

**DEPARTMENT OF EDUCATION****RIN 1840-ZA03****Upward Bound Program Participant Expansion Initiative****AGENCY:** Office of Postsecondary Education, Department of Education.**ACTION:** Notice of final priority.

**SUMMARY:** The Secretary of Education announces an absolute priority to provide supplemental funds of up to \$100,000 in fiscal year (FY) 2003 to currently funded Upward Bound projects that (1) serve at least one target high school in which at least 50 percent of the students were eligible for free lunch under the National School Lunch Act (Free Lunch program) during the 2001–2002 or 2002–2003 school year, and (2) received supplemental funds in FY 2000 under the Upward Bound Program Participant Expansion Initiative (UBP–PEI).

The Secretary further requires that projects that receive supplemental funds under this priority will use those funds to select and serve students eligible to participate in Upward Bound who (1) attend a target high school in which at least 50 percent of the students were eligible for free lunch under the National School Lunch Act during the 2001–2002 or 2002–2003 school year, and (2) have the greatest need for Upward Bound services. Eligible students having the greatest need for Upward Bound services are those who:

1. Have not met the state academic achievement standard for grade eight in reading/language arts; or
2. Have not met the state academic achievement standard for grade eight in math; or
3. Have a grade point average of 2.5 or less (on a 4.0 scale) for the most recent school year for which grade point averages are available.

By using state academic achievement assessments to determine student eligibility for services, schools can align this initiative with the requirements and activities supported by the No Child Left Behind Act of 2001, Pub. L. 107–110.

Applicants not eligible for the absolute priority are invited to apply and will be funded, subject to the availability of funds, as described in the funding order below. The selected projects must use the supplemental funds to provide services to eligible project participants with the greatest need for those services.

**EFFECTIVE DATE:** This priority is effective 30 days after the date of publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Dr. Margarita Benitez, Sheryl Wilson, or Gaby Watts, U.S. Department of Education, 1990 K Street, NW., Room 7020, Washington, DC 20006–8510. Telephone (202) 502–7600. The e-mail address for the Federal TRIO Programs is: *Trio@ed.gov*. The e-mail address for Dr. Margarita Benitez is: *margarita.benitez@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph.

**SUPPLEMENTARY INFORMATION:** The Secretary of Education published a notice of proposed priority in the **Federal Register** on June 24, 2003 (68 FR 37469–37470). This notice of final priority contains several changes from the notice of proposed priority, which are explained fully in the Analysis of Comments and Changes section in this notice.

**Background**

In FY 2003, the Congress appropriated funds for the Federal TRIO Programs. In examining the options available to the Secretary for allocating these funds, the Secretary determined that a portion of the funds should be used to increase support to the Upward Bound Program. The Upward Bound Program, authorized under section 402C of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1070a–13, helps low-income, potential first-generation college students acquire the skills and motivation necessary for success in education beyond secondary school.

The purpose of this supplement is to help the Upward Bound Program achieve one of its key performance goals: increasing the college enrollment rate of low-income, first generation college students. A recent evaluation of the Upward Bound Program found that the program has significant effects on higher risk students, but that the program was inadequately targeting these students.

We intend that, under the absolute priority, there will be an increase in the number of eligible students with the greatest need who are served by the Upward Bound Program. The students with the greatest need are generally those from the lowest income levels who have potential for college but are not performing successfully in high school. The Secretary believes that

limiting supplemental funds to projects that serve the above described target schools is a good way to ensure that projects serve the lowest income students because the Free Lunch program is limited to students from families with the lowest family income. An estimated 180 current Upward Bound projects could receive supplemental funds to serve additional students.

The effectiveness of UBP–PEI will be ultimately measured by the college enrollment rate of these higher-risk, low-income, first generation college students who participate in this initiative. However, in addition to the ultimate measure of college enrollment, the Secretary will also look at “what works” in preparing these students for college, in order to inform program improvements in Upward Bound. Each grantee will be required to work with an independent evaluator retained by the Secretary to measure the expansion initiative’s effectiveness.

The Secretary will consider requests for \$100,000, \$75,000, and \$50,000 under this initiative. An institution that requests \$100,000 must serve at least 20 students, an institution that requests \$75,000 must serve at least 15 students, and an institution that requests \$50,000 must serve at least 10 students.

**Note:** This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

**Absolute priority:** Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

**Competitive preference priority:** Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

**Invitational priority:** Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

**Absolute Priority**

Under 34 CFR 75.105(c)(3), the Secretary will give an absolute preference to applications that meet the following absolute priority.

The Secretary will provide supplemental funds of up to 100,000 to

regular Upward Bound Program projects that:

1. Were selected for funding under the FY 2003 Upward Bound Program competition.

2. Serve a target high school in which at least 50 percent of the students were eligible to receive free lunch under the National School Lunch Act during the 2001–2002 or 2002–2003 school year.

3. Received supplemental funds in FY 2000 under the Notice of Final Priority dated July 24, 2000, 65 FR 45698–45699.

4. (a) Agree to select and serve at least 20 students who are eligible for Upward Bound services, attend a target high school in which at least 50 percent of the students were eligible to receive free lunch under the National School Lunch Act during the 2001–2002 or 2002–2003 school year and have the greatest need for project services, if requesting \$100,000.

(b) Agree to select and serve at least 15 students who are eligible for Upward Bound services, attend a target high school in which at least 50 percent of the students were eligible to receive free lunch under the National School Lunch Act during the 2001–2002 or 2002–2003 school year and have the greatest need for project services, if requesting \$75,000.

(c) Agree to select and serve at least 10 students who are eligible for Upward Bound services, attend a target high school in which at least 50 percent of the students were eligible to receive free lunch under the National School Lunch Act during the 2001–2002 or 2002–2003 school year and have the greatest need for project services, if requesting \$50,000.

Students who have the greatest need for project services are those students who:

(i) Have not met the state academic achievement standard for grade eight in reading/language arts;

(ii) Have not met the state academic achievement standard for grade eight in math; or

(iii) Have a grade point average of 2.5 or less (on a 4.0 scale) for the most recent school year for which grade point averages are available.

Veterans Upward Bound projects and Upward Bound Math-Science projects are not eligible to participate in this initiative.

The Secretary will fund applications in the following order:

1. Applications that meet the absolute priority.

2. All other applications that meet criteria 1, 2, and 4 above.

If funds are available after funding all applications that meet the absolute

priority, the Secretary will select from among the remaining applicants that meet criteria 1, 2, and 4 based upon the highest scores received (including prior experience points) in the FY 2003 Upward Bound grant competition. If there are insufficient funds for all applications with the same score, the Secretary will select for funding those applicants with the lowest average cost per Upward Bound participant (Federal funds only) for the 2001–2002 program year.

#### Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority, thirty-four parties submitted comments. An analysis of the comments and of changes in the priority since publication of the notice of proposed priority follows. We group major issues by subject. Generally, we do not address technical or other minor changes—and suggested changes the law does not authorize us to make under the applicable statutory authority.

#### Target School Eligibility

*Comments:* Nine commenters responded. Two recommended that eligibility be student-centered, that is, that students with the academic profile outlined in the notice of proposed priority be eligible to participate in the initiative, regardless of whether they were enrolled in a target school. Target schools were defined in the notice of proposed priority as those “in which at least 50 percent of the students were eligible for free lunch under the National School Lunch Act during the 2001–2002 school year and who have the greatest need for Upward Bound services.” One commenter posited that it was unfair to exclude low income, high risk students from the initiative simply because they were not enrolled in a school with 50 percent or more students participating in the Free Lunch program. A third commenter suggested that student eligibility should be determined by the project.

Four commenters questioned the reliability of the Free Lunch program data as the criterion for eligibility to qualify for funding under the initiative. Two remarked that there are more high-poverty areas in the country than those indicated by the Free Lunch program statistics. According to one commenter, some regions of the country, such as Appalachia, have a tradition of low registration in Federal programs, such as the Free Lunch program. All four commenters referred to a significant drop in Free Lunch program participation from the early grades to middle and high school. Two pointed

out that teenagers are more averse than younger children to register in “poverty” programs. One suggested that we use data on both the number of participants in the Free Lunch program and the number of students who qualify for reduced lunch for target school eligibility.

*Discussion:* The Secretary agrees with many of the points made by the commenters. However, for purposes of this initiative, the Secretary believes that the Free Lunch program criterion is a fair, valid, and objective measure of low-income and need for Upward Bound services.

*Changes:* None.

#### Date of Eligibility Data

*Comments:* Two commenters indicated that Free Lunch program data for the 2002–2003 school year was actually easier to obtain and was more current than data for the 2001–2002 school year.

*Discussion:* The Secretary proposed using data for the 2001–2002 year in the notice of proposed priority because the Secretary was uncertain whether more recent data would be available. If that data is available, the Secretary believes that such data may be used.

*Changes:* The Secretary will accept Free Lunch program data for *either* the 2001–2002 or the 2002–2003 school year.

#### Priority for Currently Funded Programs

*Comments:* Six commenters addressed this issue. Four supported the priority in favor of currently funded projects that participated in the FY 2000 expansion initiative, citing their experience, proven commitment, and record of success. Two pointed out the existence of other experienced and well qualified projects, and suggested that others be given the opportunity to serve students from other needy areas.

*Discussion:* The Secretary understands that there are usually more qualified applicants than available funds, and that forces hard choices. In order to increase the chance that this initiative will succeed, the Secretary has chosen to give an absolute priority to experienced Upward Bound projects that have been successful in the past working with eligible target schools and that have the staff capacity to serve additional students. Nonetheless, the Secretary expects that there will be sufficient funds for this initiative to award supplemental grants to a few new projects.

*Changes:* None.

### Length of Funding for UBP-PEI

*Comments:* Four commenters inquired about the expected funding period for this initiative.

*Discussion:* To the extent that the commenters were questioning whether the Secretary planned to provide additional funding in future fiscal years, the Secretary anticipates awarding funds under the UBP-PEI for the next four project/budget years. However, the expenditure of funds in the future is always contingent upon Congressional action, including the size of the Congressional appropriation for a program in a given fiscal year.

*Changes:* None.

### Requests for Clarification on Student Eligibility

*Comments:* Ten commenters asked whether students already enrolled in Upward Bound who took part in the previous Upward Bound initiative could participate in this year's initiative. Eight commenters asked whether all UBP-PEI students must come from the target schools that have 50 percent or more students eligible for the Free Lunch program. Another commenter asked whether grades of C or less in 8th grade core subjects were acceptable if a student's grade point average was unavailable.

*Discussion:* Students currently being served by Upward Bound projects as a consequence of participating in the FY 2000 expansion initiative may participate in UBP-PEI *as long as they meet all UBP-PEI criteria*, that is they are eligible Upward Bound participants who are enrolled in an eligible target high school and meet one or more of the greatest academic need criteria listed in the priority. With regard to the second question, for the reasons explained in a previous response, all UBP-PEI students must attend eligible target schools. With regard to the third question, the Secretary does not wish to add additional criteria. Moreover, the third criterion allows a project to use the grade point average for the most recent school year for which grade point averages are available. Therefore, a relevant grade point average will almost always be available.

*Changes:* None.

### Request To Reduce the Minimum Number of Participants Served

*Comments:* One commenter proposed that eligible projects be given the opportunity to serve the number of needy participants they could manage best. The commenter indicated that project and institutional resources may not be sufficient to accommodate and

serve well 20 additional students, yet resources would be available to serve a smaller number adequately.

*Discussion:* The Secretary considers this suggestion reasonable and viable.

*Changes:* A project may request three levels of funding, \$100,000, \$75,000, or \$50,000. If a project requests \$100,000, it must serve at least 20 students; if it requests \$75,000, it must serve at least 15 students; if it requests \$50,000, it must serve at least 10 students.

### Concerns About Local Impediments That Run Counter to UBP-PEI

*Comments:* Three commenters identified local or regional situations that present difficulties in meeting the UBP-PEI criteria or providing the required services. One was the Appalachia situation that was mentioned above, a second was small rural schools, and a third was jurisdictions like Chicago, where the School Board has mandated students who flunk state tests take summer courses so the students would be unable to participate in the Upward Bound summer component.

*Discussion:* The change discussed above that allows a project to apply for three levels of funding should eliminate the first two concerns. Jurisdictions like Chicago are providing a valuable service to Chicago students, obviating the need for Upward Bound involvement.

*Changes:* See preceding change.

### Suggestions for Additional Criteria for Student Eligibility

*Comments:* Three commenters suggested additional eligibility criteria for program participants: limited English proficiency, English as a second language, and a grade of C or less in core academic subjects.

*Discussion:* As stated earlier, a student currently served by Upward Bound projects may be eligible to participate in UBP-PEI if the student is enrolled in an eligible target high school, and meets one or more of the greatest academic need criteria listed in the priority. The Secretary does not wish to add additional criteria that may be hard to implement consistently across projects nationwide and may confound the evaluation of the impact that UBP-PEI has on the individuals served.

*Changes:* None.

### Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive

order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

### Applicable Program Regulations

34 CFR part 645

### Electronic Access to This Document

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**Note:** 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 on GPO access at: <http://www.access.gpo.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.047A, Upward Bound Program Participant Expansion Initiative)

**Program Authority:** 20 U.S.C. 1070.

Dated: August 18, 2003.

**Sally L. Stroup,**

*Assistant Secretary, Office of Postsecondary Education.*

[FR Doc. 03-21582 Filed 8-19-03; 8:45 am]

**BILLING CODE 4000-01-P**

### DEPARTMENT OF EDUCATION

[CFDA No: 84.047A]

### Office of Postsecondary Education, Upward Bound Program Participant Expansion Initiative; Notice Inviting Applications for Supplemental Awards for Fiscal Year (FY) 2003

*Purpose of Program:* The purpose of this initiative is to help the Upward Bound Program achieve one of its key performance goals: increasing the college enrollment rate of low-income, first generation college students.

*Eligible Applicants:* All currently funded Upward Bound projects successful in the FY 2003 grant competition. Veterans Upward Bound projects and Upward Bound Math-Science projects are not eligible to participate.

*Applications Available:* August 21, 2003.