

through a plan that complies with section 6116 of the ESEA or other authority designated by the Secretary.

(4) *Statutorily authorized activities.* Projects that focus on a specific activity authorized in section 6116(c) of the ESEA as designated by the Secretary in the notice inviting applications.

(5) *Rural applicants.* Projects that include either—

(i) An LEA that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under title VI, part B of the ESEA; or

(ii) A BIE-funded school that is located in an area designated with locale code of either 41, 42, or 43 as designated by the National Center for Education Statistics.

(6) *Non-rural applicants.* Non-rural projects that do not meet the priority in paragraph (c)(5) of this section. This priority can only be used in competitions where the priority in paragraph (c)(5) of this section is also used.

(7) *Accessing choices in education.* Projects to expand educational choice by enabling a Tribe, or the grantee and its Tribal partner, to select a project focus that meets the needs of their students and enabling parents of Indian students, or the students, to choose education services by selecting the specific service and provider desired.

[85 FR 43450, July 17, 2020]

§ 263.22 What are the application requirements for these grants?

(a) Each application must contain—

(1) A description of how Indian Tribes and parents and families of Indian children and youth have been, and will be, involved in developing and implementing the proposed activities;

(2) Assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of this program;

(3) Information demonstrating that the proposed project is evidence-based, where applicable, or is based on an existing evidence-based program that has been modified to be culturally appropriate for Indian students;

(4) A description of how the applicant will continue the proposed activities once the grant period is over; and

(5) Other assurances and information as the Secretary may reasonably require.

(b) The Secretary may require an applicant to satisfy any of the requirements in this paragraph. When inviting applications for a competition under the Demonstration Grants program, the Secretary establishes the application requirements through a notice inviting applications published in the FEDERAL REGISTER. If specified in the notice inviting applications, an applicant must submit—

(1) Evidence, which could be either a needs assessment conducted within the last three years or other data analysis, of—

(i) The greatest barriers, both in and out of school, to the readiness of local Indian students for college and careers;

(ii) Opportunities in the local community to support Indian students; and

(iii) Existing local policies, programs, practices, service providers, and funding sources.

(2) A copy of an agreement signed by the partners in the proposed project, identifying the responsibilities of each partner in the project. The agreement can be either—

(i) A consortium agreement that meets the requirements of 34 CFR 75.128, if each of the entities are eligible entities under this program; or

(ii) Another form of partnership agreement, such as a memorandum of understanding or a memorandum of agreement, if not all the partners are eligible entities under this program.

(3) A plan, which includes measurable objectives, to evaluate reaching the project goal or goals.

(4) A plan for how the applicant will oversee service providers and ensure that students receive high-quality services under the project.

(5)(i) For an applicant that is not a Tribe, if 50 percent or more of the total student population of the schools to be served by the project consists of members of one Tribe, documentation that that Tribe is a partner for the proposed project.

(ii) For an applicant that is an LEA or SEA and is not required by paragraph (i) of this section to partner with a specific Tribe, documentation that at

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least one Tribe or Indian organization is a partner for the proposed project.

(6) An assurance that—

(i) Services will be supplemental to the education program provided by local schools attended by the students to be served;

(ii) Funding will be supplemental to existing sources, such as Johnson O'Malley funding; and

(iii) The availability of funds for supplemental special education and related services (*i.e.*, services that are not part of the special education and related services, supplementary aids and services, and program modifications or supports for school personnel that are required to make a free appropriate public education (FAPE) available under Part B of the Individuals with Disabilities Education Act (IDEA) to a child with a disability in conformity with the child's IEP or the regular or special education and related aids and services required to make FAPE available under a Section 504 plan, if any) does not affect the right of the child to receive FAPE under Part B of the IDEA or Section 504, and the respective implementing regulations.

(7) For an applicant that does not propose a planning period—

(i) A description of the service selection method required in § 263.25(d).

(ii) A description of the parent involvement and feedback process required in § 263.25(e).

(iii) A sample of the written agreement required in § 263.25(f).

(iv) A description of the process to choose students to be served, as required in § 263.25(g).

[80 FR 22412, Apr. 22, 2015, as amended at 85 FR 43450, July 17, 2020]

§ 263.23 What is the Federal requirement for Indian hiring preference that applies to these grants?

(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

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(2) Give to Indian organizations 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.

(Authority: 25 U.S.C. 5304, 5307)

[80 FR 22412, Apr. 22, 2015, as amended at 85 FR 43451, July 17, 2020]

§ 263.24 How does the Secretary evaluate applications for the Demonstration Grants for Indian Children and Youth grants program?

(a) *In general.* The Secretary uses the procedures in 34 CFR 75.200 through 75.210 to establish the selection criteria and factors used to evaluate applications submitted in a grant competition for the Demonstration Grants for Indian Children and Youth program. The Secretary may also consider one or more of the criteria and factors in this section to evaluate applications.

(b) *Quality of project services.* The Secretary may consider one or more of the following factors in determining the quality of project services:

(1) The extent to which the project would offer high-quality choices of services, including culturally relevant services, and providers, for parents and students to select.

(2) The extent to which the services to be offered would meet the needs of the local population, as demonstrated by an analysis of community-level data, including direct input from parents and families of Indian children and youth.

(3) The quality of the plan to ensure that the services to be offered are evidence-based, where applicable, or are based on existing evidence-based programs that have been modified to be culturally appropriate for Indian students.

(c) *Quality of the project design.* The Secretary may consider one or more of the following factors in determining the quality of the project design:

(1) The extent to which the project is designed to improve student and parent satisfaction with the student's overall