

(b) In the event of a default of payment to lenders or contractors by a charter school whose loan or lease is guaranteed by reserve account funds, a grantee may use these funds to cover defaulted payments that are referenced under paragraph (a)(1) of this section.

[70 FR 15003, Mar. 24, 2005, as amended at 84 FR 25998, June 5, 2019]

**PART 226—STATE CHARTER SCHOOL FACILITIES INCENTIVE PROGRAM**

**Subpart A—General**

Sec.

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226.23 May charter schools use grant funds for administrative costs?

AUTHORITY: 20 U.S.C. 1221e-3; 7221d(b), unless otherwise noted.

SOURCE: 70 FR 75909, Dec. 21, 2005, unless otherwise noted.

**Subpart A—General**

**§ 226.1 What is the State Charter School Facilities Incentive program?**

(a) The State Charter School Facilities Incentive program provides grants

to States to help charter schools pay for facilities.

(b) Grantees must use these grants to—

(1) Establish new per-pupil facilities aid programs for charter schools;

(2) Enhance existing per-pupil facilities aid programs for charter schools; or

(3) Administer programs described under paragraphs (b)(1) and (2) of this section.

(Authority: 20 U.S.C. 7221d(b))

**§ 226.2 Who is eligible to receive a grant?**

States are eligible to receive grants under this program.

(Authority: 20 U.S.C. 7221(b))

**§ 226.3 What regulations apply to the State Charter School Facilities Incentive program?**

The following regulations apply to the State Charter School Facilities Incentive program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) [Reserved]

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) [Reserved]

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 84 (Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)).

(9) [Reserved]

(10) 34 CFR part 97 (Protection of Human Subjects).

(11) 34 CFR part 98 (Student Rights in Research, Experimental Programs, and Testing).

(12) 34 CFR part 99 (Family Educational Rights and Privacy).

(b) The regulations in this part 226.

(c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted in 2 CFR part

## § 226.4

3474 and the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted in 2 CFR part 3485.

(Authority: 20 U.S.C. 1221e-3; 7221d(b))

[70 FR 75909, Dec. 21, 2005, as amended at 79 FR 76096, Dec. 19, 2014]

### § 226.4 What definitions apply to the State Charter School Facilities Incentive program?

(a) *Definitions in the statute.* The following term used in this part is defined in section 4310 of the Elementary and Secondary Education Act of 1965, as amended (ESEA):

Charter school

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant  
Application  
Award  
Department  
EDGAR  
Facilities  
Grant  
Grantee  
Project  
Public  
Secretary

(c) *Other definition.* The following definition also applies to this part:

*Construction means—*

- (1) Preparing drawings and specifications for school facilities projects;
- (2) Repairing, renovating, or altering school facilities;
- (3) Extending school facilities;
- (4) Erecting or building school facilities; and
- (5) Inspections or supervision related to school facilities.

(Authority: 20 U.S.C. 7221d(b); 7221i(1))

[70 FR 15003, Mar. 24, 2005, as amended at 87 FR 3661, Jan. 25, 2022]

## Subpart B—How Does the Secretary Award a Grant?

### § 226.11 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 226.12 and the competitive preference priorities in § 226.14.

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(b) The Secretary informs applicants of the maximum possible score for each criterion and competitive preference priority in the application package or in a notice published in the FEDERAL REGISTER.

(Authority: 20 U.S.C. 7221d(b))

[70 FR 15003, Mar. 24, 2005, as amended at 87 FR 3661, Jan. 25, 2022]

### § 226.12 What selection criteria does the Secretary use in evaluating an application for a State Charter School Facilities Incentive program grant?

The selection criteria for this program are as follows:

(a) *Need for facility funding.* (1) The need for per-pupil charter school facility funding in the State.

(2) The extent to which the proposal meets the need to fund charter school facilities on a per-pupil basis.

(b) *Quality of plan.* (1) The likelihood that the proposed grant project will result in the State either retaining a new per-pupil facilities aid program or continuing to enhance such a program without the total amount of assistance (State and Federal) declining over a five-year period.

(2) The flexibility charter schools have in their use of facility funds for the various authorized purposes.

(3) The quality of the plan for identifying charter schools and determining their eligibility to receive funds.

(4) The per-pupil facilities aid formula's ability to target resources to charter schools with the greatest need and the highest proportions of students in poverty.

(5) For projects that plan to reserve funds for evaluation, the quality of the applicant's plan to use grant funds for this purpose.

(6) For projects that plan to reserve funds for technical assistance, dissemination, or personnel, the quality of the applicant's plan to use grant funds for these purposes.

(c) *The grant project team.* (1) The qualifications, including relevant training and experience, of the project manager and other members of the grant project team, including employees not paid with grant funds, consultants, and subcontractors.

(2) The adequacy and appropriateness of the applicant's staffing plan for the grant project.

(d) *The budget.* (1) The extent to which the requested grant amount and the project costs are reasonable in relation to the objectives, design, and potential significance of the proposed grant project.

(2) The extent to which the costs are reasonable in relation to the number of students served and to the anticipated results and benefits.

(3) The extent to which the non-Federal share exceeds the minimum percentages (which are based on the percentages under section 4304(k)(2)(C) of the ESEA), particularly in the initial years of the program.

(e) *State experience.* The experience of the State in addressing the facility needs of charter schools through various means, including providing per-pupil aid and access to State loan or bonding pools.

(Approved by the Office of Management and Budget under control number 1855-0012)

(Authority: 20 U.S.C. 7221d(b))

[70 FR 15003, Mar. 24, 2005, as amended at 87 FR 3661, Jan. 25, 2022]

#### § 226.13 [Reserved]

#### § 226.14 What funding priorities may the Secretary use in making a grant award?

(a) The Secretary may award points to an application under a competitive preference priority regarding the capacity of charter schools to offer public school choice in those communities with the greatest need for this choice based on—

(1) The extent to which the applicant would target services to geographic areas in which a large proportion or number of public schools have been identified for comprehensive support and improvement or targeted support and improvement under the ESEA;

(2) The extent to which the applicant would target services to geographic areas in which a large proportion of students perform poorly on State academic assessments; and

(3) The extent to which the applicant would target services to communities with large proportions of low-income students.

(b) The Secretary may award points to an application under a competitive preference priority for applicants that have not previously received a grant under the program.

(c) The Secretary may elect to consider the points awarded under these priorities only for proposals that exhibit sufficient quality to warrant funding under the selection criteria in § 226.12 of this part.

(Approved by the Office of Management and Budget under control number 1855-0012)

(Authority: 20 U.S.C. 7221d(b))

[70 FR 15003, Mar. 24, 2005, as amended at 87 FR 3661, Jan. 25, 2022]

### Subpart C—What Conditions Must Be Met by a Grantee?

#### § 226.21 How may charter schools use these funds?

(a) Charter schools that receive grant funds through their State must use the funds for facilities. Except as provided in paragraph (b) of this section, allowable expenditures include:

- (1) Rent.
- (2) Purchase of building or land.
- (3) Construction.
- (4) Renovation of an existing school facility.
- (5) Leasehold improvements.
- (6) Debt service on a school facility.

(b) Charter schools may not use these grant funds for purchasing land when they have no immediate plans to construct a building on that land.

(Authority: 20 U.S.C. 7221d(b))

#### § 226.22 May grantees use grant funds for administrative costs?

State grantees may use up to five percent of their grant award for administrative expenses that include: indirect costs, evaluation, technical assistance, dissemination, personnel costs, and any other costs involved in administering the State's per-pupil facilities aid program.

(Authority: 20 U.S.C. 7221d(b))

**§ 226.23**

**§ 226.23 May charter schools use grant funds for administrative costs?**

(a) Except as provided in paragraph (b) of this section, charter school subgrantees may use grant funds for administrative costs that are necessary and reasonable for the proper and efficient performance and administration of this Federal grant. This use of funds, as well as indirect costs and rates, must comply with EDGAR and the Office of Management and Budget Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments).

(b) Consistent with the requirements in 34 CFR 75.564(c)(2), any charter school subgrantees that use grant funds for construction activities may not be reimbursed for indirect costs for those activities.

(Authority: 20 U.S.C. 1221e-3; 7221d(b))

**PART 237 [RESERVED]**

**PART 263—INDIAN EDUCATION DISCRETIONARY GRANT PROGRAMS**

**Subpart A—Professional Development Program**

Sec.

- 263.1 What is the Professional Development Program?
- 263.2 Who is eligible to apply under the Professional Development program?
- 263.3 What definitions apply to the Professional Development program?
- 263.4 What costs may a Professional Development program include?
- 263.5 What are the application requirements?
- 263.6 What priority is given to certain projects and applicants?
- 263.7 How does the Secretary evaluate applications for the Professional Development program?
- 263.8 What are the requirements for a leave of absence?
- 263.9 What are the payback requirements?
- 263.10 What are the requirements for payback deferral?
- 263.11 What are the participant payback reporting requirements?
- 263.12 What are the post-award requirements for grantees providing pre-service training?
- 263.13 What are the program-specific requirements for continuation awards?

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**Subpart B—Demonstration Grants for Indian Children and Youth Program**

- 263.20 What definitions apply to the Demonstration Grants for Indian Children and Youth program?
- 263.21 What priority is given to certain projects and applicants?
- 263.22 What are the application requirements for these grants?
- 263.23 What is the Federal requirement for Indian hiring preference that applies to these grants?
- 263.24 How does the Secretary evaluate applications for the Demonstration Grants for Indian Children and Youth grants program?
- 263.25 What are the program requirements when the Secretary uses the priority in §263.21(c)(7)?

AUTHORITY: 20 U.S.C. 7441, unless otherwise noted.

SOURCE: 80 FR 22412, Apr. 22, 2015, unless otherwise noted.

**Subpart A—Professional Development Program**

AUTHORITY: 20 U.S.C. 7442, unless otherwise noted.

**§ 263.1 What is the Professional Development program?**

(a) The Professional Development program provides grants to eligible entities to—

(1) Increase the number of qualified Indian individuals in professions that serve Indian students;

(2) Provide pre- and in-service training and support to qualified Indian individuals to become effective teachers, principals, other school leaders, administrators, teacher aides, paraprofessionals, counselors, social workers, and specialized instructional support personnel;

(3) Improve the skills of qualified Indian individuals who serve in the education field; and

(4) Develop and implement initiatives to promote retention of effective teachers, principals, and school leaders who have a record of success in helping low-achieving Indian students improve their academic achievement, outcomes, and preparation for postsecondary education or employment.

(b) The Professional Development program requires individuals who receive training to—