compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This rule does not use a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, and Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the promulgation of special operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Redesignate §§ 117.437 through 117.439 as §§ 117.438 through 117.440, respectively, and add new § 117.437 to read as follows:

§ 117.437 Chevron Oil Company Canal.

The draw of the SR 3090, mile 0.05, at Fourchon, shall open on signal if at least one-hour notice is given.

Dated: February 11, 2015.

Kevin S. Cook,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 2015–04483 Filed 3–3–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED–2014–OESE–0134; CFDA Number: 84.415A]

Final Priorities, Requirements, Definitions, and Selection Criteria—State Tribal Education Partnership Program

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

ACTION: Final priorities, requirements, definitions, and selection criteria.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education announces priorities, requirements, definitions, and selection criteria for the State Tribal Education Partnership (STEP) program. The Assistant Secretary may use one or more of these priorities, requirements, definitions, and selection criteria for competitions in fiscal year

(FY) 2015 and later years. We take this action to enable tribal educational agencies (TEAs) to administer formula grant programs under the Elementary and Secondary Education Act of 1965, as amended (ESEA), and to improve the partnership between TEAs and the State educational agencies (SEAs) and local educational agencies (LEAs) that educate students from the affected tribes.

DATES: Effective Date: These priorities, requirements, definitions, and selection criteria are effective April 3, 2015.

FOR FURTHER INFORMATION CONTACT: Shahla Ortega, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W223, Washington, DC 20202–6450. Telephone: (202) 453–5602 or by email: *shahla.ortega@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:

Purposes of Program: The purposes of the STEP program are to: (1) Promote increased collaboration between TEAs and the SEAs and LEAs that serve students from affected tribes; and (2) build the capacity of TEAs to conduct certain administrative functions under certain ESEA formula grant programs for eligible schools, as determined by the TEA, SEA, and LEA.

Program Authority: 20 U.S.C. 7451(a)(4).

We published a notice of proposed priorities, requirements, definitions, and selection criteria (NPP) for this program in the **Federal Register** on October 31, 2014 (79 FR 64716). That notice contained background information and our reasons for proposing the particular priorities, requirements, definitions, and selection criteria. This notice of final priorities, requirements, definitions, and selection criteria contains several significant changes from the NPP. We fully explain these changes in the *Analysis of Comments and Changes* section below.

Public Comment: In response to our invitation in the NPP, five parties submitted comments on the proposed priorities, requirements, definitions, and selection criteria.

We group major issues according to subject. Generally we do not address technical and other minor changes.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities, requirements, definitions, and selection criteria since publication of the NPP follows.

General

Comment: One commenter stated that the STEP program was a good idea. Several commenters supported specific provisions in the NPP, including the requirement for projects to include at least one public school, the provision permitting the inclusion of off-reservation schools, the provision requiring the preliminary and final agreements to be signed by the TEA, SEA, and LEA, and the program-specific selection criteria.

Discussion: We appreciate the support for the STEP program and for the specific provisions in the NPP.

Changes: None.

Comment: Three commenters suggested that the Department expand the STEP program to allow TEAs and tribes to: coordinate all education programs; provide support services and technical assistance to schools serving tribal children; provide tribal ''wrap around'' services in schools located on or near reservations and service areas; perform child find duties; and develop or update tribal education codes.

Discussion: We agree that social services and other support services are very important, and that coordination and cooperation between the tribe and LEA regarding such services, including ''wrap around'' services, can lead to positive outcomes for students. We also agree that it would be appropriate for a STEP project to include cooperation between the TEA and the LEA or its schools in coordinating such services, assuming the STEP funds are not used for direct services or to supplant other funding sources. For example, a TEA that currently operates a preschool program could include provisions in the preliminary and final agreements regarding the transition of children to public school kindergarten, including required meetings between the relevant school district staff and tribal preschool staff, even if not directly tied to one of the ESEA formula grant programs. Therefore, we are revising the preliminary agreement requirements to include other activities as agreed by the parties. We are also revising the first purpose under the Purposes of Program section to broaden the scope of STEP.

Many tribes operate schools funded by the Bureau of Indian Education (BIE), or have BIE-operated schools on their reservation. While it would not be consistent with the purposes of STEP for a grantee to use STEP funds for direct services at those schools, STEP funds could be used to coordinate services provided by BIE schools and public schools. In such event, the parties would include specific provisions for such coordination in the preliminary and final agreements.

With respect to the suggestion to expand the STEP program for child find purposes, it would be duplicative and not an appropriate use of STEP funds to conduct child find for children with disabilities because there are other sources of funding, such as funds under Parts B and C of the Individuals with Disabilities Education Act (IDEA), that are specifically provided for that purpose. Under Parts B and C of the IDEA, the Department provides funds to tribal entities through the BIE, which may be used for child find purposes to identify infants, toddlers, and children with disabilities ages birth through five. Additionally, under the IDEA, the BIE is responsible for identifying, locating, and evaluating children with disabilities on reservations ages five through 21 enrolled in BIE-funded elementary and secondary schools. For infants and toddlers residing on reservations, the State lead agency is responsible under IDEA Part C for ensuring that children with disabilities ages birth through three residing in the State are identified, located, and evaluated. With respect to all other children ages three through 21 on reservations, the SEA is responsible for ensuring that all children with disabilities residing in the State are identified, located, and evaluated. However, increased collaboration between the TEA, SEA, and LEA, which is a likely outcome of a STEP project, can lead to improved communications regarding all services, including the early identification, location, and evaluation of children with disabilities.

With regard to developing tribal education codes, we understand that such codes are important. Moreover, developing a tribal education code may be helpful in implementing a STEP project, and TEAs may wish to pursue this activity. However, we have chosen not to focus on updating and developing education codes because of the limited resources available for STEP and because we wanted to focus attention on the broader purpose of STEP grants: Fostering collaboration with SEAs and LEAs.

We recognize that several of the commenters' suggested changes reflect provisions that are in section 7135 of the ESEA (''Grants to Tribes for Education Administrative Planning and Development''). The STEP program is funded under the general national activities authority in section 7131 of the ESEA, and is different from the program in section 7135. Thus, we are not required to include the activities that are in that program, and decline to do so for the reasons explained above.

Changes: We have revised the requirements of the preliminary agreement by adding paragraph (a)(2) to require an explanation of how the parties will cooperate to administer any other educational programs or services upon which the parties have agreed. We have also revised the first purpose in the ''Purposes of Program'' section of this notice to correspond with the broader cooperative goal, by deleting the phrase ''in the administration of certain ESEA formula grant programs.''

Comment: One commenter suggested that tribes or TEAs should have the ability to apply directly for ESEA formula funding under the STEP program and assume the appropriate authority. Another commenter stated that when SEAs and LEAs manage ''pass-through'' dollars, those agencies retain money rather than spending all of the funds on students. The commenter requested that TEAs receive the funds and manage the programs.

Discussion: We cannot change the underlying statutory requirements of the ESEA State-administered formula grant programs through this regulatory action, including the provisions requiring that we grant the funds to SEAs, which then distribute them to LEAs, or the provisions permitting a certain portion of funds to be used for SEA-level and LEA-level administration of the programs. The STEP program does not provide funds for direct services. The purpose of the STEP program is to increase collaboration between TEAs, SEAs, and LEAs, and to increase the capacity of the TEA so that the TEA can assume LEA-type or SEA-type functions, within the existing statutory framework.

Changes: None.

Priorities

Comment: Although one commenter expressed support for the two priorities—one for established TEAs and one for TEAs with limited prior experience—two other commenters suggested that we modify the respective scopes of the two priorities by changing the definition of ''established TEA.'' Because the effect of the priorities largely turns on the definition of ''established TEA,'' we discuss those comments here.

These commenters stated that the proposed definition of ''established TEA'' is too broad and would include many very small TEAs that would meet the proposed definition but would be at a competitive disadvantage compared to larger TEAs. One of these commenters recommended that we narrow the definition of ''established TEA'' by including only those TEAs that have a specified number of staff members, an agreement with the SEA or LEA, and an existing tribal education code. The other commenter requested that we limit established TEAs to those TEAs with sufficient staff capacity, as determined by the tribe, as well as an agreement with the SEA or LEA and an existing tribal education code. These two commenters also did not support the proposed criteria that an established TEA have administered an education program or grant program, suggesting that these factors do not demonstrate that a TEA is, in fact, established. Another commenter requested that we provide TEAs with limited prior experience more technical assistance in preparing and implementing the grant.

Discussion: We created two priorities to minimize any competitive disadvantage that newly created TEAs and TEAs with relatively little experience operating education programs may have compared to current STEP grantees or TEAs that have existing relationships with their SEAs or LEAs. We agree that a modified definition of ''established TEA'' will better meet the objectives of the STEP program. Accordingly, we are revising the final definition of ''established TEA'' to specify some criteria that will be part of the definition of ''established TEA,'' as well as optional criteria that we may choose from and announce in the notice inviting applications. This flexibility will permit the Department to learn from each competition and apply its learning to subsequent competitions to better tailor the priorities to the program objectives.

Based on experience with the current STEP grants, we agree that a prior relationship with an SEA or LEA is a strong predictor of success, and should always be one of the criteria for classification as an established TEA. However, we do not agree that the other criteria that the commenters suggested should always be used to define an ''established TEA.'' First, we believe that we should reserve flexibility regarding the tribal education code criterion because there are so few tribes that have developed a tribal education code at this time. Second, we do not agree that size of staff should be a factor, due to the large variations in size among tribes and their memberships. Finally, we do not agree that we should add a tribally defined criterion of capacity, as that could allow TEAs to determine whether they are established, without regard to objective criteria applied to all TEAs.

We believe that experience administering Federal grants and education programs, such as a tribal preschool program, provides a strong foundation for tribal capacity and should be retained as optional criteria. Thus, we are revising the definition of ''established TEA'' accordingly.

With respect to the comment requesting technical assistance, we plan to provide technical assistance for the STEP competition.

Changes: We have revised the definition of ''established TEA'' to mean a TEA that has previously received a STEP grant, or a TEA that has a preexisting relationship with an SEA or LEA as evidenced by a written agreement between the TEA and SEA or LEA, and meets one or more of the following criteria (to be determined annually): Has an existing tribal education code, has administered at least one education program within the past five years, or has administered at least one Federal, State, local, or private grant within the past five years.

Comment: None.

Discussion: In further reviewing proposed priority 2, we have decided that it is unnecessary to state in the priority that a TEA with limited experience includes a TEA that has not received a previous STEP grant. This is already part of the definition of the term ''TEA with limited experience.''

Changes: We have revised priority 2 by deleting the language ''a TEA that has not received a previous STEP grant.''

Requirements

Comment: One commenter asked the Department to clarify the functions to be performed by the TEA. The commenter noted that, under the *ESEA Formula Grant Programs* section of the proposed requirements, STEP projects must include at least one SEA-administered ESEA formula grant program, while paragraph (b) of that section provides TEAs with flexibility to perform SEA- or LEA-type functions under the chosen ESEA program.

Discussion: Generally, applicants can choose between SEA-type and LEA-type functions. We included the requirement that at least one SEA-administered program (*e.g.,* title I, title II, School Improvement Grants, etc.) be included in a project because we have expanded the scope of STEP to permit the incorporation of the ESEA title VII formula grants. Title VII formula grants are direct grants to LEAs; SEAs are not involved at all with these grants. If a project only included title VII grants, there would be no State role. Therefore, if a TEA and LEA choose to include a title VII program in the STEP project, the project must also include a State-administered ESEA formula grant

program. However, for that State-administered program, the TEA can still choose LEA-type or SEA-type functions.

Changes: We have added a note following the definition of ''ESEA formula grant program'' stating that if applicants choose to include a title VII program in their STEP project, they must also include at least one State-administered program, but that applicants can still choose whether to perform SEA- or LEA-type functions for those State-administered programs.

Comment: Two commenters supported our inclusion of title VII in the types of formula grant programs that can be part of STEP projects. One commenter stated that both TEAs and LEAs are eligible for title VII formula grants, and the STEP grant would allow these two entities to make a local decision regarding the title VII grant administration. Another commenter suggested that the title VII grant program should be amended to include TEA administrative functions to ensure that tribal students are served properly.

Discussion: We agree that including title VII grants in STEP projects provides greater flexibility for TEAs. However, tribes are not eligible for title VII formula grants in the same way as LEAs; under the statute, tribes are eligible to apply for the formula grants only if they apply in lieu of the LEA in accordance with the requirements in section 7112 of the ESEA. Tribes and their TEAs cannot compete with LEAs for a title VII grant. The STEP program does not change the title VII formula program or its statutory requirements in any way. We cannot amend the statute through this regulatory process. However, we agree that inclusion of the title VII formula grant in a STEP project would facilitate a local discussion regarding the appropriate use of the title VII funds to improve outcomes for American Indian and Alaska Native (AI/AN) youth, regardless of which entity—tribe, TEA, or LEA—is the title VII grantee.

Changes: None.

Comment: One commenter supported the proposed preliminary agreement requirements related to data sharing. However, in this context, two commenters argued that it is difficult for TEAs to access education records, and that this hampers tribes' ability to provide support services and to make data-based decisions. These commenters suggested that the Department seek amendments to the Family Educational Rights and Privacy Act (FERPA) (Section 444 of the General Education Provisions Act (20 U.S.C. 1232g)) that would include TEAs among the educational agencies, authorities, and officials to whom protected student records and information may be released without the prior written consent of parents or students. In addition, one commenter suggested that we designate TEAs as authorized representatives of the Secretary of Education, and make technical assistance available to assist TEAs in the protection of education records. Another commenter requested a streamlined process for STEP grantees to access student records.

Discussion: Although we appreciate the commenters' concerns, the provisions of FERPA are both statutory and regulatory and beyond the scope of this regulatory action. Further, we cannot designate an entity as an authorized representative of the Secretary of Education unless that entity performs an audit or evaluation function for which the Secretary is responsible (20 U.S.C. 1232g(b)(1)(C) and (b)(3) and 34 CFR 99.35(a)(1)). The Department cannot use this FERPA exception to consent in order to permit entities to obtain access to education records to conduct evaluations that SEAs or LEAs are responsible for conducting.

We understand from our work with the current STEP grantees that access to student data is important to tribes and their TEAs, as well as to the success of STEP projects. We also understand that many entities misunderstand FERPA requirements. We have provided technical assistance to the current STEP grantees, through webinars and individual assistance from our Family Policy Compliance Office, and will continue to do so for future STEP grantees. We believe that involvement by all parties—TEA, SEA, and LEA—in such technical assistance opportunities will lead to mutually satisfactory outcomes. We also agree that stronger provisions regarding data sharing in the STEP agreements between the TEA, SEA, and LEA would be helpful. Accordingly, we are revising the preliminary agreement requirements in paragraph (f)(1) to require the parties to acknowledge the importance of student data to the project's success. In addition, in paragraph (f)(1), we are specifying that, if the project design requires data sharing, the progress of the parties towards mutual data access may be a factor in determining whether a project is making substantial progress towards meeting its objectives, for purposes of continuation awards.

In response to the commenters' concerns, we note that one option under which TEAs may access student education records without written consent is for the SEA or LEA to designate the TEA as an authorized representative for purposes of evaluating one or more ESEA formula grant programs that the SEA or LEA is responsible for evaluating. Because this designation requires the parties to enter a separate written agreement that complies with the FERPA regulations (see 34 CFR 99.35(a)(3)), it can take time to finalize. Therefore, such a designation would not have to be completed as part of the preliminary STEP agreement required as part of the grant application, but must be included in or attached to the final agreement. In paragraph (f)(2) we are requiring that parties make their best efforts to participate in training regarding FERPA and to include in or attach to the final agreement the terms relating to data sharing that are consistent with FERPA.

In paragraph (f) of the *Preliminary Agreement* requirement, we purposefully use the term data-sharing to emphasize that data sharing should be mutual, rather than one-directional, in order to account for all students. We note that many tribes operate BIE-funded schools, and AI/AN students transfer frequently between such schools and public schools. Accordingly, in any final agreement on terms relating to data sharing, a BIE school could agree to provide timely information to the TEA and the LEA concerning students who transfer to the public school or who drop out of the BIE school.

Changes: We have revised the language in paragraph (f) of the *Preliminary Agreement* requirement to require the parties to: acknowledge that access to student data is important for TEA capacity building; and commit to making best efforts to participate in trainings and technical assistance and reach agreement on data sharing that is consistent with FERPA if it is required by the project design. This replaces the language that was in proposed paragraph (h) of the *Preliminary Agreement* requirement.

Comment: One commenter raised concern about requiring TEAs to enter a partnership with local public schools and SEAs, because tribes have historically struggled with these agencies.

Discussion: We acknowledge the historical struggle between tribes, SEAs, and LEAs. One of the major purposes of the STEP program is to increase collaboration between TEAs, SEAs, and LEAs, and, thus, the Department believes it is important to include these entities in the partnership. The preliminary and final agreements must therefore be signed by these parties.

Changes: None.

Comment: None.

Discussion: Because STEP grants are subject to the Indian hiring preference in section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) to the extent that they benefit primarily members of federally recognized tribes, we are adding a reference to this provision under the *Requirements* section.

Changes: We have added the statutory hiring preference requirements, entitled *ISDEAA Hiring Preference,* under the *Requirements section of this notice.*

Definitions

Comment: Several commenters suggested changes to the definition of ''established TEA.'' Those comments and corresponding changes are discussed in the *Priorities* part of the *Analysis of Comments and Changes* section of this document.

Final Priorities

Final Priority 1—Established TEAs

To meet this priority, a TEA must be an established TEA.

Final Priority 2—TEAs with Limited Prior Experience

To meet this priority, a TEA with limited prior experience is, for any STEP competition, a TEA that does not meet the definition of an ''established TEA.''

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

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

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (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)).

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

Final Requirements

The Assistant Secretary for Elementary and Secondary Education establishes the following requirements for this program. We may apply one or more of these requirements in any year in which this program is in effect.

Eligible Applicant

(a) A TEA that is from an eligible Indian tribe and is authorized by its tribe to administer this program; or

(b) A consortium of such TEAs.

Schools and ESEA Formula Grant Programs Included in Project

(a) *Schools.* (1) Projects must include at least two eligible schools, at least one of which must be a public school.

(2) All schools included in the project must receive services or funds for the specific ESEA formula grant program(s) selected by the applicant.

(3) For projects that include one or more tribally controlled schools—

(i) The applicant TEA must include in its application evidence that it submitted a copy of the application to BIE; and

(ii) If the proposed project includes SEA-type functions with regard to the tribally controlled school, the TEA may be required by BIE to enter into an agreement with BIE, to be submitted to the Department at the same time as the final agreement.

(b) *ESEA Formula Grant Programs.* Projects must include at least one ESEA formula grant program that is State-administered.

Preliminary Agreement: An applicant must submit with its application for funding a signed preliminary agreement among the TEA, SEA, and LEA. Letters of support from an SEA or LEA will not meet this requirement and will not be accepted as a substitute.

The preliminary agreement must include:

(a) An explanation of how the parties will work collaboratively to:

(1) Administer selected ESEA formula grant programs in eligible schools; and

(2) Cooperate on administering other educational programs or services as agreed to by the parties.

(b) The primary ESEA formula grant program(s) for which the TEA will assume SEA-type or LEA-type administrative functions;

(c) A description of the primary SEA-type or LEA-type administrative functions that the TEA will assume;

(d) The training and other activities that the SEA or LEA, as appropriate, will provide for the TEA to gain the knowledge and skills needed to administer ESEA formula programs;

(e) The assistance that the TEA will provide to the SEA or LEA, as appropriate, to facilitate the project, such as cultural competence training;

(f) A statement concerning student data that—

(1) Acknowledges that access by the TEA to data on students who are tribal members is important to building the capacity of the TEA, and, depending on the project design, may be one of the factors the Secretary considers in determining whether a grantee has made substantial progress in achieving the goals and objectives of the project for the purpose of making continuation awards; and

(2) Commits the parties to making their best efforts to:

(i) Participate in training and technical assistance, provided by or through the Department, on the requirements of section 444 of the General Education Provisions Act (commonly referred to as the Family Educational Rights and Privacy Act, or FERPA) and on the possible ways in which the TEA could be provided access to tribal student data consistent with FERPA; and

(ii) Reach agreement on and include as part of the Final Agreement to be submitted during year 1 of the grant, a provision on data sharing that is consistent with FERPA, if data sharing is required by the project design;

(g) The names of at least one LEA and two or more eligible schools, at least one of which must be a public school, that are expected to participate in the project;

(h) An explanation of how the STEP funds will be used to build on existing activities or add new activities rather than replace tribal or other funds; and

(i) Signatures of the authorized representatives of the TEA, SEA, participating LEA(s), and any BIE-funded tribally controlled school that is included in the project.

Final Agreement: Each grantee must submit to the Department a final agreement by the date, in year 1 of the grant, to be established by the Department in the notice inviting applications. The final agreement must contain:

(a) All of the elements from the preliminary agreement, in final form;

(b) A timetable for accomplishing each of the objectives and activities that the parties will undertake;

(c) Goals of the project and measureable objectives towards reaching the goals; and

(d) The actions that the parties will take to sustain the relationships and activities established in the agreement after the project ends.

ISDEAA Hiring Preference

(a) Awards that are primarily for the benefit of Indians are subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (P.L. 93–638). That section requires that, to the greatest extent feasible, a grantee—

(1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant; and

(2) Give to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452(e)), preference in the award of contracts in connection with the administration of the grant.

(b) For purposes of this section, an Indian is a member of any federally recognized Indian tribe.

Final Definitions

The Assistant Secretary for Elementary and Secondary Education establishes 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.

Cultural competency means the use of culturally responsive education that takes into account a student's own cultural experiences, creates connections between home and school experiences, and uses the cultural knowledge, prior experiences, and learning styles of diverse students to make learning more appropriate and effective.

Eligible Indian tribe means a federally recognized or a State-recognized tribe.

Eligible school means a school that is included in the applicant's preliminary and final agreements, and that is:

(a) A public school, including a public charter school, or

(b) A BIE-funded tribally controlled school.

Established TEA means a TEA that:

(a) Previously received a STEP grant, or

(b) Has an existing prior relationship with an SEA or LEA as evidenced by a prior written agreement between the TEA and SEA or LEA, and meets one or more of the following criteria, as specified by the Secretary in a notice inviting applications published in the **Federal Register:**

(i) Has an existing tribal education code;

(ii) Has administered at least one education program (for example, a tribally operated preschool or afterschool program) within the past five years; or

(iii) Has administered at least one Federal, State, local, or private grant within the past five years.

Note: For each competition, the Secretary will publish in the **Federal Register** the minimum number of criteria from this list (such as two out of three), or the specific criteria from this list that an established TEA must meet.

ESEA formula grant program means one of the following programs authorized under the Elementary and Secondary Education Act of 1965, as amended (ESEA), for which SEAs or LEAs receive formula funding:

(a) Improving Academic Achievement of the Disadvantaged (title I, part A);

(b) School Improvement Grants (section 1003(g));

(c) Migrant Education (title I, part C);

(d) Neglected and Delinquent State Grants (title I, part D);

(e) Improving Teacher Quality State Grants (title II, part A);

(f) English Learner Education State Grants (title III, part A);

(g) 21st Century Community Learning Centers (title IV, part B); and

(h) Indian Education Formula Grants (title VII, part A).

Note: State-administered ESEA formula grant programs are the programs identified in paragraphs (a)-(g) of the definition of *ESEA formula grant program.* If an applicant chooses the Indian Education Formula Grants program (title VII, part A), which makes direct grants to LEAs, it must also choose at least one State-administered program listed in (a)-(g), as required by paragraph (b) of the *Schools and ESEA Formula Grant Programs Included in Project* requirement. Applicants can still choose SEA- or LEA-type functions for the State-administered ESEA formula grant.

LEA-type function means the type of activity that LEAs typically conduct, such as direct provision of educational services to students, grant implementation, school district curriculum development, staff professional development pursuant to State guidelines, and data submissions.

SEA-type function means the type of activity that SEAs typically conduct, such as overall education policy development, supervision and monitoring of school districts, provision of technical assistance to districts, statewide curriculum development, collecting and analyzing performance data, and evaluating programs.

Tribal educational agency (TEA) means the agency, department, or instrumentality of an eligible Indian tribe that is primarily responsible for supporting tribal students' elementary and secondary education, which may include early learning.

Final Selection Criteria

The Assistant Secretary for Elementary and Secondary Education establishes the following selection criteria for evaluating an application under this program. In any year in which this program is in effect, we may apply one or more of these criteria or sub-criteria, any of the selection criteria in 34 CFR 75.210, or any combination of these. In the notice inviting applications or the application package or both, we will announce the maximum possible points assigned to each criterion.

(a) *Need for project.* The Assistant Secretary considers the extent to which the goals and objectives in the preliminary agreement, including the TEA capacity-building activities, address identified educational needs of the Indian students to be served.

(b) *Quality of the project design.* The Assistant Secretary considers one or more of the following factors:

(1) The extent to which the proposed project would recognize and support tribal sovereignty.

(2) The extent to which the preliminary agreement defines goals, objectives, and outcomes of the proposed project that are likely to be achieved by the end of the project period.

(3) The extent to which the proposed project would build relationships and better communication among the TEA, SEA, and LEA, as well as families and communities, to the benefit of Indian students in the selected schools, including by enhancing the cultural competency of SEA and LEA staff.

(4) The extent to which the proposed project would enhance the capacity of the TEA to administer ESEA formula grants during the grant period and beyond.

(c) *Adequacy of resources.* The Assistant Secretary considers the extent to which:

(1) The TEA has established, prior to developing the preliminary agreement, a relationship with either the SEA or an LEA that will enhance the likelihood of the project's success; and

(2) The use of STEP grant funds supports the capacity-building activities that are needed to administer ESEA formula grants.

(d) *Quality of project personnel.* The Assistant Secretary considers the extent to which the proposed project director has experience in education and in administering Federal grants.

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 one or more of these priorities, requirements, definitions, or selection criteria, we will invite applications through a notice in the **Federal Register.**

Executive Orders 12866 and 13563

Regulatory Impact Analysis

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 the 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 stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action 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 upon 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 issuing these final priorities, requirements, definitions, and selection criteria only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

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

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

We believe that the final priorities, requirements, definitions, and selection criteria would not impose significant costs on eligible TEAs that receive assistance through the STEP program. We also believe that the benefits of implementing the final priorities, requirements, definitions, and selection criteria outweigh any associated costs.

We believe that the costs imposed on applicants would be limited to costs associated with developing applications, including developing partnerships with SEAs and LEAs, and that the benefits of creating a partnership that is likely to be sustained after the end of the project period would outweigh any costs incurred by applicants. The costs of carrying out activities proposed in STEP applications would be paid for with program funds. Thus, the costs of implementation would not be a burden for any eligible applicants, including small entities. We also note that program participation is voluntary.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79, except that federally recognized Indian tribes are not subject to those rules. 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 compact disc) 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** and the Code of Federal Regulations 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 the site.

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Dated: February 26, 2015.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

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