

- The average amount of time involved in preparing to complete the application.

The ABM is largely driven by the number of potential applicants for the application cycle. The total application projection for 2018–2019 is based upon two factors—estimating the growth rate of the total enrollment into post-secondary education and applying the growth rate to the FAFSA submissions. The ABM is also based on the application options available to students and parents. ED accounts for each application component based on Web trending tools, survey information and other ED data sources.

For 2018–2019, ED is reporting a net burden increase of 5,790,741 hours.

Dated: April 11, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–07620 Filed 4–14–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Application for New Awards; Indian Education Formula Grants to Local Educational Agencies; Part II of the Formula Grant Electronic Application System for Indian Education (EASIE) Applications

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

ACTION: Notice.

Overview Information

Indian Education Formula Grants to Local Educational Agencies

Notice inviting applications for new awards for fiscal year (FY) 2017.
Catalog of Federal Domestic Assistance (CFDA) Number: 84.060A.

Dates

Part II of EASIE Applications

Available: May 17, 2017.

Deadline for Transmittal of Part II Applications: June 15, 2017.

Note: Applicants must meet the deadlines for both EASIE Part I and Part II to be eligible to receive a grant. This notice inviting applications only announces dates for EASIE Part II. The notice inviting applications for EASIE Part I was published on March 13, 2017. Any application that does not meet the Part I and Part II deadlines will not be considered for funding. Failure to submit the required supplemental documentation, described under *Content and Form of Application Submission* in section IV of this notice, by the EASIE Part II deadline will result in an incomplete application that will

not be considered for funding. The Office of Indian Education recommends uploading the documentation at least two days prior to each deadline date to ensure that any potential submission issues are resolved prior to the Part II application deadline.

I. Funding Opportunity Description

Purpose of Program: The Indian Education Formula Grants to Local Educational Agencies (Formula Grants) program provides grants to support local educational agencies (LEAs), Indian tribes and organizations, and other eligible entities in developing elementary and secondary school programs that serve Indian students. The U.S. Department of Education (Department) funds comprehensive programs that are designed to meet the unique cultural, language, and educational needs of American Indian and Alaska Native (AI/AN) students and ensure that all students meet challenging State academic standards.

As authorized under section 6116 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA),¹ the Secretary will, upon receipt of an acceptable plan for the integration of education and related services, and in cooperation with other relevant Federal agencies, authorize the entity receiving the funds under this program to consolidate all Federal funds that are to be used exclusively for Indian students. Instructions for submitting an integration of education and related services plan are included in the EASIE, which is described under *Application Process and Submission Information* in section IV of this notice.

Note: Under the Formula Grants program, all applicants are required to develop the project for which an application is made in open consultation with parents and teachers of Indian children, representatives of Indian tribes on Indian lands located within 50 miles of any school that the LEA will serve if such tribes have any children in such school, Indian organizations (IOs), and, if appropriate, Indian students from secondary schools, including through public hearings held to provide to the individuals described above a full opportunity to understand the program and to offer recommendations regarding the program (ESEA section 6114(c)(3)(C)). LEA applicants are required to develop the project for which an application is made with the participation and written approval of a parent committee whose membership includes parents and family members of Indian children in the LEA's schools; representatives of Indian tribes on Indian lands located within 50 miles of any school that the LEA will serve if such tribes have any children in such school; teachers in

the schools; and if appropriate, Indian students attending secondary schools of the LEA (ESEA section 6114(c)(4)). The majority of the parent committee members must be parents and family members of Indian children (ESEA section 6114(c)(4)).

Definitions: The following definition is from section 6112(d)(3) of the ESEA: *Indian community-based organization* means any organization that is composed primarily of Indian parents, family members and community members, tribal government educational officials, and tribal members, from a specific community; assists in the social, cultural, and educational development of Indians in such community; meets the unique cultural, language, and academic needs of Indian students; and demonstrates organizational and administrative capacity to manage the grant.

Statutory Hiring Preference

(a) Awards that are primarily for the benefit of Indians are subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638). That section requires that, to the greatest extent feasible, a grantee—

(1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant; and

(2) Give to IOs and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452(e)), preference in the award of contracts in connection with the administration of the grant.

(b) For purposes of this section, an Indian is a member of any federally recognized Indian tribe.

Program Authority: 20 U.S.C. 7421 *et seq.*

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

II. Award Information

Type of Award: Formula grants.

¹ All references to the ESEA refer to the ESEA as amended by the ESSA.

Estimated Available Funds: The Further Continuing and Security Assistance Appropriations Act, 2017, would provide, on an annualized basis, \$100,190,176 for Indian Education Formula Grants to LEAs. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: \$3,000 to \$3,058,055.

Estimated Average Size of Awards: \$77,069.

Estimated Number of Awards: 1,300.

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

Project Period: 12 months.

III. Eligibility Information

1. *Eligible Applicants:* The following entities are eligible under this program: Certain LEAs, including charter schools authorized as LEAs under State law, as prescribed by section 6112(b) of the ESEA; certain schools funded by the Bureau of Indian Education of the U.S. Department of the Interior (BIE), as prescribed by section 6113(d) of the ESEA; Indian tribes and IOs under certain conditions, as prescribed by section 6112(c) of the ESEA; and Indian community-based organizations (ICBOs), as prescribed by section 6112(d)(1) of the ESEA. Consortia of two or more LEAs, Indian tribes, IOs, and ICBOs are also eligible under certain circumstances, as prescribed by section 6112(a)(4) of the ESEA.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. Section 6114(c)(1) of the ESEA requires an LEA to use these grant funds only to supplement the funds that, in the absence of these Federal funds, such agency would make available for services described in this application, and not to supplant such funds.

IV. Application and Submission Information

1. *How To Request an Application Package:* You can obtain a login and password for the electronic application for grants under this program by contacting the EDFacts Partner Support Center (EDFacts PSC) listed under *Agency Contacts* in section VI of this notice.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille,

large print, audiotape, or compact disc) by contacting the EDFacts PSC listed under *Agency Contacts* in section VI of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in EASIE.

a. Changes for EASIE PART II for FY 2017 due to the ESEA reauthorization:

(i) Meaningful collaboration with tribes. In the application, each LEA applicant will describe the process it used to meaningfully collaborate with Indian tribes located in the community in a timely, active, and ongoing manner in the development of the comprehensive program, and the actions taken as a result of such collaboration (ESEA section 6114(b)(7)).

(ii) Grant objectives. Three allowable activities have been added under the program, and one allowable activity has been removed. The new allowable activities are: Activities that support Native American language programs, which may be taught by traditional leaders; dropout prevention strategies; and strategies to meet the education needs of at-risk Indian youth in correctional facilities, or in transition from such facilities. The removed activity is: Incorporating Indian-specific content into the LEA curriculum (ESEA section 6115(b)).

(iii) Schoolwide applicant's objectives and use of funds. An LEA that selects a schoolwide application will identify in its application how the use of such funds in a schoolwide program will produce benefits to Indian students that would not be achieved if the funds were not used in a schoolwide program (ESEA section 6115(c)(3)).

(iv) Budget limitation on the use of funds. Funds may not be used for long-distance travel expenses for training activities that are available locally or regionally (ESEA section 6115(e)).

(v) Parent Committee Approval (PCA) form. The PCA form has been updated to reflect the changes to the composition of the parent committee. Signers of the PCA form can include parents and family members of Indian children in the LEA's schools; representatives of Indian tribes; teachers in the schools; and, if applicable, Indian students attending secondary schools of the agency. The majority of the parent committee must be parents and family members of Indian children (ESEA section 6114(c)(4)).

b. *Supplementary Documentation:* For an applicant that is an LEA or consortia of LEAs, the EASIE application requires the electronic Portable Document Format (PDF) submission of the PCA

form no later than the deadline for transmittal of EASIE Part II, which is June 15, 2017. The required form is available in EASIE.

3. *Submission Dates and Times:* *Part II of the Formula Grant EASIE Applications Available:* May 17, 2017.

Deadline for Transmittal of Part II Applications: June 15, 2017, 8:00:00 p.m., Washington, DC time.

Applications for grants under this program must be submitted electronically using EASIE. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirements, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VI of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* Not more than 5 percent of the funds provided to a grantee may be used for administrative costs (ESEA section 6115(d)). We reference regulations outlining other funding restrictions in the Applicable Regulations section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: <http://fedgov.dnb.com/webform>. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at www.SAM.gov. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: <http://www2.ed.gov/fund/grant/apply/sam-faqs.html>.

7. Other Submission Requirements: Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the Formula Grants program, CFDA number 84.060A, must be submitted electronically using the EASIE application located in the EDFacts System Portal at <https://eden.ed.gov>.

Applications submitted in paper format will be rejected unless you qualify for one of the exceptions to the electronic submission requirement described later in this section under *Exception to Electronic Submission Requirement*, and follow the submission rules outlined therein.

Electronic Application System for Indian Education (EASIE): EASIE is an easy-to-use, electronic application found in the EDFacts System Portal at <https://eden.ed.gov>. The EASIE application is divided into two parts.

In Part I, applicants submit their Indian student count and select the application time span.

In Part II, all applicants must—

(1) Select the type of program being submitted as either regular formula grant program, formula grant project consolidated with a title I schoolwide program, or integration of services under section 6116 of the ESEA;

(2) Select the grade levels offered by the LEA or BIE school district;

(3) Identify, from a list of possible Department grant programs (e.g., ESEA title I), the programs in the LEA that are currently coordinated with a title VI project, or with which the school district plans to coordinate during the project year, in accordance with section 6114(c)(5) of the ESEA and describe the coordination of services for AI/AN students with those grant programs;

(4) Identify specific project objectives that will further the goal of providing culturally responsive education for AI/AN students to meet their academic needs and help them meet State achievement standards, and identify the data sources that will be used to measure progress towards meeting project objectives and on which grantees will report in the annual performance report after the grant year closes;

(5) Describe the professional development opportunities that will be provided as part of your coordination of services to ensure that teachers and other school professionals who are new to the Indian community are prepared to work with Indian children, and that all teachers who will be involved in programs assisted by this grant have been properly trained to carry out such programs;

(6) Provide information on how the State assessment data of all Indian students (not just those served) are used. Indicate how you plan to disseminate information to the Indian community, parent committee, and Indian tribes whose children are served by the LEA and how assessment data from the previous school year were used, as required by section 6114(6)(C) of the ESEA;

(7) Indicate when a public hearing was held for FY 2017;

(8) For LEA applicants or a consortium of LEAs, describe the process the LEA(s) used to meaningfully collaborate with Indian tribes located in the community in a timely, active, and ongoing manner in the development of

the comprehensive program and the actions taken as a result of such collaboration;

(9) Identify your specific project objectives towards the goal of providing culturally responsive education for AI/AN students to meet their academic needs and help them meet State achievement standards;

(10) For an LEA that selects a schoolwide application, identify in its application how the use of such funds in a schoolwide program will produce benefits to Indian students that would not be achieved if the funds were not used in a schoolwide program; and

(11) Submit a program budget based on the estimated grant amount that the EASIE system calculates from the Indian student count you submitted in EASIE Part I. After the initial grant amounts are determined, additional funds may become available due to such circumstances as withdrawn applications or reduction in an applicant's student count. An applicant whose award amount increases or decreases more than \$5,000 must submit a revised budget prior to receiving its grant award but will not need to re-certify its application. For an applicant that receives an increase or decrease in its award of less than \$5,000, there will be no need for further action. For an applicant that receives an increased award amount following submission of its original budget, the applicant must allocate the increased amount only to previously approved budget categories.

Note: Applicants in designing their projects and preparing their required General Education Provisions Act (GEPA) section 427 assurance, will need to address barriers to participation for individuals, including individuals with disabilities and limited English proficiency, and must consider the steps they will take to ensure equitable participation of all children and families in the project, in compliance with civil rights obligations. (Section 427 requires each applicant to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its federally assisted program for students, teachers, and other program beneficiaries with special needs.)

Registration for Formula Grant EASIE: Applicants must be registered for Formula Grant EASIE before the Part I application deadline date. The Part I application deadline date for FY 2017 is April 28, 2017.

Certification for Formula Grant EASIE: The applicant's authorized representative, who must be authorized by the applicant to legally bind the applicant, must certify Part II. Only users with the role type "managing user" or "certifying official user" in the EASIE system can certify an application.

Your project's contact information should contain at least three system users with valid email addresses for the project director and authorized representative or another party designated to answer questions in the event the project director is unavailable. The certification process ensures that the information in the application is true, reliable, and valid. An applicant that provides a false statement in the application is subject to penalties under the False Claims Act, 18 U.S.C. 1001.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the EASIE system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload documents to the EASIE system; and
- No later than two weeks before the application deadline date for Part I (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the Part I application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the Part I application deadline date.

Address and mail or fax your statement to: Bernard Garcia, U.S. Department of Education, Office of Indian Education, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202-6335. FAX: (202) 205-0606.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline dates for both Part I and Part II, to the Department at the following address: U.S. Department of

Education, Office of Indian Education, Attention: CFDA Number 84.060A, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202-6335.

You must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

- (1) A private metered postmark.
- (2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date for Part I or Part II.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline dates for both Part I and Part II, to the Department at the following address: U.S. Department of Education, Office of Indian Education, Attention: CFDA Number 84.060A, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202-6335.

The program office accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

- (1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and
- (2) The program office will mail you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should contact the program office at (202) 260-3774.

V. Grant Administration Information

1. Risk Assessment and Special Conditions: Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

2. Administrative and National Policy Requirements: We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice. We reference the regulations outlining the terms and conditions of a grant in the *Applicable Regulations* section of this notice.

3. Reporting: (a) If you apply for a grant under this program, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) You must submit a performance report using the ED Facts System Portal at <https://eden.ed.gov>, including financial information, as directed by the Secretary, within 90 days after the close of the grant year. The performance report is located within the ED Facts System Portal as Part III.

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. Performance Measures: The Secretary has established the following key performance measures for assessing the effectiveness and efficiency of the Formula Grants program: (1) The percentage of AI/AN students in grades four and eight who score at or above the basic level in reading on the National Assessment of Educational Progress (NAEP); (2) the percentage of AI/AN students in grades four and eight who score at or above the basic level in mathematics on the NAEP; (3) the percentage of AI/AN students in grades three through eight meeting State achievement standards by scoring at or above the proficient level in reading and mathematics on State assessments; (4)

the difference between the percentage of AI/AN students in grades three through eight at or above the proficient level in reading and mathematics on State assessments and the percentage of all students scoring at those levels; (5) the percentage of AI/AN students who graduate from high school as measured by the four-year adjusted cohort graduation rate; and (6) the percentage of funds used by grantees prior to award close-out.

5. **Integrity and Performance System:** If you receive an award under this grant program that over the course of the project period may exceed the simplified acquisition threshold (currently \$150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

VI. Agency Contacts

FOR FURTHER INFORMATION CONTACT: For questions about the Formula Grants program, contact Bernard Garcia, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202–6335. Telephone: (202) 260–1454 or by email: Bernard.Garcia@ed.gov. For questions about the EASIE application and uploading documentation, contact the EDFacts PSC, telephone: 877–457–3336 (877–HLP–EDEN) or by email at: eden_OIE@ed.gov.

If you use a telecommunications device for the deaf or a text telephone, call the EDFacts PSC, toll free, at 1–888–403–3336 (888–403–EDEN).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document

and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the EDFacts PSC listed under *Agency Contacts* in section VI of this notice.

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. At this site you can view this document, as well as other documents of this Department published in the **Federal Register** in text or 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. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 12, 2017.

Monique M. Chism,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2017–07732 Filed 4–14–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration decision.

SUMMARY: The Department of Education (Department) gives notice that, on June 11, 2015, an arbitration panel (the Panel) rendered a decision in the matter of *Maryland Department of Education v. General Services Administration* (Case no. R–S/13–06).

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the full text of the Panel decision from Donald Brinson, U.S. Department of Education, 400 Maryland Avenue SW., Room 5045, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7310. If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll-free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: The Panel was convened by the Department under the Randolph-Sheppard Act (Act), 20 U.S.C. 107d–1(b), after receiving a complaint from the Maryland State Department of Education (MSDE), the State Licensing Agency (SLA) designated to administer the Randolph-Sheppard program in Maryland. Under 20 U.S.C. 107d–2(c) of the Act, the Secretary publishes in the **Federal Register** a synopsis of each Panel decision affecting the administration of vending facilities on Federal and other property.

Background

The complainant, MSDE, filed a grievance against the respondent, the General Services Administration (GSA), challenging the award of a contract for cafeteria service. The Panel decided the case on motions for summary judgment. The chair and one member sustained the grievance, and one member dissented.

The issue before the Panel was whether GSA violated the Act when it awarded the contract for operation of cafeteria services to a bidder other than the SLA and, if so, what was the appropriate remedy.

MSDE argued that GSA violated the Act by awarding a contract for cafeteria service at the Social Security Administration's cafeteria in Baltimore, Maryland, to a private entity without establishing a competitive range to carry out the Act's requirement that priority be given to blind vendors. The SLA had submitted a proposal in partnership with a blind vendor.

GSA took the position that it was not required to establish a competitive range and that the SLA had confused the requirements of the solicitation, the Federal Acquisition Regulations (FAR), and the Act. Specifically, GSA argued that, while the FAR requires a competitive range only if discussions are held, the solicitation provided that GSA could make an award without discussion. GSA further argued that when there is a single offer that clearly exceeds all others and merits direct award, it can make an award to that offeror without creating a competitive range.

Synopsis of the Panel Decision

At the MSDE's request, the Panel was convened on June 11, 2015. The Panel concluded that GSA violated the Act by failing to establish a competitive range. The Panel recognized that Congress established the Act's priority requirement to enhance economic opportunity for the blind. When a Federal agency solicits services, it is