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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

education experience, as measured by pre- and post-project data.

(2) The extent to which the applicant proposes a fair and neutral process of selecting service providers that will result in high-quality options from which parents and students can select services.

(3) The quality of the proposed plan to inform parents and students about available service choices under the project, and about the timeline for termination of the project.

(4) The quality of the applicant's plan to oversee service providers and ensure that students receive high-quality services under the project.

(d) *Reasonableness of budget.* The Secretary may consider one or more of the following factors in determining the reasonableness of the project budget:

(1) The extent to which the budget reflects the number of students to be served and a per-pupil amount for services, based only on direct costs for student services, that is reasonable in relation to the project objectives.

(2) The extent to which the per-pupil costs of specific services and per-pupil funds available are transparent to parents and other stakeholders.

[85 FR 43451, July 17, 2020]

§ 263.25 What are the program requirements when the Secretary uses the priority in § 263.21(c)(7)?

In any year in which the Secretary uses the priority in § 263.21(c)(7) for a competition, each project must—

(a) Include the following, which are chosen by the grantee, or for LEAs and SEAs, the grantee and its partnering Tribe or Indian organization:

(1) A project focus and specific services that are based on the needs of the local community; and

(2) Service providers;

(b) Include more than one education option from which parents and students may choose, which may include—

(1) Native language, history, or culture courses;

(2) Advanced, remedial, or elective courses, which may be online;

(3) Apprenticeships or training programs that lead to industry certifications;

(4) Concurrent and dual enrollment;

(5) Tuition for private school or home education expenses;

(6) Special education and related services that supplement, and are not part of, the special education and related services, supplementary aids and services, and program modifications or supports for school personnel required to make available a free appropriate public education (FAPE) under Part B of the IDEA to a child with a disability in conformity with the child's individualized education program (IEP) or the regular or special education and related aids and services required to ensure FAPE under Section 504 of the Rehabilitation Act of 1973 (Section 504);

(7) Books, materials, or education technology, including learning software or hardware, that are accessible to all children;

(8) Tutoring;

(9) Summer or afterschool education programs, and student transportation needed for those specific programs. Such programs could include instruction in the arts, music, or sports, to the extent that the applicant can demonstrate that such services are culturally related or are supported by evidence that suggests the services may have a positive effect on relevant education outcomes;

(10) Testing preparation and application fees, including for private school and graduating students;

(11) Supplemental counseling services, not to include psychiatric or medical services; or

(12) Other education-related services that are reasonable and necessary for the project;

(c) Provide a method to enable parents and students to select services. Such a method must—

(1) Ensure that funds will be transferred directly from the grantee to the selected service provider; and

(2) Include service providers other than the applicant, although the applicant may be one of the service providers;

(d) Include a parent involvement and feedback process that—

(1) Describes a way for parents to request services or providers that are not currently offered and provide input on services provided through the project,