mission. These subcommittees shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and other governing Federal statutes and regulations, and governing DoD policies/procedures.

Such subcommittees shall not work independently of the chartered Task Force, and shall report all their recommendations and advice to the Task Force for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of the chartered Task Force; nor can they report directly to the Department of Defense or any Federal officers or employees who are not Task Force members.

Subcommittee members, who are not Task Force members, shall be appointed in the same manner as Task Force members. Subcommittee members, if not full-time or part-time government employees, shall be appointed by the Secretary of Defense according to governing DoD policy and procedures. Such individuals shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109, and shall serve as special government employees, whose appointments must be renewed on an annual basis.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Acting Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Task Force shall meet at the call of the Task Force's Designated Federal Officer, in consultation with the Co-Chairs. The estimated number of Task Force meetings is five per year.

In addition, the Designated Federal Officer is required to be in attendance at all Task Force and subcommittee meetings for the entire duration of each meeting; however, in the absence of the Designated Federal Officer, an Alternate Designated Federal Officer shall attend the entire duration of the meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Force's membership about the Task Force's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces.

All written statements shall be submitted to the Designated Federal Officer for the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: February 23, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–4730 Filed 2–28–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2012–OESE–0001]

RIN 1810–AB12

Proposed Priorities, Requirements, Definitions, And Selection Criteria; Teacher Incentive Fund (TIF) Program; CFDA Number: 84.374A

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education proposes priorities, requirements, definitions, and selection criteria under the TIF program. We may use one or more of these priorities, requirements, definitions, and selection criteria for competitions in fiscal year (FY) 2012 and later years. We are taking this action so that TIF-funded performance-based compensation systems (PBCSs) will be successful and sustained mechanisms that contribute to continual improvement of instruction, to increases in teacher and principal effectiveness and, ultimately, to improvements in student achievement in high-need schools. To accomplish these goals, we propose priorities, requirements, definitions, and selection criteria that are designed to ensure that TIF grantees use high-quality LEA-wide evaluation and support systems that identify effective educators in order to improve instruction by informing performance-based compensation and other key human capital decisions.

DATES: We must receive your comments on or before March 30, 2012.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email. To ensure that we do not receive duplicate copies, please submit your comments only one time. In addition, please include the Docket ID and the term ''Teacher Incentive Fund'' at the top of your comments.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''How To Use This Site.'' A direct link to the docket page is also available at *www.ed.gov/programs/teacherincentive*.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed priorities, requirements, definitions, and selection criteria, address them to: Office of Elementary and Secondary Education (Attention: Teacher Incentive Fund Comments), U.S. Department of Education, 400 Maryland Avenue SW., Room 3E235, Washington, DC 20202.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *http://www.regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

FOR FURTHER INFORMATION CONTACT: Kristen Harper. Telephone: (202) 453–6712, or by email: *TIF4comments@ed.gov*.

If you use a telecommunications device for the deaf (TDD), or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation To Comment: We invite you to submit comments regarding this

notice. To ensure that your comments have maximum effect in developing the notice of final priorities, requirements, definitions, and selection criteria, we urge you to identify clearly the specific proposed priority, requirement, definition, or selection criterion that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from the proposed priorities, requirements, definitions, and selection criteria. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice by accessing Regulations.gov. You may also inspect the comments, by appointment, in person, at 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays. Please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Purpose of Program: The purpose of the TIF program is to provide financial support to develop and implement sustainable PBCSs for teachers, principals, and other personnel in high-need schools in order to increase educator effectiveness and student achievement in those schools.

Program Authority: The Department of Education Appropriations Act, 2012 (Division F, Title III of Pub. L. 112–74).

The Statutory Requirements

The Department's FY 2012 appropriation provides TIF funds for competitive grants to eligible entities to develop and implement PBCSs for teachers, principals, and other personnel in high-need schools. Eligible entities for these funds are:

(a) Local educational agencies (LEAs), including charter schools that are LEAs.

(b) States.

(c) Partnerships of—

(1) An LEA, a State, or both; and

(2) At least one non-profit organization.

Eligible entities must use TIF funds to develop and implement, in high-need schools, a PBCS that—

(a) Considers gains in student academic achievement, as well as classroom evaluations conducted multiple times during each school year, among other factors; and

(b) Provides educators with incentives to take on additional responsibilities and leadership roles.

A grantee (1) must demonstrate that its PBCS is developed with the input of teachers and school leaders in the schools and LEAs that the grant will serve, and (2) may use TIF funds to develop or improve systems and tools that would enhance the quality and success of the PBCS, such as high-quality teacher evaluations and tools that measure growth in student achievement. In addition, an applicant must include a plan to sustain financially the activities conducted and the systems developed under the grant once the grant period has expired.

Background

The TIF program is based on the premise, supported by abundant research, that teachers are the single most critical in-school factor in improving student achievement.[1] Principals are often cited as the second most influential in-school factor.[2] The TIF program is intended to support the development and identification of effective educators in order to ensure that the most effective teachers and principals are serving where they are needed most, and, ultimately, to improve teaching and learning in the classroom.

With the priorities, requirements, definitions, and selection criteria proposed in this notice, we seek to build on the efforts we began with the FY 2010 TIF competition to align this program, to the extent feasible, with the Department's other programs and initiatives that also recognize that effective teaching and leading are critical factors in improving student achievement. These programs and initiatives—including the State Fiscal Stabilization Fund, the Race to the Top Fund, the School Improvement Grants program, and the Department's recent Elementary and Secondary Education Act of 1965, as amended (ESEA) Flexibility initiative—all focus, to some extent, on the development of systems that measure and support educator effectiveness.

We believe that, to be successful and sustainable, any PBCS (as defined in this notice) must be an integral part of a human capital management system (HCMS) (as defined in this notice) that is well-designed and implemented LEA-wide.

In this notice, we define an HCMS as the system an LEA uses to make decisions affecting its workforce, such as decisions regarding educator (as defined in this notice) recruitment, hiring, placement, retention, dismissal, compensation, professional development, tenure, and promotion. While all LEAs have such systems, not all LEAs refer to such systems as ''human capital management systems'' or view their human capital decisions as part of a comprehensive and cohesive system. Further, some HCMSs are not designed or implemented to contribute to improving instruction and are, therefore, limited in their ability to positively affect student achievement.

We believe that, in order to have a positive effect on student achievement, an LEA's HCMS must be aligned with the LEA's vision of instructional improvement. As defined in this notice, a vision of instructional improvement is a summary of the key competencies and behaviors of effective teaching that an LEA views as necessary to produce high levels of student achievement, as well as how educators acquire or improve these competencies and behaviors. In a well-designed HCMS, an LEA's vision of instructional improvement is reflected in the systems used to evaluate educators and in the criteria used to hire and promote them. The vision is also reflected in communications from LEA leadership to school-based personnel, and in the professional development provided to educators.

For example, an LEA with a vision of instructional improvement that includes using student achievement data to inform instruction might integrate into its HCMS evaluations that assess whether teachers (as defined in this notice) conduct formative assessments on a regular basis and differentiate instruction based on the assessment results. Principal (as defined in this notice) evaluations, in turn, might

[1] Wright, S.P., Horn, S.P., Sanders, W.L. (1997). *Teacher and classroom context effects on student achievement: Implications for teacher evaluation.* Journal of Personnel Evaluation in Education 11:57–67; Rivkin, S.G., Hanushek, E.A., Kain, J.F. (2005). *Teachers, schools, and academic achievement.* Economerica, 73(2):417–458.

[2] Leithwood, K., Louis, K.S., Anderson, S., and Wahlstrom, K. (2004). *Review of research: How leadership influences student learning.* University of Minnesota, Center for Applied Research and Educational Improvement. Found at *http://www.cehd.umn.edu/carei/Leadership/ReviewofResearch.pdf.*

assess the extent to which principals demonstrate instructional leadership in modeling how teachers can use student achievement data to drive instruction. Similarly, professional development aligned with this vision might include helping teachers develop the analytical skills needed to use student achievement data to make instructional decisions.

We believe that integrating a PBCS within an LEA's larger HCMS will help ensure that the PBCS is a successful mechanism for improving classroom instruction and educator effectiveness. Under these proposed priorities, requirements, definitions, and selection criteria, therefore, an LEA would, as part of its HCMS, use valid and reliable educator evaluations, based significantly on student growth (as defined in this notice), to inform human capital decisions, such as decisions concerning recruitment, hiring, placement, retention, dismissal, compensation, professional development, tenure, and promotion. In this way, educator evaluation systems would be an integral component of an LEA's HCMS. Through the use of the data generated by these educator evaluation systems, the LEA would be able to identify strengths and areas for improvement for individual educators and use this information to award performance-based compensation to effective educators.

We believe the coherent approach proposed in this notice, in which educator evaluation systems and a PBCS are integral components of a comprehensive HCMS, will sustain the TIF-supported reforms well beyond the short duration of a TIF grant period. This approach will avoid the sustainability challenges associated with some existing performance-based compensation programs that provide awards using a system that is disconnected from or ancillary to the official evaluation systems an LEA uses to assign educator evaluation ratings. In such instances, using an evaluation for the PBCS that is different from the evaluation used for the educator evaluation systems creates a burdensome duplication of effort that does not advance the coherence and sustainability of the TIF-funded reforms as fully as a comprehensive HCMS would.

Furthermore, we believe that integrating a PBCS within an LEA's HCMS will improve the LEA's ability to attract, retain, and promote effective educators in high-need schools (as defined in this notice) and hard-to-staff subjects in these schools. To achieve this goal, we propose that a TIF grantee develop and implement performance-based compensation within its comprehensive, district-wide HCMS to help ensure high-need schools are staffed with effective teachers. To meet the proposed definition of a PBCS in this notice, the PBCS must (in addition to meeting other definitional requirements described elsewhere in this notice) provide additional compensation based on one of two basic PBCS design options: (1) Additional compensation for teachers and principals who have been deemed effective or, as an alternate approach, (2) additional compensation for teachers who have been deemed effective and agree to take on career ladder positions (as defined in this notice) while also compensating effective principals. The first option would compensate educators based solely on a determination of their effectiveness, while the second option would reward effective teachers who agree to serve as school-based instructional leaders in, for example, master teacher or coach positions. Although both options require additional components to conform with the PBCS definition included in this notice, we propose to give each applicant a choice on the basic design of the PBCS it chooses to develop and implement. Whichever approach an applicant proposes to implement, the PBCS must use the information generated by the educator evaluation systems to recognize and reward the important contribution of effective educators in high-need schools. We believe this recognition and reward, especially when combined with other reforms, such as those that improve working conditions, will assist LEAs in attracting and retaining effective educators in high-need schools.

Proposed Priorities

This notice contains five proposed priorities.

Types of Priorities

We may choose, in the notice of final priorities, requirements, definitions, and selection criteria, to designate any of these priorities as absolute, competitive preference, or invitational priorities, or to include the substance of these priorities in the requirements or the selection criteria. We may also decide to include the substance of the requirements or the selection criteria in the priorities.

Under an absolute priority, as specified by 34 CFR 75.105(c)(3), we would consider only applications that meet the priority. Under a competitive preference priority, we would give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

With an invitational priority, we would signal our interest in receiving applications that meet the priority; however, consistent with 34 CFR 75.105(c)(1), we would not give an application that meets an invitational priority preference over other applications.

Proposed Priority 1—An LEA-Wide Human Capital Management System (HCMS) With Educator Evaluation Systems at the Center

Background

The purpose of this priority is to support State and LEA efforts to strengthen LEAs' HCMSs, of which the PBCS is a part, by using rigorous evaluation systems to inform various human capital decisions. For several reasons, we believe that a PBCS is more likely to be successful and improve teaching and learning when it is integrated within an LEA's HCMS. First, a comprehensive HCMS provides a mechanism through which an LEA can broadly communicate the competencies of effective teaching. By evaluating a teacher based on these competencies, the LEA is able to signal their importance. Second, a comprehensive HCMS provides a mechanism through which an LEA can marshal the resources and expertise needed to improve educator effectiveness, the primary objective of a PBCS. For example, evaluation results that are used to identify educators for a performance-based award could also reveal the need for a particular type of professional development to support struggling educators. As part of its HCMS, the LEA could ensure that its professional development office is informed about the identified need so that the appropriate professional development is delivered. Likewise, a comprehensive HCMS could provide an LEA with information about educator effectiveness that the LEA uses in recruiting new talent to its high-need schools. Thus, so long as the LEA staff who are responsible for implementing the HCMS have the authority and resources required to respond to needs identified by the HCMS, the HCMS will do more than simply provide the important evaluation information that is necessary to determine which educators

are eligible for performance-based compensation.

Further, we believe that an LEA is more likely to sustain a PBCS that is embedded within a comprehensive HCMS. Development and implementation of high-quality evaluation systems within an LEA-wide HCMS, as proposed in this notice, would require the involvement of a variety of LEA stakeholders and the commitment of LEA leadership. We believe that these educator evaluation systems, and their expanded use for human capital decisions, will produce far-reaching change throughout the LEA. The high-level and system-wide investment required to develop an evaluation-driven HCMS, and the fundamental improvements it will generate, will help ensure that the HCMS, including its PBCS component, is likely to last far beyond the short duration of a TIF grant.

To advance its vision of instructional improvement, an LEA must adopt carefully designed human capital strategies. As one example of a human capital strategy, an LEA might develop a professional development program that addresses a particular high-priority competency, and the LEA might implement that program in schools in which the teacher evaluations reveal the highest need. As another example, an LEA might develop an aggressive program of financial incentives to encourage effective teachers of hard-to-staff subjects to accept teaching positions in high-need schools. As a third example, an LEA might elect to provide teachers in high-need schools with extra resources, such as specially trained para-educators who help provide routine intervention services for struggling students.

For these reasons, through proposed Priority 1, we would require each applicant for a TIF grant to include in its application a description of how the HCMS of each participating LEA—as it exists currently and with any modifications that may be needed—would (1) align with the LEA's vision of instructional improvement; (2) use evaluation information to inform human capital decisions, such as recruitment, hiring, placement, retention, dismissal, compensation, professional development, tenure, and promotion; and (3) include human capital strategies, such as extra compensation, opportunities for instructional leadership, extra resources, improved working conditions, and quality professional development, to ensure that high-need schools are able to attract and retain effective educators. To the extent that an applicant needs to modify its current HCMS to incorporate these features, the applicant must describe its planned modifications and provide a timeline for implementing them.

Proposed Priority 1

To meet this priority, the applicant must include, in its application, a description of its LEA-wide HCMS, as it exists currently and with any modifications proposed for implementation during the project period of the grant. The application must describe—

(1) How the HCMS is or will be aligned with the LEA's vision of instructional improvement;

(2) How the LEA uses or will use the information generated by the evaluation systems it describes in its application to inform key human capital decisions, such as decisions on recruitment, hiring, placement, retention, dismissal, compensation, professional development, tenure, and promotion;

(3) The human capital strategies the LEA uses or will use to ensure that high-need schools are able to attract and retain effective educators; and

(4) To the extent modifications are needed to an existing HCMS to ensure that it includes the features described in response to paragraphs (1), (2), and (3) of this priority, a timeline for making the modifications, provided that the use of evaluation information to inform the design and delivery of professional development and the award of performance-based compensation under the applicant's proposed PBCS in high-need schools begins no later than the third year of the grant's project period.

Proposed Priority 2: LEA-Wide Educator Evaluation Systems Based, in Significant Part, on Student Growth

Background

In proposed Priority 2, we seek to build on our prior efforts to support educator evaluation systems as critical components of an LEA's implementation of effective PBCSs. As we did in the FY 2010 TIF competition, we propose to require applicants to establish evaluation systems for both teachers and principals that are based on student growth, observations, and other factors selected by the applicant. Consistent with the authorizing statute, these evaluations would be used to assess the performance of educators throughout the LEA and, in high-need schools, would serve as the basis for their eligibility for performance-based compensation under a TIF-funded PBCS.

For the reasons outlined in the following paragraphs, we believe that PBCSs in high-need schools will be more successful if educator evaluation systems are implemented on an LEA-wide basis and generate an overall effectiveness rating for each educator employed by the LEA. The LEA can then use an educator's overall evaluation rating to make performance-based compensation determinations in high-need schools under its TIF-funded PBCS.

Implementing Educator Evaluation Systems LEA-wide. We believe that reforms of educator evaluation systems are more likely to receive the broad LEA commitment that is crucial to their success and sustainability if the same systems are used to evaluate every educator within an LEA. In proposing an LEA-wide approach, we seek to prevent situations in which a TIF project conducts evaluations of staff employed in a subset of an LEA's schools that are separate from the official educator evaluation systems the LEA uses to provide overall evaluation ratings. With such ancillary evaluations, a teacher in a high-need school might be evaluated once to determine eligibility for a TIF-funded performance-based award and then be evaluated again under separate criteria that the LEA uses for purposes of the teacher's overall performance rating. Consequently, when TIF funding ends, the ancillary evaluations that had been supported by a TIF-funded project are also likely to end.

Similarly, when a TIF project operates in isolation from an LEA's official evaluation system, the needs of teachers, principals, or schools identified through the TIF-funded evaluation process are less likely to be factored into the LEA-wide support systems operated by the LEA's central office, such as school improvement plans and related professional development programs. In such a situation, the TIF-funded PBCS would not benefit from the economies of scale and resources that LEA-wide evaluation systems can offer.

Additionally, the educator evaluation systems described in proposed Priority 2 are, in themselves, extremely valuable tools for professional development and improvement.[3] When the evaluation rubrics of these systems are aligned with the key competencies the LEA has identified in its vision of instructional improvement, the feedback and professional learning inherent in the

[3] Taylor, Eric S., John H. Tyler. (2011). ''The Effect of Evaluation on Performance: Evidence from Longitudinal Student Achievement Data of Mid-career Teachers,'' NBER Working paper w16877. Retrieved November 7, 2011: *http://www.nber.org/papers/w16877.*

evaluation process will give all educators a clearer understanding of what the LEA has identified as the key competencies needed to be effective educators.

For these reasons, we believe that LEA-wide educator evaluation systems will strengthen the sustainability of TIF-funded efforts to improve the practice of educators across the LEA, including those in high-need schools, and increase the pool of effective educators available to serve in high-need schools.

Overall Evaluation Rating. In this priority, we propose to require that an LEA's evaluation systems aggregate the ratings on measures included in its evaluation to generate, at least annually for each educator, an overall evaluation rating (or overall rating), such as highly effective, effective, or not effective. For both teachers and principals, this overall rating would be based, in significant part, on student growth. For the vast majority of teachers, it would be based, in significant part, on student growth at the classroom level. By classroom-level student growth, we mean the academic growth of the students in the teacher's own classroom. LEAs would also have discretion to use student growth at the grade or school-wide level for teachers who do not have regular instructional responsibilities. For such teachers, which may include, for example, reading specialists or teachers in career ladder positions with no regular instructional responsibilities, student growth data at the classroom level may not be appropriate or available. Such teachers may be evaluated based on student growth in either the classrooms of the teachers they assist, or at the school level. We anticipate that LEAs will develop specialized evaluation rubrics that reflect the unique responsibilities required of teachers in these positions, as well as their unique contribution to improving growth in student achievement.

We believe that an overall rating is necessary to facilitate a meaningful PBCS in the high-need schools identified for the TIF project. This proposed priority would be implemented in conjunction with Proposed Requirement 1—Performance-Based Compensation for Teachers, Principals, and Other Personnel, which is described later in this notice. Under Proposed Requirement 1, only educators who earn an overall rating of effective or higher would be eligible for a performance-based award under the LEA's PBCS. By proposing that the PBCS use this overall rating, we intend to ensure that educators eligible for performance-based compensation in high-need schools perform at minimum thresholds on all aspects of the evaluation rubric, including the student growth outcome measure. Thus, in evaluating and rewarding teachers receiving performance-based compensation under a TIF program, LEAs could not ignore extremely low student growth, and focus exclusively, for example, on a teacher's classroom practice measure. We believe that educator evaluations should consider both practice and student outcome data such that, as required by the TIF authorizing statute, student growth is a significant part of the overall rating.

In addition, an overall rating provides the LEA with a single index—one for teachers and one for principals—with which to identify effective educators. The LEA can use this information to identify effective educators and recruit them to high-need schools. With data on the distribution of overall ratings, LEA leaders would also be able to examine the distribution of effective educators across its schools and ensure that effective educators are equitably distributed in high-poverty and high-minority schools.

Although we are proposing an overall rating that aggregates the various measures included in an LEA's educator evaluations, we also recognize that the individual, disaggregated measures offer invaluable information for an educator's professional growth. Educators value insightful feedback based on observations of their practice and gain perspective on their efforts from a review of their students' academic growth data. We expect TIF grantees to use the data generated from their evaluation systems to identify the professional development needs of their educators, using this information to guide focused and differentiated professional development as a strategy to improve instruction, thereby contributing to improved educator effectiveness and student achievement.

Finally, we note that the requirement to provide an overall evaluation rating in this proposed priority is consistent with the requirements of the Race to the Top Fund program. Similar to Race to the Top applicants, TIF applicants must propose evaluation systems that differentiate effectiveness among educators. We anticipate that, in their proposed evaluation rubric, applicants would reserve overall ratings of effective or higher for educators whose students achieve an acceptable rate of student growth (e.g., at least one grade level in an academic year). Similarly, we would expect that an overall rating of highly effective would be reserved for an educator whose students achieve high rates of growth (e.g., at least one and one-half grade level in an academic year).

Proposed Priority 2

To meet this proposed priority, an applicant must include, as part of its application, a plan describing how it will develop and implement its proposed LEA-wide educator evaluation systems. The plan must describe—

(1) The frequency of evaluations, which must be at least annually;

(2) The evaluation rubric for educators that includes at least three performance levels and the following—

(i) Two or more observations during each evaluation period;

(ii) Student growth, which for the evaluation of teachers with regular instructional responsibilities must include growth at the classroom level; and

(iii) Additional factors determined by the LEA;

(3) How the evaluation systems will generate an overall evaluation rating that is based, in significant part, on student growth; and

(4) The applicant's timeline for implementing its proposed LEA-wide educator evaluation systems. Under the timeline, the applicant must implement these systems as the LEA's official evaluation systems for assigning overall evaluation ratings for at least a subset of educators or schools no later than the beginning of the second year of the grant's project period. The applicant may phase in the evaluation systems by applying them, over time, to additional schools or educators so long as the new evaluation systems are the official evaluation systems the LEA uses to assign overall evaluation ratings for all educators within the LEA no later than the beginning of the third year of the grant's project period.

Proposed Priority 3: Improving Student Achievement in Science, Technology, Engineering, and Mathematics (STEM)

Background

We believe that a PBCS can be an important part of a coherent strategy that advances the national goal of increasing student achievement in the areas of science, technology, engineering, and mathematics in high-need schools. This priority, therefore, supports the creation of STEM-focused instructional leadership positions with the goal of helping LEAs build a ''corps'' of STEM master teachers in high-need schools.

The development and support of a cadre of master STEM teachers has been recommended by many in the field of

STEM education, perhaps most prominently by the National Research Council (NRC) in its 2000 report, Educating Teachers of Science, Mathematics, and Technology: New Practices for the New Millennium. As NRC noted in its report, STEM master teachers can assume a variety of different roles to support improvements in instruction and promote higher levels of student achievement. They can serve as specialists in high-need schools; design and provide professional development to other teachers; coach struggling teachers or serve as mentors to novice teachers; develop curriculum and classroom materials to support instruction; and work with institution of higher education faculty to deliver pre-service or in-service professional learning.

To meet this priority, an applicant must propose, at a minimum, to use its PBCS to compensate teachers who agree to take on career ladder positions to improve STEM instruction and achievement throughout the school. Although applicants will determine the process and factors they will use to select strong candidates for these career ladder positions, we propose that, to meet this priority, an applicant must restrict eligibility for STEM-focused career ladder positions to STEM teachers who receive an overall rating of effective or higher under the evaluation system described in the application, and select candidates based on criteria that are predictive of ability to lead other teachers. Further, an applicant may—in addition to rewarding effective STEM teachers who agree to take on STEM-focused career ladder positions—include other features in its plan, such as offering financial incentives to recruit teachers who receive an overall rating of effective or higher and agree to teach a STEM subject in high-need schools. An applicant must also describe how the HCMS will support a broad commitment to STEM education, including how it plans to provide challenging STEM coursework to students, support teachers in the delivery of that STEM coursework, and develop partnerships with local STEM experts.

Proposed Priority 3

To meet this priority, an applicant must include a plan in its application that describes the applicant's strategies for improving instruction in STEM subjects through various components of the LEA's HCMS, including its professional development, evaluation systems, and PBCS. At a minimum, the plan must describe—

(1) How the LEA will develop a corps of STEM master teachers, who are skilled at modeling for peer teachers pedagogical methods for teaching STEM skills and content at the appropriate grade level, by providing additional compensation to teachers who—

(i) Receive an overall evaluation rating of effective or higher under the evaluation system described in the application;

(ii) Are selected based on criteria that are predictive of the ability to lead other teachers;

(iii) Demonstrate effectiveness in one or more STEM subjects; and

(iv) Accept STEM-focused career ladder positions;

(2) How the LEA will identify, evaluate, and develop the unique competencies that, based on evaluation information or other evidence, characterize effective STEM teachers;

(3) How the LEA will identify hard-to-staff STEM subjects, and use the HCMS to attract effective teachers to positions providing instruction in those subjects;

(4) How the LEA will leverage community support, resources, and expertise to inform the implementation of its plan; and

(5) How the LEA will ensure that financial and non-financial incentives, including performance-based compensation, offered to reward or promote effective STEM teachers are adequate to attract and retain persons with strong STEM skills.

(6) How the LEA will ensure that students have access to and participate in rigorous and engaging STEM coursework.

Priority 4: New Applicants to the Teacher Incentive Fund

Background

Under proposed Priority 4, we seek to broaden the impact of the TIF program by giving priority to LEAs not previously served by a TIF project. This priority will help provide such LEAs with a greater opportunity to receive TIF funding to support their efforts to implement new strategies—sustainable performance-based compensation, in particular—for attracting and retaining effective teachers in their high-need schools.

Elsewhere in this notice, we have proposed selection criteria to award points to applicants that have prior experience using evaluation information to inform human capital decisions. Together with this proposed priority, we hope to support and further the efforts of LEAs that, without the aid of prior TIF financial support, have already taken steps to develop and implement the evaluation systems necessary to support sustainable and successful PBCSs.

Proposed Priority 4

To meet this priority, an applicant must provide an assurance, which the Department accepts, that each LEA to be served by the proposed project has not previously participated in a TIF-supported project.

Proposed Priority 5—An Educator Salary Structure Based on Effectiveness

Background

As previously discussed, some existing performance-based compensation programs face sustainability challenges due to their reliance on performance evaluations that are disconnected from the official evaluation systems an LEA uses to assign educator evaluation ratings. Another challenge to a PBCS's sustainability occurs where educator incentives are an ancillary component (e.g., a one-time bonus) of an educator's compensation. In such cases, performance-based compensation can more easily be eliminated, particularly in difficult budget times. One way to ensure that a PBCS continues after the end of the grant period, and is sustained through periods of an LEA's budget fluctuations, is to award the additional compensation described under Proposed Requirement 1 (Performance-Based Compensation for Teachers, Principals, and Other Personnel) not as incentive awards or bonuses, but as part of an educator's salary. To do so, an applicant would develop a plan to modify its existing single salary schedule to create a new salary structure based on educator effectiveness and other factors. While advancement on the revised salary structure may be based on a number of factors, educator effectiveness would be a required component. We believe that grantees that are able to move to a new salary structure of this kind based on educator effectiveness will be most likely to continue to financially reward teachers and principals for their performance after the grant period ends.

Proposed Priority 5

To meet this priority, an applicant must propose a comprehensive revision to each participating LEA's salary structure as part of its plan for implementing its proposed PBCS. At a minimum, the applicant must describe—

(a) How each LEA will use overall evaluation ratings based, in significant

part, on student growth to determine educator salaries;

(b) The salary increase that educators with an overall evaluation rating of effective or higher would receive in each LEA, as well as how TIF funds used for salary increases would be used only to support the additional cost of the revised salaries for educators in high-need schools; and

(c) Each LEA's timeline for using the proposed salary structure to compensate educators in high-need schools, provided that the use of overall evaluation ratings for determining educator salaries begins no later than the third year of the project period.

Proposed Requirements

In order to promote sustained and successful PBCSs in high-need schools, we propose to establish seven requirements. We may apply one or more of these requirements in any year in which we run a competition under the TIF program. These requirements are in addition to the statutory requirements that apply to the program and any priorities, definitions, and selection criteria we announce in the notice inviting applications for a TIF competition.

Proposed Requirement 1—Performance-Based Compensation for Teachers, Principals, and Other Personnel

Background: Under the TIF authorizing legislation and appropriations language, to receive a TIF grant, eligible entities must develop and implement in high-needs schools a PBCS that considers gains in student academic achievement as well as classroom evaluations and provides educators with incentives to take on additional responsibilities and leadership roles. Consistent with this statutory mandate, we propose to require each applicant to describe, in its application, how its PBCS meets the definition of a PBCS set forth in this notice. Each applicant would thereby need to describe how it will provide, through its PBCS, performance-based compensation in one of the following ways: (1) Additional compensation for teachers and principals in high-need schools who earn an overall rating of effective or higher under the evaluation systems described in its application and additional compensation for effective teachers who take on additional responsibilities and leadership roles; or (2) additional compensation for teachers in high-need schools who both earn an overall rating of effective or higher under the evaluation system described in its application and take on career ladder positions. This second option must also include additional compensation for principals under at least one of the following conditions: additional compensation for principals who earn an overall rating of effective or higher under the evaluation system described in the application or additional compensation for effective principals who agree to take on additional responsibilities and leadership roles.

The following examples illustrate how different PBCSs can meet the definition of performance-based compensation proposed in this notice:

Example 1: An applicant might propose a PBCS that provides a stipend for all teachers and principals who are deemed effective or higher. This PBCS does not include compensation for career ladder positions, but it does offer compensation for teachers who take on additional responsibilities and leadership roles by providing special stipends for teachers who agree to observe their peers for evaluative purposes. By proposing to design its PBCS in this way, the applicant would demonstrate in its application that its PBCS meets the first option provided in the definition of performance-based compensation, as described in the previous paragraphs.

Example 2: An applicant might propose a PBCS that provides compensation to teachers who are deemed effective or higher only if they also take on a career ladder position, such as mentor teacher or instructional coach. In addition, the applicant's PBCS would provide compensation to principals who are deemed effective or higher. By proposing to design its PBCS in this way, the applicant would demonstrate in its application that its PBCS meets the second option under the definition of performance-based compensation, as described in the previous paragraph. In this PBCS, there likely would be fewer career ladder positions than effective teachers who are eligible to fill them, so only a subset of effective teachers would actually earn the additional compensation associated with this approach.

Additionally, under this proposed requirement, an applicant that chooses to address either of the following areas as part of its PBCS also must describe in its application how it will provide performance-based compensation to: (a) other personnel in high-need schools based, in significant part, on student growth, which may include whole-school level student growth; or (b) educators who have received an overall rating of effective or higher under the evaluation systems described in the application (or under a comparable evaluation system in another LEA) and who either: transfer from a school in the LEA that is not high-need to a high-need school, or, for educators who previously worked in another LEA, are hired to work in a high-need school.

Through this requirement and its reference to the proposed definition of a PBCS, we are proposing that an applicant's PBCS meet several requirements. First, we propose to require that, for all components of an applicant's proposed PBCS relating to educators, additional compensation could only be provided if it were based on the educator's overall rating, as opposed to student growth alone or classroom observations alone. As discussed in the *Background* section for proposed Priority 2, meeting this requirement would ensure that student growth is a significant factor in determining who is eligible for additional compensation.

Second, only teachers and principals who receive an overall rating of effective or higher under the evaluation systems described in the TIF application would be eligible to receive additional compensation, including compensation for taking on additional responsibilities and leadership roles. By building a measure of educator effectiveness into the ''additional responsibilities and leadership roles'' component of the PBCS, we believe that we can ensure that those taking on these responsibilities and roles through the TIF program have a record of effectiveness in the classroom.

Third, through this proposed requirement and its reference to the proposed definition of a PBCS, grantees could use TIF-funded PBCSs as a recruitment tool. This option would be available, at an applicant's discretion, to supplement the PBCS components that are required. If a grantee elects to offer compensation as a recruitment tool, educators who receive an overall rating of effective or higher would be eligible to receive additional compensation under the PBCS if they transfer within the LEA from a non-high-need school to a high-need school, or, for educators who previously worked in another LEA, if they are hired to work in a high-need school. Before compensating effective educators who are recruited from another LEA, an LEA would have to establish that the other LEA uses an evaluation system that is comparable to the system described in the application. To be comparable, the evaluation system must, at a minimum, generate an overall rating that is based on two or more observations each year; student growth, in significant part; and other factors determined by the evaluating LEA.

Finally, consistent with the TIF authorizing legislation and appropriations language, this requirement and its reference to the proposed definition of a PBCS would

provide that an applicant may also include in its PBCS a component that recognizes and rewards school-based staff who are neither teachers nor principals. These staff, referred to as ''other personnel'' in TIF's authorizing statute, might include, for example, school counselors, media specialists, or para-educators. Under this proposed requirement and its reference to the proposed definition of a PBCS, an applicant would have broad discretion in designing the criteria for performance-based compensation for other personnel, but any such criteria would need to include, in significant part, student growth, which may be whole school-level growth. (Whole school-level growth may be one option for this purpose, as other personnel may not have instructional responsibilities for a specific group of students on an on-going basis. LEAs may also consider developing specialized rubrics to assist in evaluating other personnel.)

The following charts illustrate how applicants can meet proposed requirement 1 by describing a PBCS that meets each of the statutorily prescribed elements of such a system. As discussed earlier in this notice, under the TIF authorizing legislation, a PBCS must, at a minimum—

- Provide performance-based compensation to both teachers and principals;
- Base the performance-based compensation on student growth, multiple observations, and other factors; and
- Provide incentives to educators to take on additional responsibilities and leadership roles.

With these statutorily-required elements in mind, we defined the term *PBCS* so that it would give applicants flexibility in designing a PBCS that has features that meet the minimum statutory requirements (see *Chart 1*) and identifies additional features that could be (but are not required to be) implemented as part of a PBCS (see *Chart 2*).

CHART 1—PBCS DESIGN OPTIONS TO MEET STATUTORY REQUIREMENTS

Design model	*Mandatory elements*
1 * ..... * Corresponds to paragraph (a)(1) of the PBCS definition.	Proposed PBCS provides both of the following: (1) Additional compensation for *teachers and principals* who receive an overall rating of effective or higher under the evaluation systems described in the application. (2) Of those teachers and principals eligible for compensation under paragraph (1), additional compensation for *teachers and, at the applicant's discretion, for principals,* who take on *additional responsibilities and leadership roles* (as defined in this notice).
2 * ..... * Corresponds to paragraph (a)(2) of the PBCS definition.	Proposed PBCS provides both of the following: (1) Additional compensation for *teachers* who receive an overall rating of effective or higher under the evaluation system described in the application and who take on *career ladder positions* (as defined in this notice). (2) Additional compensation for one or both of the following: (A) *Principals* who receive an overall rating of effective or higher under the evaluation system described in the application, or (B) *Principals* who receive an overall rating of effective or higher under the evaluation system described in the application and who take on *additional responsibilities and leadership roles* (as defined in this notice).

Regardless of whether an applicant chooses to design its PBCS under Model 1 or Model 2, as described in Chart 1, it may also include, as part of its PBCS the following:

CHART 2—PBCS OPTIONAL FEATURES

	Optional elements
Compensation for Transfers to High-Need Schools.	Proposed PBCS provides compensation for educators (*which at the applicant's option may be for teachers or principals or both*) who receive an overall rating of effective or higher under the evaluation systems described in the application or under comparable evaluation systems in another LEA, and who either: (1) Transfer to a high-need school from a school of the LEA that is not high-need, or (2) For educators who previously worked in another LEA, are hired to work in a high-need school.
Compensation for Other Personnel.	Proposed PBCS provides compensation for other personnel, who are not teachers or principals, based on performance standards established by the LEA so long as those standards, in significant part, include student growth, which may be school-level student growth.

Requirement: Each applicant must describe, in its application, how its proposed PBCS will meet the definition of a PBCS set forth in this notice.

Note: To ensure that the funded applications reflect a diversity of PBCSs, the Secretary reserves the right to fund a sufficient number of high-quality Design Model 1 and Design Model 2 projects.

Proposed Requirement 2—Involvement and Support of Teachers and Principals

Background: The TIF authorizing statute requires the input of teachers and principals in the schools and LEAs to be served by the grant in the development of the PBCS. Consistent with this statutory requirement, we propose to require each applicant to include in its application evidence of the involvement of educators in the participating LEAs in the design of the PBCS, as well as in the design of the underlying evaluation systems that inform the PBCS. Further, under this requirement, an applicant would need to include in its application evidence demonstrating how educators in the participating LEAs will be involved on an ongoing basis with the implementation of the PBCS and the evaluation systems.

We propose this requirement because we believe that ongoing involvement by educators in the development and implementation of the PBCS and evaluation systems is critical to the success and sustainability of a PBCS and that educators are more likely to have confidence in these reforms, and embrace them, if they have had a role in developing and implementing them.

As proposed, an applicant would have discretion in the evidence it submits to demonstrate that it has met this requirement. To demonstrate involvement by educators in the design of its PBCS, for example, an applicant might describe the design committee and how educators were represented on the committee. To demonstrate on-going involvement of educators in the proposed project, an applicant might describe the organizational structures that it will put in place to ensure that educators are routinely involved in decisions regarding the implementation of the PBCS and evaluation systems. Because expressions of educator support are another demonstration of educator involvement, we would encourage applicants to submit letters of support for their proposed PBCS from educators and educator organizations. To help us evaluate the quality of the evidence submitted, we are proposing that an applicant indicate in its application whether a union is the exclusive representative of either teachers or principals in each participating LEA.

Requirement: In its application, the applicant must include—

(a) Evidence that educators in each participating LEA have been involved, and will continue to be involved, in the development and implementation of the PBCS and evaluation systems described in the application;

(b) A description of the extent to which the applicant has educator support for the proposed PBCS and educator evaluation systems; and

(c) A statement indicating whether a union is the exclusive representative of either teachers or principals in each participating LEA.

Proposed Requirement 3—Documentation of High-Need Schools

Background: Consistent with the statutory requirement that all staff participating in the PBCS work in schools that are high-need, we propose to require each applicant to demonstrate, in its application, that it will implement the proposed PBCS component of its HCMS in high-need schools. This requirement would specify that an applicant must identify the schools in which the PBCS would be implemented. For any high-poverty school identified, the applicant must provide school-level data demonstrating that each school to be served by the PBCS is a high-need school. We would require school-level data for high-poverty schools, as opposed to LEA-level data, because the TIF authorizing statute requires that the school—rather than the LEA—be high-need.

In this notice, we propose to expand the definition of high-need school that was used in the previous TIF competitions to include schools identified as in need of improvement under other Department programs. With this change, it is our intent to help LEAs integrate their TIF project with other activities supported by other Department programs such as the School Improvement Fund, Race to the Top, and ESEA flexibility.

Requirement: Each applicant must demonstrate, in its application, that the schools participating in the implementation of the TIF-funded PBCS are high-need schools (as defined in this notice), including high-poverty schools (as defined in this notice), priority schools (as defined in this notice), or persistently lowest-achieving schools (as defined in this notice). Each applicant must provide, in its application—

(a) A list of high-need schools in which the proposed PBCS would be implemented; and

(b) For each high-poverty school listed, the most current data on the percentage of students who are eligible for free or reduced-price lunch subsidies under the Richard B. Russell National School Lunch Act or are considered students from low-income families based on another poverty measure that the LEA uses (see section 1113(a)(5) of the ESEA (20 U.S.C. 6313(a)(5))). Data provided to demonstrate eligibility as a high-poverty school must be school-level data; the Department will not accept LEA- or State-level data for purposes of documenting whether a school is a high-poverty school.

(c) For any priority schools listed, documentation verifying that the State has received approval of a request for ESEA flexibility, and that the schools have been identified by the State as priority schools.

Proposed Requirement 4—SEA and Other Group Applications

Background: We propose to require an SEA applicant to apply with one or more LEAs that would implement the PBCS, evaluation systems, and HCMS proposed in its application. This proposed requirement would ensure that any SEA applying for a TIF grant has obtained the full commitment of each LEA that will be responsible for developing and implementing the HCMS, including the educator evaluation systems and the PBCS, described in the application.

Similarly, we propose to require any SEA or other applicant that proposes to work with one or more additional entities to implement the HCMS (including the educator evaluation systems and the PBCS) described in the application to submit, with the application, a memorandum of understanding (MOU) or other binding agreement that describes the activities each entity proposes to undertake and that conforms to 34 CFR 75.128 and 75.129. In each of these ''group-application'' situations, each entity would be considered a grantee—with the application designating the lead applicant. This proposed requirement would clearly apply to a non-profit applicant that, by statute, must apply in partnership with one or more LEAs or SEAs, as well as to an SEA applicant that would need to apply with one or more LEAs, and in other circumstances where a project would involve multiple LEAs, SEAs, or non-profit organizations (e.g., an application from two or more LEAs). The MOU or other binding agreement would not only satisfy the group application requirements in 34 CFR 75.128 and 75.129, but it would also ensure that an applicant has consulted with the entities with which it proposes to collaborate, as appropriate, to clarify the entities' respective responsibilities.

We expect to include, in the application package for the FY 2012 TIF grant competition, a sample MOU. Although an applicant would not be required to use this sample MOU, and the sample may be modified as needed, the sample MOU would be one way to address this proposed requirement.

Requirement

(a) Applications from the following are group applications:

(1) Any application from two or more LEAs.

(2) Any application that includes one or more SEAs.

(3) Any application that includes a nonprofit organization.

(b) An applicant that is a non-profit organization must apply in a partnership that includes one or more LEAs, and must identify in the application the LEA(s) and any SEA(s) with which the proposed project would be implemented.

(c) An applicant that is an SEA must apply for a grant under this program as part of a group application that includes one or more LEAs in the same State as

the SEA, and must identify in the application the LEA(s) in which the project would be implemented.

(d) All group applications must include a Memorandum of Understanding (MOU) or other binding agreement signed by all of the members of the group. At a minimum, the MOU or other agreement must include—

(1) A commitment by each participating LEA to implement the HCMS, including the educator evaluation systems and the PBCS, described in the application;

(2) An identification of the lead applicant;

(3) A description of the responsibilities of the lead applicant in managing any grant funds and ensuring overall implementation of the proposed project as described in the application if approved by the Department;

(4) A description of the activities that each member of the group will perform; and

(5) A statement binding each member of the group to every statement and assurance made in the application.

(e) In any group application identified in paragraph (a) of this *Requirement,* each entity in the group is considered a grantee.

Proposed Requirement 5—Submitting an Application for One Competition

Background: If the Assistant Secretary designates proposed Priority 3 as an absolute priority in a competition in fiscal year (FY) 2012 or later years, the Assistant Secretary may conduct a separate competition for TIF funds with additional selection criteria related to the plan described under Priority 3 relating to STEM (TIF Competition with a Focus on STEM). Under this proposed requirement, applicants could apply for either the TIF Competition with a Focus on STEM or a general competition (General TIF Competition), but not both. We propose this requirement to ensure that applicants develop proposals that are of high quality under the competition to which the applicant chooses to apply.

Requirement: An applicant may submit an application for the General TIF Competition or the TIF Competition with a Focus on STEM, but may not submit an application for both.

Proposed Requirement 6—Use of TIF Funds To Support the PBCS

Background: Through this requirement, we propose a very flexible approach to the use of TIF funds for building the basic infrastructure that is necessary to make a PBCS successful and sustainable. At the same time, we propose to restrict how TIF funds can be used to compensate educators. We believe this approach will effectively balance the need for flexibility, so that a grantee can make its PBCS successful, with the need to ensure that PBCSs achieve the program's purpose of attracting, retaining, and promoting effective educators in high-need schools.

The TIF program's authorizing statute provides that TIF funds may be used to develop or improve systems and tools that will benefit the entire LEA. Thus, TIF funds may be used to support the costs of these systems and tools that are incurred by a participating LEA (or by an SEA or non-profit organization that has applied with one or more LEAs) so long as the costs are for systems and tools that will benefit the participating LEA's PBCS. Examples of these costs include the costs of developing or improving high-quality teacher evaluations and tools to measure growth in student achievement. TIF funds could also be used to enhance or develop the data systems that will be critical both for measuring student growth and for collating the educator evaluation information needed to identify school and educator needs.

While TIF funds may support the costs of developing and improving systems and tools for the entire LEA in which the TIF-funded PBCS is implemented, they may not be used to implement the PBCS (e.g., to pay the costs of the performance-based compensation awards to teachers, principals, or other personnel) in schools that are not high-need schools. An LEA would have to use non-TIF funds to support any proposed performance-based compensation in its schools that are not high-need. Similarly, in high-need schools, TIF funds could support the costs of providing evaluation-driven professional development, but non-TIF funds would be needed to provide any such professional development in non-high-need schools.

Finally, under this proposed requirement, a grantee could use TIF funds to provide additional compensation for effective educators in high-need schools through its PBCS, but it could not use TIF funds to compensate educators for activities that have little or no connection to recognizing, rewarding, and supporting effective teaching and leading.

Based on our experience with current TIF projects, we believe that it is appropriate to define the circumstances under which LEAs can use TIF funds to compensate educators. TIF funds would only be used to compensate educators based on the educator's demonstration of effectiveness under the evaluation systems included in the application. For example, we do not believe it is appropriate to use TIF funds to compensate teachers for their attendance or for their willingness to sponsor a student club. By themselves, these activities do not systemically support teacher effectiveness and are not, therefore, additional responsibilities and leadership roles as defined in this notice.

For these reasons, we propose to clarify the circumstances under which TIF funds can be used to support compensation for educators in high-need schools. TIF funds can only be used to support compensation for educators in high-need schools as part of an LEA's PBCS, as described in the application.

We also request public comment on whether this requirement should limit the amount of TIF funds that can be used to compensate effective teachers or principals who agree to take on additional responsibilities and leadership roles in high-need schools.

As discussed under Proposed Requirement 1, we are proposing that a grantee must provide performance-based compensation to effective teachers who agree to take on additional responsibilities and leadership roles in high-need schools. These teachers could be school-based instructional leaders in career ladder positions (such as master teacher or academic instructional coach positions) or they could be teachers who take on additional responsibilities and leadership roles, such as, for example, conducting peer evaluations. In addition, under proposed Requirement 1, a grantee may choose, at its discretion, to provide performance-based compensation to principals who take on additional responsibilities and leadership roles.

Given the limited amount of TIF funding that will be available for new awards, we specifically request comment on what limitations, if any, the Department should establish on the amount of TIF funds that a grantee could use to support the costs of teachers and principals taking on these additional responsibilities and leadership roles including, career ladder positions. For example:

- Should a grantee be able to use TIF funds for the entire amount of salary for career ladder positions, or should TIF funds only pay for a salary augmentation (i.e., an additional amount of compensation over and above what the LEA would otherwise pay the effective teacher)?
- Should there be a limit on the number of effective teachers or

principals who take on additional responsibilities and leadership roles under the PBCS for whom TIF would support the salary or salary augmentation costs?

When finalizing this requirement, we will take into consideration the public comments we receive regarding limitations on the use of TIF funds for the costs of salaries for those effective teachers and principals who take on additional responsibilities and leadership roles in high-need schools.

Requirement: TIF funds may be used to develop and improve systems and tools that support the PBCS and benefit the entire LEA. TIF funds may also be used to provide performance-based compensation and professional development in high-need schools. TIF funds may not be used to provide performance-based compensation or professional development in schools that are not high-need schools.

TIF funds may be used to compensate educators only when the compensation is provided as part of the LEA's PBCS, as described in the application.

This requirement does not preclude the use of TIF funds to compensate educators who are hired by a grantee to administer or implement the TIF-supported PBCS, or to develop or improve systems and tools needed to support the PBCS.

Proposed Requirement 7—Limitation on Using TIF Funds in High-Need Schools Served by Existing TIF Grants

Background: Through this proposed requirement, we would prohibit a grantee from using TIF funds for performance-based compensation and evaluation-linked professional development in high-need schools that, as of the beginning of the grant's project period, are already being served (or are to be served) by a TIF grant. We propose this requirement because we believe that the projects currently funded under the TIF program should successfully complete the activities described in their existing approved applications.

Requirement: Each applicant must provide an assurance, in its application, that, if successful under this competition, it will use the grant award to implement the proposed PBCS and professional development only in high-need schools that are not served, as of the beginning of the grant's project period or as planned in the future, by an existing TIF grant.

Proposed Definitions

Background

We propose the following definitions of the terms *additional responsibilities and leadership roles, career ladder positions, educators, high-need school, human capital management system, other personnel, performance-based compensation system, principal, student growth, teacher,* and *vision of instructional improvement* for use in the TIF program.

Two of the terms proposed to be defined here—*high-need school* and *student growth*—are virtually the same as the definitions we adopted for these terms in the FY 2010 TIF notice of final priorities, requirements, definitions and selection criteria. The *student growth* definition is also substantively identical to the definition of that term used in the ESEA Flexibility initiative (see *http://www.ed.gov/esea/flexibility*). We are defining these terms as we did in other Department programs for consistency and to avoid confusion.

We also are proposing to define some terms that were used but not defined in our FY 2010 TIF notice of final priorities, requirements, definitions and selection criteria, and some new terms used for the first time in this notice, because a clear definition for each of these terms will avoid confusion among applicants regarding the types of projects that we intend to fund under these proposed priorities, requirements, definitions, and selection criteria.

The proposed definition of a *performance-based compensation system* (PBCS) clarifies that any performance-based compensation must be based on the evaluation systems described in the application, rather than on evaluation criteria established for the PBCS alone. This definition also clarifies that a PBCS must compensate educators who are deemed effective (while also compensating effective teachers who take on additional responsibilities and leadership roles) or it must compensate teachers who are deemed effective and take on career ladder positions (while also compensating principals who are deemed effective). Under the proposed definition, a grantee has discretion to award compensation in other specified circumstances.

We define the term *additional responsibilities and leadership roles* differently for teachers, on the one hand, and principals, on the other. For teachers, we define the term to ensure that TIF funds are used to support activities that are likely to improve instruction or instructional leadership in a systemic way. While the term is broadly-defined for principals, the related definition of PBCS clarifies that additional compensation for effective principals who take on additional responsibilities and leadership roles is an optional component of any PBCS. Similarly, the *PBCS* definition clarifies that educators who take on additional responsibilities and leadership roles (including career ladder positions) would first have to demonstrate their effectiveness under the evaluation systems described in the application.

The definition of *human capital management system (HCMS)* recognizes that an HCMS is a system in which an LEA makes decisions regarding its workforce. This proposed definition is based on the premise that all LEAs have some sort of system they use to make human capital management decisions. While the characteristics or structure of an HCMS can vary dramatically across LEAs, we view human capital management decision-making as part of a system.

Similarly, we define *vision of instructional improvement* to mean an LEA's summary of the competencies and behaviors required for effective teaching, as well as how educators acquire or improve these competencies and behaviors. The proposed definition is intended to help applicants and grantees base their TIF-funded projects on a deep understanding of effective teaching.

Finally, we propose to define the terms *educators, other personnel, principal,* and *teacher* in an effort to clarify the distinctions among these roles.

Definitions

We propose the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

Additional responsibilities and leadership roles means:

(a) In the case of teachers, meaningful school-based responsibilities that teachers may voluntarily accept to strengthen instruction or instructional leadership in a systemic way, such as additional responsibilities related to lesson study, professional development, and peer evaluation, and may also include career ladder positions.

(b) In the case of principals, additional responsibilities and leadership roles that principals may voluntarily accept, such as a position in which an effective principal coaches a novice principal.

Career ladder positions means school-based instructional leadership positions designed to improve instructional practice, which teachers may voluntarily accept, such as positions described as master teacher, mentor teacher, demonstration or model teacher, or instructional coach, and for which teachers are selected based on

criteria that are predictive of the ability to lead other teachers.

Educators means teachers and principals.

High-need school means:

(a) A high-poverty school, or

(b) A persistently lowest-achieving school, or

(c) In the case of States that have received the Department's approval of a request for ESEA flexibility, a priority school.

High-poverty school means a school with 50 percent or more of its enrollment from low-income families, based on eligibility for free or reduced-price lunch subsidies under the Richard B. Russell National School Lunch Act, or other poverty measures that LEAs use (see section 1113(a)(5) of the ESEA (20 U.S.C. 6313(a)(5)). For middle and high schools, eligibility may be calculated on the basis of comparable data from feeder schools. Eligibility as a high-poverty school under this definition is determined on the basis of the most currently available data.

A *human capital management system (HCMS)* is a system by which an LEA makes and implements human capital decisions, such as decisions on recruitment, hiring, placement, retention, dismissal, compensation, professional development, tenure, and promotion.

Other personnel are school-based personnel who are not serving in a teacher or principal position. Other personnel may include, for example, school counselors, media specialists, or para-educators.

Persistently lowest-achieving school means, as determined by the State:

(i) Any Title I school in improvement, corrective action, or restructuring that—

(a) Is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or

(b) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and

(ii) Any secondary school that is eligible for, but does not receive, Title I funds that—

(a) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or

(b) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

To identify the persistently lowest-achieving schools, a State must take into account both:

(i) The academic achievement of the ''all students'' group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and

(ii) The school's lack of progress on those assessments over a number of years in the ''all students'' group.

Performance-based compensation system (PBCS) means a system that—

(a) Provides additional compensation for teachers and principals in one of the following circumstances—

(1)(i) Design Model 1. Additional compensation for teachers and principals who receive an overall evaluation rating of effective or higher under the evaluation systems described in the application; and

(ii) Of those teachers and principals eligible for compensation under paragraph (a)(1)(i) of this definition, additional compensation for teachers and, at the applicant's discretion, for principals, who take on additional responsibilities and leadership roles; or

(2)(i) Design Model 2. Additional compensation for teachers who receive an overall evaluation rating of effective or higher under the evaluation system described in the application and who take on career ladder positions; and

(ii) Additional compensation for (A) principals who receive an overall evaluation rating of effective or higher under the evaluation system described in the application, or (B) principals who receive an overall evaluation rating of effective or higher under the evaluation system described in the application and who take on additional responsibilities and leadership roles.

(b) May provide the following compensation:

(1) Compensation for educators (which at the applicant's option may be for teachers or principals or both) who receive an overall evaluation rating of effective or higher under the evaluation systems described in the application or under comparable evaluation systems in another LEA, and who either: (i) transfer to a high-need school from a school of the LEA that is not high-need, or, (ii) for educators who previously worked in another LEA, are hired to work in a high-need school.

(2) Compensation for other personnel, who are not teachers or principals, based on performance standards established by the LEA so long as those standards, in significant part, include student growth, which may be school-level student growth.

A *principal* is any person who meets the definition of that term under State or local law. At an LEA's discretion, it may also include an assistant or vice principal or a person in a position that contributes to the organizational management or instructional leadership of a school.

Priority school means a school that has been identified by the State as a priority school pursuant to the State's approved request for Elementary and Secondary Education Act (ESEA) flexibility.

Student growth means the change in student achievement for an individual student between two or more points in time. For the purpose of this definition, student achievement means—

(a) For grades and subjects in which assessments are required under section 1111(b)(3) of ESEA: (1) a student's score on such assessments and may include (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided those measures are rigorous and comparable across schools within an LEA.

(b) For grades and subjects in which assessments are not required under section 1111(b)(3) of ESEA: Alternative measures of student learning and performance such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools within an LEA.

A *teacher* is any person who meets the definition of that term under State or local law.

A *vision of instructional improvement* is a summary of the key competencies and behaviors of effective teaching that an LEA views as necessary to produce high levels of student achievement, as well as how educators acquire or improve these competencies and behaviors.

Proposed Selection Criteria

This notice contains two sets of proposed selection criteria. The first set proposes selection criteria that would be used, in whole or in part, in any year in which we conduct a General TIF Competition. The second set would be used, in whole or in part, together with one or more of the General TIF Competition selection criteria, in any year in which we conduct a TIF Competition with a Focus on STEM. For FY 2012, the Department intends to

conduct two competitions—a General TIF Competition and a TIF Competition with a Focus on STEM.

Background

General TIF Competition Selection Criteria: We propose the General TIF Competition Selection Criteria (proposed selection criteria (a) through (f)) to be used to review an applicant's proposal for funding under any FY 2012 competition and any future competitions. We believe that these proposed selection criteria would be helpful in ensuring that an applicant selected for funding has or will have: (1) An HCMS that enhances the quality and sustainability of its PBCS and advances an LEA's vision of instructional improvement; (2) a well-designed PBCS that uses reliable teacher and principal evaluations to identify, compensate, and promote effective staff in high-need schools; (3) a professional development plan to help all educators in high-need schools that are part of the PBCS become effective; (4) extensive teacher and principal involvement in the development and implementation of the proposed educator evaluation systems and PBCS; (5) a management plan (including a plan for an effective project evaluation) that is adequate to support the development and implementation of the proposed project; and (6) a sustainability plan to ensure the longer-term viability of the proposed project.

TIF Competition With a Focus on STEM Selection Criteria

We propose an additional selection criterion, selection criterion (g), that would be used, in whole or in part, in addition to one or more of the General TIF Competition selection criteria for any TIF Competition with a Focus on STEM the Department conducts. This selection criterion focuses on comprehensive approaches to improving STEM instruction.

Proposed Selection Criteria

We propose the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria; the general selection criteria in the Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.210; criteria based on statutory provisions in accordance with 34 CFR 75.209; or any combination thereof in any year in which there is a TIF competition. In the notice inviting applications, or the application package, or both, we will announce the maximum possible points assigned to each criterion.

(a) *A Coherent and Comprehensive Human Capital Management System (HCMS).* We will consider the quality and comprehensiveness of each participating LEA's HCMS as described in the application. In determining the quality of the HCMS, as it currently exists and as the applicant proposes to modify it during the grant period, we will consider the extent to which the HCMS described in the application is—

(1) Aligned with each participating LEA's clearly described vision of instructional improvement; and

(2) Likely to increase the number of effective educators in the LEA's schools, especially in high-need schools, as demonstrated by—

(i) The weight given to educator effectiveness—based on the educator evaluation systems described in the application—when human capital decisions are made;

(ii) The range of human capital decisions for which the applicant proposes to factor in educator effectiveness—based on the educator evaluation systems described in the application.

(iii) The feasibility of the HCMS described in the application, including the extent to which the LEA has prior experience using information from the educator evaluation systems described in the application to inform human capital decisions;

(iv) The commitment of the LEA leadership to implementing the described HCMS, including all of its component parts; and

(v) The adequacy of the financial and nonfinancial strategies and incentives, including the proposed PBCS, for attracting effective educators to work in high-need schools and retaining them in those schools.

(b) *Rigorous, Valid, and Reliable Educator Evaluation Systems.* We will consider, for each participating LEA, the quality of the educator evaluation systems described in the application. In determining the quality of each evaluation system, we will consider the extent to which—

(1) Each participating LEA has finalized a high-quality evaluation rubric, with at least three performance levels (e.g., highly effective, effective, developing, unsatisfactory), under which educators will be evaluated;

(2) Each participating LEA has presented:

(i) A clear rationale to support its approach to differentiating performance levels based on the level of student growth achieved; and

(ii) Evidence, such as current research and best practices, supporting the LEA's choice of student growth model or models;

(3) Each participating LEA has made substantial progress in developing a high-quality plan for multiple teacher and principal observations, including identification of the persons, by position and qualifications, who will be conducting the observations, the observation tool, the events to be observed, the accuracy of raters in using observation tools and the procedures for ensuring a high degree of inter-rater reliability;

(4) The participating LEA has experience measuring student growth at the classroom level, and has already implemented components of the proposed educator evaluation systems;

(5) In the case of teacher evaluations, the proposed evaluation system—

(i) Bases the overall evaluation rating for teachers, in significant part, on student growth;

(ii) Evaluates the practice of teachers, including general education teachers and teachers of special student populations, in meeting the needs of special student populations, including students with disabilities and English learners;

(6) In the case of principal evaluations, the proposed evaluation system—

(i) Bases the overall evaluation rating on, in significant part, student growth; and

(ii) Evaluates, among other factors, a principal's practice in—

(A) Focusing every teacher, and the school community generally, on student growth;

(B) Establishing a collaborative school culture focused on continuous improvement; and

(C) Supporting the academic needs of special student populations, including students with disabilities and English learners, for example, by creating systems to support successful co-teaching practices, providing resources for research-based intervention services, or similar activities.

(c) *Professional Development Systems to Support the Needs of Teachers and Principals Identified Through the Evaluation Process.* We will consider the extent to which each participating LEA has a high-quality plan for professional development to help all educators in high-need schools served by the PBCS improve their effectiveness. In determining the quality of this plan for professional development, we will consider the extent to which each participating LEA describes a high-quality plan to—

(1) Use the disaggregated information generated by the proposed educator evaluation systems to identify the

professional development needs of individual educators and schools;

(2) Provide professional development in a timely way; and

(3) Provide professional development that is likely to improve instructional and leadership practices, and is guided by the professional development needs of individual educators as identified in (1).

(d) *Involvement of Educators.* We will consider the quality of educator involvement in the development and implementation of the proposed PBCS and educator evaluation systems described in the application. In determining the quality of such involvement, we will consider the extent to which—

(1) The application contains evidence that educator involvement in the design of the PBCS and the educator evaluation systems has been extensive and will continue to be extensive during the grant period; and

(2) The application contains evidence that educators support the elements of the proposed PBCS and the educator evaluation systems described in the application.

(e) *Project Management.* We will consider the quality of the management plan of the proposed project. In determining the quality of the management plan, we will consider the extent to which the management plan—

(1) Clearly identifies and defines the roles and responsibilities of key personnel;

(2) Allocates sufficient human resources to complete project tasks;

(3) Includes measurable project objectives and performance measures; and

(4) Includes an effective project evaluation plan;

(5) Specifies realistic and achievable timelines for:

(i) Implementing the components of the HCMS, PBCS, and educator evaluation systems, including any proposal to phase in schools or educators.

(ii) Successfully completing project tasks and achieving objectives.

(f) *Sustainability.* We will consider the quality of the plan to sustain the proposed project. In determining the quality of the sustainability plan, we will consider the extent to which the sustainability plan—

(1) Identifies and commits sufficient non-TIF resources, financial and non-financial, to support the PBCS and educator evaluation systems during and after the grant period; and

(2) Is likely to be implemented and, if implemented, will result in a sustained PBCS and educator evaluation systems after the grant period ends.

(g) *Comprehensive Approach to Improving STEM Instruction.* To meet Priority 3, we will consider the quality of an applicant's plan for improving educator effectiveness in STEM instruction. In determining the quality of the plan, we will consider the extent to which—

(1) The financial and nonfinancial strategies and incentives, including the proposed PBCS, are adequate for attracting effective STEM educators to work in high-need schools and retaining them in these schools;

(2) The proposed professional development opportunities—

(a) Will provide college-level STEM skills and content knowledge to STEM teachers while modeling for teachers pedagogical methods for teaching those skills and that content at the appropriate grade level; and

(b) Will enable STEM teachers to provide students in high-need schools with increased access to rigorous and engaging STEM coursework appropriate for their grade level, including college-level material in high schools;

(3) The applicant will significantly leverage STEM-related funds across other Federal, State, and local programs to implement a high-quality and comprehensive STEM plan; and

(4) The applicant provides evidence (e.g., letters of support) that the LEA has or will develop extensive relationships with STEM experts and resources in industry, academic institutions, or associations to effectively implement its STEM plan and ensure that instruction prepares students to be college-and-career ready.

Final Priorities, Requirements, Definition, and Selection Criteria

The Secretary will announce the final priorities, requirements, definitions, and selection criteria in a notice in the **Federal Register**. The Secretary will determine the final priorities, requirements, definition, and selection criteria after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these proposed priorities, requirements, definition, and selection criteria, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563: Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and therefore subject to the requirements of the Executive order and subject to review by Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments, or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This regulatory will have an annual effect on the economy of more than $100 million because the amount of government transfers provided through the TIF program will exceed that amount. Therefore, this action is ''economically significant'' and subject to OMB review under section 3(f)(1) of Executive Order 12866. Notwithstanding this determination, we have assessed the potential costs and benefits—both quantitative and qualitative—of this regulatory action and have determined that the benefits justify the costs.

We have also reviewed these proposed priorities, requirements, definitions, and selection criteria under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety,

and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are proposing the priorities, requirements, definitions, and selection criteria in this notice only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that these proposed priorities, requirements, definitions, and selection criteria are consistent with the principles in Executive Order 13563.

In this regulatory impact analysis we discuss the need for regulatory action, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources, as well as regulatory alternatives we considered.

Need for Federal Regulatory Action

The proposed priorities, requirements, definitions, and selection criteria are needed to implement the TIF program. The Secretary does not believe that the authorizing legislation for this program, by itself, provides a sufficient level of detail to ensure that the program achieves the greatest national impact in promoting the development and implementation of PBCSs. The authorizing and appropriations language is very brief and provides only broad parameters to govern the program. The priorities, requirements, definitions, and selection criteria proposed in this notice would clarify the types of activities the Department seeks to fund, and permit the Department to evaluate proposed projects using selection criteria that are based on the purpose of the program and are closely aligned with the Secretary's priorities.

In the absence of specific selection criteria for the TIF program, the Department would use the general selection criteria in 34 CFR 75.210 of the Education Department General Administrative Regulations in selecting grant recipients. However, the Secretary does not believe the use of those general criteria would be appropriate for a TIF program competition because they do not focus on the development of PBCSs or activities most likely to increase the quality of teaching and school administration and improve educational outcomes for students.

Regulatory Alternatives Considered

The Department considered a variety of possible priorities, requirements, definitions, and selection criteria before deciding to propose those included in this notice. For example, the Department considered—

(1) Limiting eligible LEA applicants to those that already have in place the basic infrastructure necessary to generate student growth data at the classroom level. However, we took an alternative approach because we recognize that one purpose of the TIF program is to nurture innovation and reform in LEAs that may be beginning their reform efforts in this area.

(2) Requiring an applicant to commit a certain percentage of non-TIF funds to the project in order to help ensure the project's sustainability after the grant period. However, we took an alternative approach that requires the PBCS to be part of an LEA-wide HCMS because we believe that having the PBCS implemented as part of an LEA-wide HCMS will help generate project sustainability. Further, we believe that the proposed selection criteria that direct reviewers to assess the degree of LEA commitment, both financial and non-financial, and its effect on project sustainability, will be sufficient to ensure that funded projects are sustained after the end of the grant period.

The proposed priorities, requirements, definitions, and selection criteria reflect and promote the purpose of the TIF program. They also align TIF, where possible and permissible, with other Presidential and Departmental priorities, such as the State Fiscal Stabilization Fund, the Race to the Top Fund, the School Improvement Grants program, and the ESEA Flexibility initiative. The proposals would also provide an eligible applicant with a great deal of flexibility in designing the systems and selecting the activities to carry out its proposed project. The Secretary believes that the proposals in this notice appropriately balance the need for specific programmatic guidance while providing each applicant with flexibility to design innovative and enduring PBCSs. We seek public comment on whether we have achieved an acceptable balance.

Summary of Costs and Benefits

The Secretary believes that the proposed priorities, requirements, definitions, and selection criteria would not impose significant costs on eligible States, LEAs, or nonprofit organizations that would receive assistance through the TIF program. The Secretary also believes that the benefits of implementing the proposals contained in this notice justify any associated costs.

The Secretary believes that the proposed priorities, requirements, definitions, and selection criteria would result in selection of high-quality applications to implement activities that will improve the quality of teaching and educational administration. Through the regulatory action proposed in this notice, the Secretary seeks to clarify the scope of activities he expects to support with program funds and the expected burden to prepare an application and implement a project under the program. A potential applicant must consider carefully the resources needed to prepare a strong application and the applicant's capacity to implement a successful project.

The Secretary believes that the costs of complying with the proposed priorities, requirements, definitions, and selection criteria would be largely limited to the paperwork burden of preparing an application and that the benefits of implementing these proposals would outweigh any costs incurred by the applicant. This is because, during the project period, the applicant would pay the costs of actually carrying out activities under a TIF grant with program funds and any matching funds. Further, many of the systems that TIF funds will support, including educator evaluation systems and systems of professional development, are ones that LEAs regularly support with their own funds. Thus, the costs of implementing a TIF project using these proposed priorities, requirements, definitions, and selection criteria would be minimized for any eligible applicant, including a small entity.

Elsewhere in this section under *Paperwork Reduction Act of 1995,* we identify and explain burdens specifically associated with information collection requirements.

Accounting Statement

As required by OMB Circular A–4 (available at *http://www.Whithouse.gov/omb/Circulars/a004/a-4.pdf*), in the following table, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this proposed regulatory action. This table provides our best estimate of the Federal payments to be made to States, LEAs, and nonprofit organizations under this program as a result of this proposed regulatory action. This table is based on funds available for new awards under the FY 2012 appropriation. Expenditures are classified as transfers to States, LEAs, and nonprofit organizations.

Accounting Statement Classification of Estimated Expenditures:

Category	Transfers (in millions)
Annual Monetized Transfers.	$284.5
From Whom to Whom	Federal Government to States, LEAs, and nonprofits.

Effect on Other Levels of Government

We have also determined that this regulatory action would not unduly interfere with State, local, or tribal governments in the exercise of their governmental functions.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

We estimate that each applicant would spend approximately 248 hours of staff time to address the proposed priorities, requirements, definitions, and selection criteria, prepare the application, and obtain necessary clearances. Based on the number of applications the Department received in the FY 2010 competition, we expect to receive approximately 120 applications for these funds. The total number of hours for all expected applicants is an estimated 29,760 hours. We estimate the total cost per hour of the applicant-level staff who carry out this work to be $30 per hour. The total estimated cost for all applicants would be $892,800.

We have submitted an Information Collection Request (ICR) for this collection to OMB. If you want to comment on the proposed information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for U.S. Department of Education. Send these comments by email to *OIRA_DOCKET@omb.eop.gov* or by fax to (202) 395–6974. You may also send a copy of these comments to the Department contact named in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

In preparing your comments you may want to review the ICR, which we maintain in the Education Department Information Collection System (EDICS) at *http://edicsweb.ed.gov.* Click on Browse Pending Collections. This proposed collection is identified as proposed collection 1810–0700. This ICR is also available on OMB's RegInfo Web site at *www.reginfo.gov.*

We consider your comments on this proposed collection of information in—

- Deciding whether the proposed collection is necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collection, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

OMB is required to make a decision concerning the collection of information contained in these proposed priorities, requirements, and selection criteria between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives your comments on the proposed collection within 30 days after publication. This does not affect the deadline for your comments to us on the proposed priorities, requirements, and selection criteria.

Please note that a Federal agency cannot conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number. We will provide the OMB control number when we publish the notice of final priorities, requirements, definitions, and selection criteria.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action will not have a significant economic impact on a substantial number of small entities. The small entities that this proposed regulatory action may affect are (1) small LEAs, and (2) nonprofit organizations applying for and receiving funds under this program in partnership with an LEA or SEA. The Secretary believes that the costs imposed on an applicant by the proposed priorities, requirements, definitions, and selection criteria would be limited to paperwork burden related to preparing an application and that the benefits of implementing these proposals would outweigh any costs incurred by the applicant.

Participation in the TIF program is voluntary. For this reason, the proposed priorities, requirements, definitions, and selection criteria would impose no burden on small entities unless they applied for funding under a TIF program using the priorities, requirements, definitions and selection criteria proposed in this notice. We expect that in determining whether to apply for TIF funds, an eligible entity would evaluate the costs of preparing an application and implementing a TIF project and weigh them against the benefits likely of implementing the TIF project. An eligible entity would probably apply only if it determines that the likely benefits exceed the costs of preparing an application and implementing a project. The likely benefits of applying for a TIF program grant include the potential receipt of a grant as well as other benefits that may accrue to an entity through its development of an application, such as the use of its TIF application to spur development and implementation of PBCSs without Federal funding through the TIF program.

The U.S. Small Business Administration (SBA) Size Standards define ''small entities'' as for-profit or nonprofit institutions with total annual

revenue below $7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000. The Urban Institute's National Center for Charitable Statistics reported that of 173,172 nonprofit organizations that had an educational mission and reported revenue to the Internal Revenue Service (IRS) by December 2011, 168,669 (over 97 percent) had revenues of less than $5 million. In addition, there are 12,358 LEAs in the country that meet the SBA's definition of small entity. While these entities are eligible to apply for funding under the TIF program, the Secretary believes that only a small number of them will apply. In the FY 2010 TIF competition, approximately 23 nonprofit organizations applied for funding in partnership with an LEA or SEA, and few of these organizations appeared to be a small entity. The Secretary has no reason to believe that a future competition under this program would be different. To the contrary, we expect that the FY 2012 competition will be similar to the FY 2010 competition because only a limited number of nonprofit organizations are working actively on the development of PBCSs and many of these organizations are larger organizations. Thus, the likelihood that the priorities, requirements, definitions, and selection criteria proposed in this notice would have a significant economic impact on small entities is minimal.

In addition, the Secretary believes that the priorities, requirements, definitions, and selection criteria proposed in this notice do not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the proposed action. That is, the length of the applications those entities would submit in the absence of the proposed regulatory action and the time needed to prepare an application would be comparable if the competition relied exclusively on the selection criteria in 34 CFR 75.210 for this competition.

Further, this proposed regulatory action may help a small entity determine whether it has the interest, need, or capacity to implement activities under the program and, thus, prevent a small entity that does not have such an interest, need, or capacity from absorbing the burden of applying.

This proposed regulatory action would not have a significant economic impact on a small entity once it receives a grant because it would be able to meet the costs of compliance using the funds provided under this program and with any matching funds provided by private-sector partners.

The Secretary invites comments from small nonprofit organizations and small LEAs as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, requests evidence to support that belief.

Intergovernmental Review

This program is subject to the requirements of 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.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: 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** is available via the Federal Digital System at *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 24, 2012.

Michael Yudin,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2012–4832 Filed 2–28–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Public Availability of Department of Energy FY 2011 Service Contract Inventory

AGENCY: Department of Energy.

ACTION: Notice of Public Availability of FY 2011 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the Department of Energy (DOE) is publishing this notice to advise the public of the availability of the FY 2011 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2011. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* On December 19, 2011, OFPP issued additional guidance available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventory-guidance.pdf.*

Except for minor changes to reporting deadlines, the guidance for preparing and analyzing FY 2011 inventories is essentially unchanged from OFPP's November 5, 2010 guidance for preparing the FY 2010 inventory. DOE has posted its inventory and a summary of the inventory at: *http://energy.gov/management/downloads/service-contract-inventory.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Jeff Davis in the Strategic Programs Division at 202–287–1877 or *jeff.davis@hq.doe.gov.*

Dated: February 13, 2012.

Paul Bosco,

Director, Office of Procurement and Assistance Management.

[FR Doc. 2012–4811 Filed 2–28–12; 8:45 am]

BILLING CODE 6450–01–P