

**J-511 [Amended]**

From Dillingham, AK; via INT Dillingham 059° and Anchorage, AK 247° radials, to Anchorage, AK; Gulkana, AK; to Intersection of Gulkana 078° (M), 102° (T) radial; and Northway 137° (M), 161° (T) radial.

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Issued in Washington, DC, on June 22, 2020.

**Scott M. Rosenbloom,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2020-13807 Filed 6-26-20; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF EDUCATION****34 CFR Chapter II**

[Docket ID ED-2020-OESE-0037]

**Proposed Priorities, Requirements, Definitions, and Selection Criteria—Promise Neighborhoods (PN) Program**

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

**ACTION:** Proposed priorities, requirements, definitions, and selection criteria.

**SUMMARY:** The Assistant Secretary for Elementary and Secondary Education proposes priorities, requirements, definitions, and selection criteria under the PN program, Catalog of Federal Domestic Assistance (CFDA) number 84.215N. The Assistant Secretary may use these priorities, requirements, definitions, and selection criteria for competitions in fiscal year (FY) 2020 and later years. We take this action to make program improvements based on lessons learned over the last decade and to improve program outcomes.

**DATES:** We must receive your comments on or before July 29, 2020.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

*Federal eRulemaking Portal:* Go to [www.regulations.gov](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 Regulations.gov” in the Help section.

*Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the proposed priorities, requirements, definitions, and selection criteria, address them to Adrienne Hawkins, U.S. Department of Education, 400 Maryland Avenue SW, Room 4W220, Washington, DC 20202.

*Privacy Note:* The Department of Education’s (Department) 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 [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:**

Adrienne Hawkins, U.S. Department of Education, 400 Maryland Avenue SW, Room 4W220, Washington, DC 20202. Telephone: (202) 453-5638. Email: [Adrienne.Hawkins@ed.gov](mailto:Adrienne.Hawkins@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 these proposed priorities, requirements, definitions, and selection criteria. 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, 13563, and 13371 and their overall requirement of reducing regulatory burden that might result from these 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 these proposed priorities, requirements, definitions, and selection criteria at 400 Maryland Avenue SW, Washington, DC 20202 between the hours of 8:30 a.m. and 4:00 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

*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 the proposed priorities, requirements, definitions, and selection criteria. 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 PN program is authorized under the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA). The purpose of the PN program is to significantly improve the academic and developmental outcomes of children living in the most distressed communities of the United States, including ensuring school readiness, high school graduation, and access to a community-based continuum of high-quality services. The program serves neighborhoods with high concentrations of low-income individuals; multiple signs of distress, which may include high rates of poverty, childhood obesity, academic failure, and juvenile delinquency, adjudication, or incarceration; and schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA. All strategies in the continuum of solutions must be accessible to children with disabilities and English learners.

*Program Authority:* 20 U.S.C. 7273-7274.

**Proposed Priorities**

This document contains four proposed priorities.

*Background:* Beginning in 2010, and in the FY 2017 competition, the PN program used absolute priorities for rural, Tribal, and non-rural, non-Tribal applicants to create three different funding slates. Multiple funding slates created a level playing field for different applicants by allowing applicants with similar challenges and circumstances to compete against one another. The three absolute priorities resulted in a mix of rural, Tribal, and non-rural, non-Tribal grantees. Over the years, the PN program has awarded 54 grants to urban communities, 13 grants to rural communities, and 6 grants to Tribal communities. Without multiple slates there would have been much fewer rural and Tribal grants. Therefore, in this document the Department proposes to establish priorities for non-rural, non-Tribal and for Tribal communities under Proposed Priorities 1 and 2. The Secretary’s Administrative Priorities (85

FR 13640), which are available for use in the PN program, already include a priority for rural applicants. In future competitions, separate slates will be utilized to determine rural, Tribal, and non-rural, non-Tribal grantees.)

*Proposed Priority 1—Non-Rural and Non-Tribal Communities.*

To meet this priority, an applicant must propose to implement a PN strategy that serves one or more non-rural or non-Tribal communities.

*Proposed Priority 2—Tribal Communities.*

To meet this priority, an applicant must propose to implement a PN strategy that serves one or more Indian Tribes (as defined in this notice).

*Proposed Priority 3—Community-Level Opioid Abuse Prevention Efforts.*

*Background:* In 2017, in response to the opioid crisis<sup>1</sup> plaguing many communities across the country, the Department created a priority for applicants that proposed to leverage other Federal resources available to fight opioid addiction. The Department awarded competitive preference points to applicants that demonstrated receipt of a Drug Free Communities (DFC) Support Program Grant from the Office of National Drug Policy to prevent opioid abuse (as one of its areas of focus) or a partnership with a DFC grantee as demonstrated by a memorandum of understanding. Of the 80 applications received in the 2017 competition, 40 applicants addressed this priority as a need in their communities and all applicants who received awards in 2017 addressed this priority. Funded grantees have leveraged these resources to provide direct support to families devastated by the opioid crisis through mental health support and drug prevention resources in schools where children are affected by this epidemic. Through Proposed Priority 3, the Department seeks to continue to address the opioid crisis in PN communities while also expanding the eligibility pool beyond projects supported with Federal resources.

*Proposed Priority 3:*

To meet this priority, an applicant must: (1) Demonstrate how it will partner with an organization that conducts high-quality, community-level activities to prevent opioid abuse, such as an organization supported by an Office of National Drug Control Policy, DFC Support Program grant, in PN communities; (2) describe the partner organization's record of success in approaching opioid abuse prevention at

the community level; and (3) provide, in its application, a memorandum of understanding between it and the partner organization responsible for managing the effort. The memorandum of understanding must indicate a commitment on the part of the applicant to coordinate implementation and align resources to the greatest extent practicable.

*Proposed Priority 4—Evidence-Based Activities to Support Academic Achievement.*

*Background:* Over the last 10 years, PN grantees attempted to significantly improve the academic achievement of children served by providing supports external to classroom instruction. While most grantees achieved some success in improving the academic achievement of students in the neighborhoods served, other grantees experienced challenges due to external factors such as change of school administration, housing affordability, family mobility, and school or neighborhood safety issues. Although our grantees attempt to resolve these issues through partnerships, these issues take time to resolve individually and collectively. Grantees with success in supporting students' successful transition to the next grade level, and completion of postsecondary education attributed the success to providing evidence-based instructional and comprehensive service strategies.

*Proposed Priority 4:*

Projects that propose to use evidence-based (as defined in 34 CFR 77.1(c)) activities, strategies, or interventions that support teaching practices that will lead to increasing student achievement (as defined in this notice), graduation rates, and career readiness.

*Proposed Priority 5—Community-Based Crime Reduction Efforts.*

*Background:* In 2011, the Department responded to challenges many neighborhoods were facing with crime—and specifically its effects on school safety, chronic absenteeism, and juvenile delinquency—by establishing a priority for the PN program focused on crime reduction. Through ongoing collaboration with the Department of Justice (DOJ), the Department provided supplemental funding to organizations with PN and Byrne Criminal Justice Innovation grants to further enhance community-based crime prevention efforts. In 2017, recognizing these efforts could be expanded to the pool of applicants through the PN competition, the Department established a competitive preference priority to encourage ongoing collaboration between education and public safety efforts. Ultimately, we awarded two new

grants to organizations partnering with a Byrne Criminal Justice Innovation grantee. These grantees have yielded results that have improved school safety and chronic absenteeism in their communities. In 2018, the DOJ renamed the Byrne Criminal Justice Innovation program to the Innovations in Community-Based Crime Reduction Program. Additionally, DOJ continues to implement the Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person (FIRST STEP) initiative to support the re-entry of formerly incarcerated individuals into their communities. This proposed priority would allow us to support the connection of these important community-based public safety initiatives to PN communities by aligning education and public safety efforts.

*Proposed Priority 5:*

To meet this priority, an applicant must: (1) Demonstrate how it will partner with an organization that conducts high-quality activities focused on the re-entry of formerly incarcerated individuals or on community-based crime reduction activities, such as an organization supported by a U.S. Department of Justice (DOJ), Innovations in Community-Based Crime Reduction Program grant, a grant authorized under the Second Chance Act, as reauthorized under the Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person (FIRST STEP) Act, or DOJ Office of Justice Programs competitive grants related to juvenile justice and delinquency prevention; (2) describe the partner organization's record of success with supporting the re-entry of formerly incarcerated individuals or community-based crime reduction and how their efforts will be coordinated with the PN activities of this grant; and (3) provide, in its application, a memorandum of understanding between it and a partner organization managing the effort. The memorandum of understanding must indicate a commitment on the part of the applicant to coordinate implementation and align resources to the greatest extent practicable.

*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)).

<sup>1</sup>“STATCAST—Week of September 9, 2019.” STATCAST, 2019, [www.cdc.gov/nchs/pressroom/podcasts/20190911/20190911.htm](http://www.cdc.gov/nchs/pressroom/podcasts/20190911/20190911.htm).

**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)).

### Proposed Requirements

**Background:** The Assistant Secretary proposes application requirements to be used in conjunction with those in section 4624(a) of the ESEA. In general, the Department believes, based on past experiences administering this program, that these proposed requirements are necessary for the proper consideration of applications and would increase the likelihood of successful projects. Through the years, the program has pushed the field to embrace data-driven efforts to improve outcomes from cradle to career at the population level. Key elements proposed in this document would help us to further target PN funds on interventions in school, college, and career settings.

In addition, through proposed enhanced application requirements the program seeks to better support applicants and grantees to report high-quality site-level data. PN grantees have improved significantly in this area over the past several years through our technical assistance efforts, and we believe that the proposed application requirements would further support the Department's and grantees' ability to make data-informed decisions. The program seeks to clarify and enhance the statutory definitions and selection criteria to coincide with improvements to the overall purpose and structure of the PN program.

The proposed application requirements are intended to: (1) Assist applicants with clearly demonstrating the need for the project and proposed solutions (activities, strategies, and interventions) specific to the neighborhood's need; (2) acknowledge the critical role and direct, ongoing involvement that local educational agencies (LEAs) and schools should have in identifying and implementing solutions, especially those specific to improving academic outcomes; (3) ensure that an applicant has a

preexisting presence, as demonstrated by the applicant's past history providing programs and services, in the neighborhood to be served and is representative of that neighborhood; and (4) ensure that an applicant will design its project to prepare and empower families to be active in choosing the educational and other supports that best meet the needs of students in the community. We believe the proposed requirements would not only improve the application and review process but also improve program outcomes.

### Proposed Application Requirements

The Assistant Secretary proposes the following application requirements for this program. We may apply one or more of these requirements in any year in which this program is in effect.

**Proposed Application Requirements:** To be considered for an award under this competition, an applicant must provide the following—

(1) In addressing the application requirements in sections 4624(a)(4),(5), and (7) of the ESEA, an applicant must clearly demonstrate needs, including, a segmentation analysis, gaps in services, and any available data from within the last 3 years to demonstrate needs. The applicant should also describe proposed activities that address these needs and the extent to which these activities are evidence-based (as defined in 34 CFR 77.1(c)). The applicant should also describe their, or partner organizations if applicable, experience providing these activities including any data demonstrating effectiveness.

(2) In addressing the requirement in section 4624(a)(6) of the ESEA, an applicant must provide a description of the process used to develop the application, which must include the involvement of an LEA(s) (including but not limited to the LEA's or LEAs' involvement in the creation and planning of the application and a signed Memorandum of Understanding) and at least one public elementary or secondary school that is located within the identified geographic area that the grant will serve.

(3) An applicant must demonstrate that its proposed project—

(a) Is representative of the geographic area proposed to be served (as defined in this notice); and

(b) Would provide a majority of the solutions from the applicant's proposed pipeline services in the geographic area proposed to be served.

(4) In addressing the requirement in section 4624(a)(9) of the ESEA, an applicant must describe the process it will use to establish and maintain a family navigation system (as defined in

this notice), including an explanation of the process the applicant will use to establish and maintain family and community engagement.

### Proposed Definitions

The Assistant Secretary proposes 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.

**Background:** To ensure a common understanding of the proposed priorities, requirements, and selection criteria, we propose definitions that are critical to the statutory and policy purposes of the PN program. We propose these definitions in order to clarify expectations for applicants for PN program grants and to ensure that the review process for applications for PN grants remains as transparent as possible.

### Proposed Definitions

**Family navigation system** means a service delivery model that includes coordinators who teach, mentor, and collaborate with students and their families, as well as community members, to choose interventions, treatments, or solutions provided by the grantee and that best meet the needs of students and their families. Students and their families can select services and supports based on available services and individual needs, as well as advocate for additional services.

**Graduation rate** means the four-year adjusted cohort graduation rate or extended-year adjusted cohort graduation rate as defined in section 8101(25) and (23) of the ESEA.

**Indian Tribe** means an Indian Tribe or Tribal Organization as defined in section 4 of the Indian Self-determination Act (25 U.S. 450b).

**Indicators of need** means currently available data that describe—

(a) Education need, which means—

(1) All or a portion of the neighborhood includes or is within the attendance zone of a low-performing school that is a high school, especially one in which the graduation rate (as defined in this notice) is less than 60 percent or a school that can be characterized as low-performing based on another proxy indicator, such as students' on-time progression from grade to grade; and

(2) Other indicators, such as significant achievement gaps between subgroups of students (as identified in section 1111(b)(2)(B)(xi) of the ESEA), within a school or LEA, high teacher and principal turnover, or high student absenteeism; and

(b) Family and community support need, which means—

(1) Percentages of children with preventable chronic health conditions (e.g., asthma, poor nutrition, dental problems, obesity) or avoidable developmental delays;

(2) Immunization rates;

(3) Rates of crime, including violent crime;

(4) Student mobility rates;

(5) Teenage birth rates;

(6) Percentage of children in single parent or no-parent families;

(7) Rates of vacant or substandard homes, including distressed public and assisted housing; or

(8) Percentage of the residents living at or below the Federal poverty threshold.

*Regular high school diploma* has the meaning set out in section 8101(43) of the ESEA.

*Representative of the geographic area proposed to be served* means that residents of the geographic area proposed to be served have an active role in decision-making and that at least one-third of the applicant's governing board or advisory board is made up of—

(a) Residents who live in the geographic area proposed to be served, which may include residents who are representative of the ethnic and racial composition of the neighborhood's residents and the languages they speak;

(b) Residents of the city or county in which the neighborhood is located but who live outside the geographic area proposed to be served, and who earn less than 80 percent of the area's median income as published by the U.S. Department of Housing and Urban Development;

(c) Public officials who serve the geographic area proposed to be served (although not more than one-half of the governing board or advisory board may be made up of public officials); or

(d) Some combination of individuals from the three groups listed in paragraphs (a), (b), and (c) of this definition.

*Segmentation analysis* means the process of grouping and analyzing data from children and families in the geographic area proposed to be served according to indicators of need or other relevant indicators to allow grantees to differentiate and more effectively target interventions based on the needs of different populations in the geographic area.

*Student achievement* means—

(a) For tested grades and subjects—

(1) A student's score on the State's assessments under the ESEA; and

(2) As appropriate, other measures of student learning, such as those

described in paragraph (b) of this definition, provided they are rigorous and comparable across classrooms and programs; and

(b) For non-tested grades and subjects, alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms.

*Student mobility rate* is calculated by dividing the total number of new student entries and withdrawals at a school, from the day after the first official enrollment number is collected through the end of the academic year, by the first official enrollment number of the academic year.

### Proposed Selection Criteria

*Background:* The Department has held six PN competitions since 2010. Our experience with administering these competitions, including feedback from peer reviewers, applicants, funded grantees, and experts, demonstrates the need to use program-specific selection criteria to evaluate specific program elements. We propose to modify two general Education Department General Administrative Regulations selection criteria—Need for Project and Quality of Project Design—to encourage applicants to fully address gaps and weaknesses in the full pipeline of solutions from cradle through college and a career.

Under Need for Project, the Department proposes to add a program-specific emphasis on the applicant's proposed pipeline of solutions. The Department recognized in past grant competitions that applicants were not connecting the identified gaps and weaknesses to the full pipeline of solutions. The Department considers it important for applicants to address and align the needs identified with the full pipeline of solutions.

Also, under Quality of Project Design, the Department proposes to encourage applicants to discuss college or career and technical education training completion in addition to college and career readiness. Over the years, the Department has noticed that many applicants and funded grantees tend to end services prior to students in the community entering college or the workforce. The Department deems it important to ensure that services and supports are offered to program participants beyond high school completion.

### Proposed Selection Criteria

The Assistant Secretary proposes the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect.

(a) *Need for project.* In determining the need for the proposed project, the Secretary considers one or more of the following factors—

(1) The magnitude or severity of the problems to be addressed by the proposed project as described by indicators of need and other relevant indicators identified in part by the needs assessment and segmentation analysis; and

(2) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including—

(i) The nature and magnitude of those gaps or weaknesses; and

(ii) A pipeline of solutions addressing the identified gaps and weaknesses, including solutions targeted to early childhood, K–12, family and community supports, and college and career.

(b) *Quality of project design.* In determining the quality of project design for the proposed project, the Secretary considers one or more of the following factors—

(1) The extent to which the applicant describes a plan to create a complete pipeline of services, without time and resource gaps, that is designed to prepare all children in the neighborhood to attain a high-quality education and successfully transition to college and a career;

(2) The extent to which the project will significantly increase the proportion of students in the neighborhood that are served by the complete continuum of high-quality services; and

(3) The extent to which the proposed family navigation system is high quality and provides students and their families sufficient services and supports based on available services and individual needs.

### Final Priorities, Requirements, Definitions, and Selection Criteria

We will announce the final priorities, requirements, definitions, and selection criteria in the **Federal Register**. We will determine the final priorities, requirements, definitions, and selection criteria after considering responses to the proposed priorities, requirements, definitions, and selection criteria and other information available to the

Department. This document does not preclude us from proposing additional priorities, requirements, definitions, and 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 priorities, requirements, definitions, and selection criteria, we invite applications through a notice in the **Federal Register**.

### **Executive Orders 12866, 13563, and 13771**

#### *Regulatory Impact Analysis*

Under Executive Order 12866, it must be determined 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 proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because the proposed regulations are not a significant regulatory action, the requirements of Executive Order 13771 do not apply.

We have also reviewed this proposed 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 the proposed priorities, requirements, definitions, and selection criteria only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. 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. The benefits include enhancing project design and quality of services to better prepare grantees to meet the objectives of the programs.

#### *Clarity of the Regulations*

Executive Order 12866 and the Presidential memorandum “Plain Language in Government Writing” require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make the proposed priorities, requirements, definitions, and selection criteria easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

#### *Regulatory Flexibility Act Certification*

The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration 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 small entities that this proposed regulatory action would affect are State educational agencies; LEAs, including charter schools that operate as LEAs under State law; institutions of higher education; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations. We believe

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 the proposed priorities, requirements, definitions, and selection criteria would outweigh any costs incurred by the applicant.

Participation in the PN 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 the program. We expect that in determining whether to apply for PN program funds, an applicant would evaluate the requirements of preparing an application and any associated costs, and weigh them against the benefits likely to be achieved by receiving a PN program grant. An applicant would probably apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the proposed priorities, requirements, definitions, and selection criteria would 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 likely be the same.

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. We invite comments from small eligible entities as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, request evidence to support that belief.

#### Paperwork Reduction Act

The proposed priorities, requirements, definitions, and selection criteria contain information collection requirements that are approved by OMB under OMB control number 1894-0006; the proposed priorities, requirements, definitions, and selection criteria do not affect the currently approved data collection.

#### Intergovernmental Review

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

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

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

#### Assessment of Educational Impact

In accordance with section 411 of General Education Provisions Act, 20 U.S.C. 1221e-4, the Secretary particularly requests comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

**Accessible Format:** Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotope, 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**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). 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.

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

**Frank T. Brogan,**

*Assistant Secretary for Elementary and Secondary Education.*

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**BILLING CODE 4000-01-P**

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 202

[Docket No. 2016-03]

#### Mandatory Deposit of Electronic-Only Books

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Copyright Office is issuing a revised proposed rule to make electronic-only books published in the United States subject to the Copyright Act's mandatory deposit provisions if they are affirmatively demanded by the Office. In response to comments received in response to the Office's April 16, 2018 Notice of Proposed Rulemaking, the revised proposed rule makes additional clarifying edits to the definition of an "electronic-only book" and adjusts the requirements related to employment of technological protection measures. This document also updates the public on developments subsequently announced by the Library of Congress related to certain questions raised in public comments with respect to its digital collection strategy and information technology security matters.

**DATES:** Written comments must be received no later than 11:59 p.m. Eastern Time on July 29, 2020.

**ADDRESSES:** For reasons of government efficiency, the Copyright Office is using the [regulations.gov](http://regulations.gov) system for the submission and posting of public comments in this proceeding. All comments are to be submitted electronically through [regulations.gov](http://regulations.gov). Specific instructions for submitting comments are available on the Copyright Office website at <https://www.copyright.gov/rulemaking/ebookdeposit>. If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

#### FOR FURTHER INFORMATION CONTACT:

Regan A. Smith, General Counsel and Associate Register of Copyrights, [regans@copyright.gov](mailto:regans@copyright.gov); Kevin R. Amer, Deputy General Counsel, [kamer@copyright.gov](mailto:kamer@copyright.gov); or Mark T. Gray, Attorney-Advisor, [mgray@copyright.gov](mailto:mgray@copyright.gov). They can be reached by telephone at 202-707-3000.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### A. Mandatory Deposit Under the Copyright Act Generally

Section 407 of title 17 requires that the owner of the copyright or the exclusive right of publication in a work published in the United States, within three months of publication, deposit "two complete copies of the best edition" with the Copyright Office "for the use or disposition of the Library of Congress."<sup>1</sup> The "best edition" is defined as "the edition, published in the

<sup>1</sup> 17 U.S.C. 407(a), (b); see generally 37 CFR 202.19.