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DEPARTMENT OF EDUCATION

34 CFR Chapters I-VI

RIN 1894-AA05

[Docket ID ED-2013-OII-0110]

Final Priority -- Promise Zones

AGENCY: Department of Education.

ACTION: Final priority.

SUMMARY: The Secretary of Education (Secretary) announces a priority that the Department of Education (Department) may use for any appropriate discretionary grant program in fiscal year (FY) 2014 and future years. Through this action, we intend to focus Federal financial assistance on expanding the number of Department programs and projects that support activities in designated Promise Zones.

This action will permit all offices in the Department to use this priority, as appropriate, in any discretionary grant competition.

DATES: This priority is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jane Hodgdon. Telephone: 202-453-6620. Or by email: [Jane.Hodgdon@ed.gov](mailto:Jane.Hodgdon@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:

Program Authority: 20 U.S.C. 1221e-3, 3474.

We published a proposed priority (NPP) in the Federal Register on October 25, 2013 (78 FR 63913). That notice contained background information and our reasons for proposing the priority. There are no differences between the NPP and this notice of final priority.

Public Comment: In response to our invitation in the NPP, 10 parties submitted comments on the proposed priority. Generally, we do not address technical and other minor changes. In addition, we do not address general comments that raised concerns not directly related to the proposed priority.

Analysis of Comments and Changes: An analysis of the comments follows.

Comment: Several commenters addressed the Promise Zones Initiative as described in the Background Section of the NPP. Many expressed support for the Promise Zones Initiative, its potential to impact community residents, and the inclusion of a focus on education in the designated Promise Zones. Other commenters expressed concerns about

the small number of Promise Zones designations to be made, about the funding and resources that would be made available to Promise Zones designees, about how the progress of the Promise Zones Initiative would be evaluated, and whether the 10-year timeframe of the designation would be sufficient to realize long-term impacts. Additionally, one commenter requested clarification on the role that Federal staff would play in working with Promise Zones designees, and two commenters suggested that the Promise Zone Initiative should expand resident access to housing opportunities in higher income communities.

Discussion: We appreciate the feedback and suggestions on the Promise Zones Initiative. The Department coordinates with the U.S. Departments of Housing and Urban Development, Agriculture, and Justice to support the administration of the Promise Zones Initiative. As such, we will share the comments regarding the broader initiative with our Federal Promise Zones partners for consideration in the development and implementation of any Promise Zones opportunity. However, because the comments about the broader initiative do not provide specific recommendations for the Department's proposed priority, we are not providing a direct response to each topic raised in these comments.

Changes: None.

Comment: Two commenters stated their support for the Promise Zones priority and the important role that education can play in revitalizing a community. While supportive of the purpose of Promise Zones, one commenter expressed concern about including a priority for a potential pool of 20 Promise Zone designees. The commenter further stated that because the scope of the Promise Zones Initiative is small, it does not make sense to prioritize those few communities.

Discussion: We appreciate the commenters' support for the President's efforts to combat poverty, and we agree that education is critical to building ladders of opportunity to the middle class. While the ultimate number of Promise Zones communities is relatively small, the number of discretionary grants that might support Promise Zones is not so limited. The priority can be used with any appropriate discretionary grant competition, and all eligible entities that are planning to serve and coordinate with a Promise Zone, such as local educational agencies and non-profit organizations, may respond to this priority. The purpose of the Department's Promise Zone priority is to focus the Department's grant resources on communities of acute need, as indicated by their Promise Zone designation.

Furthermore, the Promise Zones Initiative provides a unique opportunity for cross-agency collaboration that will likely benefit other communities as well. For example, the participating Federal agencies will be working with the designated Promise Zones to improve coordination among Federal resources to enhance place-based strategies and increase the progress of community revitalization initiatives. As outcomes are achieved and best practices are developed, Federal agencies will apply relevant lessons learned regarding the delivery of Federal funding and services to other communities working toward similar goals. In addition, we expect that the joint investment in and evaluation of Promise Zones will result in the creation of strong, comprehensive models of community transformation that will inform the work of other communities.

Changes: None.

Comment: Two commenters expressed concern that a Promise Zones priority may result in the exclusion of other potential applicants from receiving an award. Of those commenters, one commenter's concern was specific to the TRIO Upward Bound program. Another commenter requested that the Department work with the charter school community prior to the use of the priority in the Charter Schools program, a discretionary grant program. One commenter

raised a concern that layering a Promise Zone priority onto a program with a different focus might weaken the existing program.

Discussion: We recognize that Federal discretionary grant funds are highly competitive and provide critical support to communities that are working to improve student academic achievement. However, the Department's Promise Zones priority is intended to focus limited Federal resources in designated Promise Zones in order to improve the outcomes of the families, students, and children in those highly distressed locations. As stated in the NPP, the Secretary recognizes that this priority will not be appropriate for all discretionary grant programs. Each discretionary grant program is in the best position to work with its constituent communities and to determine the priorities critical to achieving their program outcomes.

Additionally, when determining whether to use a priority in a given discretionary grant competition, the Department considers the intended goals of the program in order to ensure the use of any priority is appropriate to and aligned with the purpose of the discretionary program. The Promise Zones priority will not be used if it is not appropriate to the intent or purpose of a program or would somehow diminish its effect.

Changes: None.

FINAL PRIORITY:

To ensure that the Department's discretionary grant programs can provide, where appropriate, the increased access to additional investments for Promise Zones, the Secretary establishes a priority for projects that will serve and coordinate with a federally designated Promise Zone.

Final priority -- Promise Zones.

Projects that are designed to serve and coordinate with a federally designated Promise Zone.

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)).

This notice does not preclude us from proposing additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we 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 set forth in the Executive order.

This proposed regulatory action is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

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 this final priority only on a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected the approach that would maximize net benefits. Based on the analysis that follows, the Departments believe that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this proposed 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 associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Intergovernmental Review: Some of the programs affected by this proposed priority are 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.

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Dated: March 24, 2014

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Arne Duncan,  
Secretary of Education.

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