control number when we publish the notice of

final priorities, requirements, definitions, and selection criteria.

**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 compact disc) 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** and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](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 the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](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: August 30, 2012.

**James H. Shelton, III,**

*Assistant Deputy Secretary for Innovation and Improvement.*

[FR Doc. 2012-21814 Filed 8-31-12; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-YELL-10569; 2310-0070-422]

#### 36 CFR Part 7

RIN 1024-AE10

### Special Regulations; Areas of the National Park System, Yellowstone National Park

**AGENCY:** National Park Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** This rule would implement an amended Record of Decision for the 2011 Winter Use Plan/Environmental Impact Statement and would govern winter visitation and certain recreational activities in Yellowstone National Park for the 2012–2013 winter season. The rule proposes to retain, for one additional year, the regulation and management framework that have been in place for the past three winter seasons (2009–2010, 2010–2011 and 2011–2012). Specifically, the rule would retain provisions that require most recreational snowmobiles operating in the park to meet certain National Park Service air and sound emissions requirements; require snowmobiles and snowcoaches in Yellowstone to be accompanied by a commercial guide; set daily entry limits on the numbers of snowmobiles (up to 318) and snowcoaches (up to 78) that may enter the park; and prohibit traveling off designated oversnow routes.

**DATES:** Comments must be received by October 4, 2012.

**ADDRESSES:** You may submit your comments, identified by Regulation Identifier Number (RIN) 1024-AE10, by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Mail:** Yellowstone National Park, Winter Use Proposed Rule, P.O. Box 168, Yellowstone National Park, WY 82190.

- **Hand Deliver to:** Management Assistant's Office, Headquarters Building, Mammoth Hot Springs, Yellowstone National Park, Wyoming.

All submissions received must include the agency name and RIN. For additional information see "Public Participation" under **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** Wade Vagias, Management Assistant's Office, Headquarters Building, Yellowstone National Park, 307-344-2035 or at the address listed in the **ADDRESSES** section.

#### SUPPLEMENTARY INFORMATION:

##### Background

The National Park Service (NPS) has managed winter use in Yellowstone National Park for several decades. A detailed history of the winter use issue, past planning efforts, and litigation is provided on the park's Web site, <http://www.nps.gov/yell/parkmgmt/timeline.htm>. The park has most recently operated under a temporary one-year rule (76 FR 77131). That rule, which expired by its own terms on March 15, 2012, had extended for one