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BILLING CODE 5001-06-C

## DEPARTMENT OF EDUCATION

### Office of Elementary and Secondary Education Overview Information High School Equivalency Program (HEP); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

*Catalog of Federal Domestic Assistance (CFDA) Number:* 84.141A.

**DATES:** *Applications Available:* December 23, 2008.

*Deadline for Transmittal of Applications:* February 23, 2009.

#### Full Text of Announcement

#### I. Funding Opportunity Description

*Purpose of Program:* The purpose of HEP is to help migrant and seasonal farmworkers and their children obtain a general education diploma (GED) that meets the guidelines for high school equivalency established by the State in which the HEP project is conducted, and to gain employment or be placed in an institution of higher education (IHE) or other postsecondary education or training.

*Priorities:* This competition includes two competitive preference priorities and one invitational priority. In accordance with 34 CFR 75.105(b)(2)(ii), the competitive preference priority for "novice applicant" is from the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.225). In accordance with 34 CFR 75.105(b)(2)(iv), the competitive preference priority for "prior experience of service delivery" is from section 418A(e) of the Higher Education Act of 1965, as amended by the Higher Education Opportunity Act (20 U.S.C. 1070d-2(e)).

*Competitive Preference Priorities:* For FY 2009, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award an additional five points to an application that meets the "novice applicant" competitive preference priority, and up to a maximum of 15 additional points to an application that meets the "prior experience of service delivery" competitive preference priority.

These priorities are:

*Novice Applicant:*

The applicant must be a "novice applicant" as defined in 34 CFR 75.225(a).

*Prior Experience of Service Delivery:*

With respect to applicants with an expiring HEP project, the Secretary will consider the applicant's prior

experience in implementing its expiring HEP project based on information contained in documents previously provided to the Department, such as annual performance reports, project evaluation reports, site visit reports, and the previously approved HEP application.

Under this competition, we are particularly interested in applications that address the following priority.

*Invitational Priority:* For FY 2009, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Applications that propose to engage faith-based and community organizations in the delivery of services under this program.

*Program Authority:* 20 U.S.C. 1070d-2, the Higher Education Act of 1965, as reauthorized by the Higher Education Opportunity Act (HEOA) (Pub. L. 110-315).

*Applicable Regulations:* (a) EDGAR in 34 CFR parts 74, 75, 77, 79, 82, 84, 85, 86, 97, 98, and 99. (b) The regulations in 34 CFR part 206. (c) The definitions of a *migratory agricultural worker* in 34 CFR 200.81(d), *migratory child* in 34 CFR 200.81(e), and *migratory fisher* in 34 CFR 200.81(f). (d) The regulations in 20 CFR 669.110 and 669.320.

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

**Note:** The regulations in 34 CFR part 86 apply to IHEs only.

**Note:** The definition of terms in 34 CFR 200.81(d), (e), and (f) were published in the **Federal Register** on July 29, 2008 at 73 FR 44102, 44123-24.

**Note:** The regulations in 34 CFR part 206 were issued prior to the enactment of the HEOA. The application package identifies any provisions in part 206 that have been superseded by enactment of the HEOA.

#### II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* The Administration has requested \$7,143,000 for new awards 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:* \$180,000-\$475,000.

*Estimated Average Size of Awards:* \$446,438.

*Maximum Award:* We will reject any application that proposes a HEP award exceeding \$475,000 for a single budget period of 12 months. The Assistant Secretary for Elementary and Secondary Education may change the maximum amount through a notice published in the **Federal Register**.

*Estimated Number of Awards:* 16.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months.

#### III. Eligibility Information

1. *Eligible Applicants:* IHEs or private non-profit organizations (including faith-based organizations) that plan their projects in cooperation with an IHE and propose to operate some aspects of the project with the facilities of the IHE.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

#### IV. Application and Submission Information

1. *Address to Request Application Package:* David De Soto, U.S. Department of Education, Office of Migrant Education, 400 Maryland Avenue, SW., room 3E344, Washington, DC 20202-6135. Telephone: (202) 260-8103 or by e-mail: [david.de.soto@ed.gov](mailto:david.de.soto@ed.gov).

The application package also can be obtained electronically at the following address: <http://www.ed.gov/programs/hep/applicant.html>.

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

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., Braille, large print, audiotope, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

*Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 25 pages, using the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations,

references, and captions. However, you may single space all text in charts, tables, figures, and graphs. Charts, tables, figures, and graphs presented in the application narrative count toward the page limit.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

- Appendices must be limited to 15 pages and may include the following: Resumes, job descriptions, letters of support, and bibliography.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application that exceed the page limit; or exceed the equivalent of the page limit if you apply other standards.

**3. Submission Dates and Times:**  
*Applications Available:* December 23, 2008. *Deadline for Transmittal of Applications:* February 23, 2009.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.6. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

**4. Intergovernmental Review:** This competition is subject to Executive Order 12372 and the regulations in 34 part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

**5. Funding Restrictions:** We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

**6. Other Submission Requirements:** Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

**a. Electronic Submission of Applications.**

Applications for grants under the High School Equivalency Program, CFDA number 84.141A, must be submitted electronically using the Governmentwide Grants.gov Apply site at [www.Grants.gov](http://www.Grants.gov). Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for the High School Equivalency Program at <http://www.Grants.gov>. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.141, not 84.141A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your

application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at <http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf>.

- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see [http://www.grants.gov/applicants/get\\_registered.jsp](http://www.grants.gov/applicants/get_registered.jsp)). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see <http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf>).

You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

- You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-

Construction Programs (ED 524), and all necessary assurances and certifications.

- You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

- Your electronic application must comply with any page-limit requirements described in this notice.

- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

- We may request that you provide us original signatures on forms at a later date.

**Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System:** If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1-800-518-4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m.,

Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

**Note:** The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

**Exception to Electronic Submission Requirement:** You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: David De Soto, 400 Maryland Avenue, SW., room 3E344, Washington, DC 20202-6135. Telephone (202) 260-8103. FAX: (202) 205-0089.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

**b. Submission of Paper Applications by Mail.**

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention:

(CFDA Number 84.141A), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202-4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

**c. Submission of Paper Applications by Hand Delivery.**

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.141A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202-4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays. *Note for Mail or Hand Delivery of Paper Applications:* If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245-6288.

## V. Application Review Information

*Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 of EDGAR and are listed in the application package.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary in 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to <http://www.ed.gov/fund/grant/apply/appforms/appforms.html>.

4. *Performance Measures:* Under the Government Performance and Results Act (GPRA), the Department developed the following performance measures to evaluate the overall effectiveness of the HEP: (1) The percentage of HEP program exiters receiving a General Education Development (GED) credential, and (2) the percentage of HEP GED recipients who enter postsecondary education programs, upgraded employment, or the military.

Applicants may wish to demonstrate a sound capacity to provide reliable data on these measures, including the project's annual performance targets for addressing the GPRA performance measures, as is required by the OMB approved annual performance report that is included in the application package.

All grantees will be required to submit, as part of their annual

performance report, information with respect to these performance measures.

## VII. Agency Contact

**FOR FURTHER INFORMATION CONTACT:** David De Soto, U.S. Department of Education, Office of Migrant Education, 400 Maryland Avenue, SW., room 3E344, Washington, DC 20202-6135. Telephone Number: (202) 260-8103, or by e-mail: [david.de.soto@ed.gov](mailto:david.de.soto@ed.gov).

If you use a TDD, you may call the FRS, toll free, at 1-800-877-8339.

## VIII. Other Information

*Accessible Format:* Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., Braille, large print, audiotope, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

*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>.

Dated: December 18, 2008.

**Kerri L. Briggs,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. E8-30583 Filed 12-22-08; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

### Arbitration Panel Decision Under the Randolph-Sheppard Act

**AGENCY:** Department of Education.

**ACTION:** Notice of arbitration panel decision under the Randolph-Sheppard Act.

**SUMMARY:** The Department of Education (Department) gives notice that on August 20, 2008, an arbitration panel rendered a decision in the matter of *Dwayne Zuppardo v. Louisiana*

*Department of Social Services, Rehabilitation Services, Case no. R-S/06-5.* This panel was convened by the Department under 20 U.S.C. 107d-1(a), after the Department received a complaint filed by the petitioner, Dwayne Zuppardo.

**FOR FURTHER INFORMATION CONTACT:** You may obtain a copy of the full text of the arbitration panel decision from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., room 5022, Potomac Center Plaza, Washington, DC 20202-2800. Telephone: (202) 245-7374. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** Under section 6(c) of the Randolph-Sheppard Act (the Act), 20 U.S.C. 107d-2(c), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

### Background

Mr. Dwayne Zuppardo (Complainant) alleged violations by the Louisiana Department of Social Services, Rehabilitation Services, the state licensing agency (SLA), of the Act and the implementing regulations in 34 CFR part 395. Specifically, Complainant alleged that the SLA improperly administered the Randolph-Sheppard Vending Facility Program concerning his management of a snack bar in the East Pavilion of Charity Hospital (Charity Hospital) in New Orleans, Louisiana. From November 1991 until March 2004, Complainant managed the snack bar. In March 2004, the snack bar at Charity Hospital was closed. In April 2004, Complainant sent a letter to the SLA requesting a determination as to whether he should be treated as a Displaced Manager rather than being given another vending facility in the main building of Charity Hospital. The SLA denied Complainant's request for a determination on his Displaced Manager status. Thereafter, Complainant requested a state fair hearing. A hearing was held on this matter.

In June 2004, the Administrative Law Judge (ALJ) issued an opinion supporting Complainant's right to the new vending facility in the main building of Charity Hospital. The SLA