

did not appeal and adopted the ALJ's decision. Following the ALJ's opinion, Complainant also alleged that the opinion required the SLA to pay him for his lost income at his former snack bar facility until he was placed as the manager of the new vending facility in the main building of Charity Hospital.

For the period of November 1991 until July 1997, while managing the snack bar, Complainant made monthly utility payments, each in the amount of \$2,000, to Charity Hospital as directed by the SLA. While there was no requirement for Complainant to make these payments under his Vendor Operating Agreement with the SLA, the permit agreement to operate the snack bar between the SLA and Charity Hospital contained a requirement that the SLA would pay Charity Hospital for utilities at the rate of \$2,000 per month.

In March 2005, Complainant learned that the SLA had reimbursed the previous operator of the snack bar for his utility payments to Charity Hospital. At this time, Complainant believed that he also was entitled to reimbursement by the SLA of his utility payments to Charity Hospital. Additionally, Complainant believed that the SLA should reimburse him for loss of income when the snack bar was closed.

On May 27, 2005 Complainant filed a request with the SLA to bypass the administrative review process and proceed with a state fair hearing on the issues of reimbursement for utility payments to Charity Hospital and loss of income as the result of the snack bar closure. On June 10, 2005, the Administrative Law Judge Supervisor denied Complainant's hearing request, citing time limitations for vendors to file for a hearing with the SLA.

It was this decision Complainant sought review of by a Federal arbitration panel. Due to Hurricane Katrina, a hearing on this matter was not held until April 26, 2007.

According to the arbitration panel, the issues to be resolved were as follows: (1) Whether the Complainant is entitled to reimbursement for utility payments paid to Charity Hospital while he operated the snack bar; and (2) whether Complainant is entitled to recover lost earnings from the time his snack bar was closed in March 2004 until he was given a new vending facility in September 2004.

#### Arbitration Panel Decision

After reviewing all of the records and hearing testimony of witnesses, the panel majority ruled as follows: On issue number one, the panel found that the SLA was obligated to treat Complainant in the same manner as the

previous snack bar manager when it reimbursed the previous snack bar manager for utility payments paid to Charity Hospital. Thus, the panel majority directed that the SLA promptly pay Complainant the sum of \$138,000 as reimbursement for utility payments Complainant paid to Charity Hospital while he was the licensed manager at the snack bar facility for the period November 1991 to March 2004.

Regarding issue number two, the panel majority ruled that the SLA complied with the June 2004 ruling of the ALJ and expeditiously provided Complainant with a new vending facility in the main building of Charity Hospital. However, the panel majority concluded that the ALJ's ruling did not require the SLA to pay the Complainant for lost earnings from the time he was displaced from the snack bar facility until the time he began to manage the new facility. Hence, the panel majority denied Complainant's claim on the merits, ruling that there was no basis for the SLA to pay Complainant for lost earnings from the time when the snack bar facility closed until he was placed in the new vending facility.

One panel member concurred in part and dissented in part. The panel member dissented from the panel majority on issue number one stating that, "the imposition of fees for utility service upon blind vendors is not prohibited by either state or federal law." The panel member concurred with the panel majority on issue number two in denying the payment of lost earnings to Complainant.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the Department.

#### Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Dated: December 18, 2008.

**Tracy R. Justesen,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. E8-30551 Filed 12-22-08; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF EDUCATION

### Office of Elementary and Secondary Education; Overview Information; Indian Education Formula Grants to Local Educational Agencies; Notice Inviting Applications for Fiscal Year (FY) 2009

*Catalog of Federal Domestic Assistance (CFDA) Number: 84.060A.*

**DATES:** *Part I of the Formula Grant Electronic Application System for Indian Education (EASIE) Applications Available:* December 23, 2008.

*Deadline for Transmittal of Part I Applications:* January 30, 2009.

*Part II of the Formula Grant (EASIE) Applications Available:* March 16, 2009.

*Deadline for Transmittal of Part II Applications:* April 22, 2009.

Applications not meeting the deadline for Part I applications will not be considered for funding in the initial allocation of awards. Part II applications or data submissions will be accepted only from those eligible applicants that meet the Part I application deadline.

*Deadline for Intergovernmental Review:* June 22, 2009.

#### SUPPLEMENTARY INFORMATION:

*Purpose of Program:* The Indian Education Formula Grants to Local Educational Agencies program provides grants to support local educational agencies (LEAs) and other eligible entities described in this notice in their efforts to reform and improve elementary and secondary school programs that serve Indian students. The Department funds programs designed to help Indian students meet the same challenging State academic content and student academic achievement standards used for all students. In addition, under section 7116 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), the Secretary will, upon receipt of an acceptable plan for the integration of education and related services, authorize the entity receiving the funds under this program to consolidate, in accordance with the entity's plan, the funds for any Federal program exclusively serving Indian children, or the funds reserved under any Federal program to exclusively serve Indian children, that are awarded under a statutory or administrative formula to the entity, for the purpose of providing

education and related services to Indian students. Instructions for submitting an integration of education and related services plan are included in the EASIE described elsewhere in this notice under *Application Process and Submission Information*.

**Eligible Applicants:** LEAs, including charter schools authorized as LEAs under State law, certain schools funded by the Bureau of Indian Education of the Department of the Interior, and Indian tribes under certain conditions, as prescribed by section 7112(c) of the ESEA.

**Application Process and Submission Information:** The application process for the Indian Education Formula Grants to Local Educational Agencies program utilizes the Formula Grant EASIE, an easy-to-use, electronic application system. Formula Grant EASIE provides special features that will progressively enhance data availability and performance reporting for applicants, including the use of data from State submissions to ED*Facts*, the Department's data collection system, which contains performance information from State educational agencies about schools and Federal education programs. To the extent that your State has provided the necessary ED*Facts* data files, Formula Grant EASIE will be able to interface with ED*Facts* and pull those LEA-specific data into the application. Additionally, this system allows the Department to review applications and interact online with applicants during the application review and approval process.

Although you may download and print sample forms from the system, the application must be submitted electronically through the Formula Grant EASIE unless you do not have Internet access and have made prior arrangements with the Department. For approval to submit a paper application, you must contact the ED*Facts* Partner Support Center (see the contact information listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT**) prior to the deadline for transmittal of Part I or Part II applications. If you are approved to submit a paper application, you must meet the submission deadlines included in this notice.

Registration for Formula Grant EASIE is required. For information on how to register, contact the ED*Facts* Partner Support Center listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT**.

The Formula Grant EASIE application is divided into two parts—Part I and Part II.

Part I, Student Count, provides the appropriate data entry screens to submit your Indian student count totals.

Part II, Program and Budget Information, provides your award amount based on the Indian student count total submitted under Part I. Part II also enables you to enter student performance data, identify your project's services and activities, and build a realistic program budget based on a known grant amount. Based on student assessment data, you will select your program objectives and services from a variety of menu options that were designed with grantee input.

**Estimated Available Funds:** The Administration has requested \$96,613,000 for this program for FY 2009. The actual level of funding, if any, depends on final Congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

**Estimated Range of Awards:** \$4,000–\$2,000,000.

**Estimated Average Size of Awards:** \$75,775.

**Estimated Number of Awards:** 1,275.

**Note:** The Department is not bound by any estimates in this notice and funding levels may change based on final appropriations for the program.

**Project Period:** 12 months.

**Applicable Regulations:** The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

**Note:** The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

**Performance Measures:** The Secretary has established the following key performance measures for assessing the effectiveness and efficiency of the Indian Education Formula Grants to Local Educational Agencies program: (1) The percentage of American Indian and Alaska Native students in grades four and eight who score at or above the basic level in reading on the National Assessment of Educational Progress (NAEP); (2) the percentage of American Indian and Alaska Native students in grades four and eight who score at or above the basic level in mathematics on the NAEP; (3) the percentage of American Indian and Alaska Native students in grades three through eight meeting State performance standards by scoring at the proficient or the advanced levels in reading and mathematics on State assessments; (4) the difference between the percentages of American Indian and Alaska Native students in grades three through eight at the

proficient or advanced levels in reading and mathematics on State assessments and the percentage of all students scoring at those levels; (5) the percentage of American Indian and Alaska Native students who graduate from high school; and (6) the percentage of funds used by grantees prior to award close-out.

**FOR FURTHER INFORMATION CONTACT:**

Contact the ED*Facts* Partner Support Center, telephone: 877-457-3336 (877-HLP-EDEN) or by e-mail at: [eden\\_OIE@ed.gov](mailto:eden_OIE@ed.gov).

If you use a telecommunications device for the deaf (TDD), call the ED*Facts* Partner Support Center, toll free, at 1-888-403-3336 (888-403-EDEN).

Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the ED*Facts* Partner Support Center.

**Electronic Access to This Document:** 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) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Program Authority: 20 U.S.C. 7421 *et seq.*

Dated: December 17, 2008.

**Kerri L. Briggs,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. E8-30466 Filed 12-22-08; 8:45 am]

**BILLING CODE 4000-01-P**

**DEPARTMENT OF EDUCATION**

**National Board for Education Sciences**

**AGENCY:** Department of Education, Institute of Education Sciences.

**ACTION:** Notice of an open meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of an upcoming open meeting of the National