

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,

and describes how the grantee will provide parents with written responses within 30 days; and

(2) May include a parent liaison to support the grantee in outreach to parents, inform parents and students of the timeline for the termination of the project, and assist parents and the grantee with the process by which a parent can request services or providers not already specified by the grantee;

(e) Include a written agreement between the grantee and each service provider under the project. Each agreement must include—

(1) A nondiscrimination clause that—

(i) Requires the provider to abide by all applicable non-discrimination laws with regard to students to be served, *e.g.*, on the basis of race, color, national origin, religion, sex, or disability; and

(ii) Prohibits the provider from discriminating among students who are eligible for services under this program, *i.e.*, that meet the definition of “Indian” in section 6151 of the ESEA, on the basis of affiliation with a particular Tribe;

(2) A description of how the grantee will oversee the service provider and hold the provider accountable for—

(i) The terms of the written agreement; and

(ii) The use of funds, including compliance with generally accepted accounting procedures and Federal cost principles;

(3) A description of how students’ progress will be measured; and

(4) A provision for the termination of the agreement if the provider is unable to meet the terms of the agreement;

(f) Include a fair and documented process to choose students to be served, such as a lottery or other transparent criteria (*e.g.*, based on particular types of need), in the event that the number of requests from parents of eligible students or from students for services under the project exceeds the available capacity, with regard to the number or intensity of services offered;

(g) Ensure that—

(1) At least 80 percent of grant funds are used for direct services to eligible students, provided that, if a grantee requests and receives approval for a plan-

ning period, not to exceed 12 months, the 80 percent requirement does not apply to that planning period;

(2) Not more than 15 percent of grant funds are used on the service selection method described in paragraph (d) of this section or the parent involvement and feedback process described in paragraph (e) of this section, except in an authorized planning period; and

(3) No grant funds are used to establish or develop the capacity of entities or individuals that are or may become service providers under this project;

(h) For a grantee that receives approval for a planning period, not to exceed 12 months, submit to the Department prior to the end of that period the following documents:

(1) A description of the operational service selection process that meets the requirements of paragraph (c) of this section.

(2) A description of the operational parent involvement and feedback process that meets the requirements of paragraph (d) of this section.

(3) A sample of the written agreement that meets the requirements of paragraph (e) of this section, and a list of providers with whom the grantee has signed written agreements.

(4) A description of the process that will be used to choose students to be served in the event that the demand for services exceeds the available capacity, as described in paragraph (f) of this section.

[85 FR 43451, July 17, 2020]

## PART 270—EQUITY ASSISTANCE CENTER PROGRAM

### Subpart A—General

Sec.

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