



**DEPARTMENT OF EDUCATION**

**34 CFR Chapter III**

**[Docket ID ED-2024-OSERS-0144]**

**Technical Assistance on State Data Collection--National  
Technical Assistance Center to Improve State Capacity to  
Collect, Report, Analyze, and Use Accurate IDEA Part B and  
Part C Fiscal Data**

**AGENCY:** Office of Special Education and Rehabilitative  
Services, Department of Education.

**ACTION:** Proposed priority.

**SUMMARY:** The Department of Education (Department) proposes a priority for a National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Part B and Part C Fiscal Data Center (Fiscal Data Center) under the Technical Assistance on State Data Collection program. The Department may use this priority for competitions in fiscal year (FY) 2025 and later years. We take this action to focus attention on an identified national need to provide technical assistance (TA) to improve the capacity of States to meet the fiscal data collection requirements under Part B and Part C of the Individuals with Disabilities Education Act (IDEA). This Fiscal Data Center will support States in collecting, reporting, and determining how to best analyze and use their IDEA Part B and Part C fiscal data to establish and

meet high expectations for each child with a disability and will customize its TA to meet each State's specific needs.

**DATES:** We must receive your comments on or before [INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments must be submitted via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). However, if you require an accommodation or cannot otherwise submit your comments via [www.regulations.gov](http://www.regulations.gov), please contact the program contact person listed under FOR FURTHER INFORMATION CONTACT. The Department will not accept comments submitted by fax or by email, or comments submitted after the comment period closes. To ensure the Department does 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 "FAQ."

**Note:** The Department's policy is generally to make 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:** Charles D. Kniseley, U.S. Department of Education, 400 Maryland Avenue, SW, room 4A10, Washington, DC 20202. Telephone: (202) 987-0907. Email: Charles.Kniseley@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

A brief summary of the rule is available at [www.regulations.gov/docket/ED-2024-OSERS-0144](http://www.regulations.gov/docket/ED-2024-OSERS-0144).

**SUPPLEMENTARY INFORMATION:**

*Invitation to Comment:* We invite you to submit comments regarding the proposed priority. To ensure that your comments have maximum effect in developing the final priority, we urge you to identify clearly the specific section of the proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 14094 and their overall requirement of reducing regulatory burden that might result from the proposed priority. 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 public comments about the proposed priority by accessing Regulations.gov. To inspect comments in person, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

*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 priority. 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 purpose of the Technical Assistance on State Data Collection program is to improve the capacity of States to meet IDEA data collection and reporting requirements. Funding for the program is authorized under section 611(c)(1) of IDEA, which gives the Secretary authority to reserve not more than one-half of one percent of the amounts appropriated under Part B for each fiscal year to provide TA activities authorized under section 616(i), where needed, to improve the capacity of States to meet the data collection and reporting requirements under Parts B and C of IDEA. The maximum amount the Secretary may reserve under this set-aside for

any fiscal year is \$25,000,000, cumulatively adjusted by the rate of inflation. Section 616(i) of IDEA requires the Secretary to review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of sections 616 and 642 of IDEA are collected, analyzed, and accurately reported to the Secretary. It also requires the Secretary to provide TA, where needed, to improve the capacity of States to meet the data collection requirements, which include the data collection and reporting requirements in sections 616 and 618 of IDEA. In addition, the Further Consolidated Appropriations Act, 2024, Public Law 118-47, gives the Secretary authority to use funds reserved under section 611(c) of IDEA to "administer and carry out other services and activities to improve data collection, coordination, quality, and use under Parts B and C of the IDEA." Further Consolidated Appropriations Act, 2024, Public Law 118-47, Division D, Title III, 138 Stat. 460, 685 (2024).

*Assistance Listing Number:* 84.373F.

*OMB Control Number:* 1820-0028.

*Program Authority:* 20 U.S.C. 1411(c), 1416(i), 1418(c), 1418(d), 1442; Further Consolidated Appropriations Act, 2024, Public Law 118-47, Division D, Title III, 138 Stat. 460, 685 (2024).

*Applicable Program Regulations:* 34 CFR 300.702.

**PROPOSED PRIORITY:**

This document contains one proposed priority.

*National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Part B and Part C Fiscal Data.*

**Background:**

Collecting, analyzing, and using valid and reliable IDEA fiscal data are critical for States to be able to ensure that funds made available to support programs for infants, toddlers, children, and youth with disabilities are used consistent with requirements and to implement effective programs that improve outcomes for infants, toddlers, children, and youth with disabilities. However, the Department's review and analysis of State-submitted fiscal data show that States are not meeting all fiscal requirements or effectively using their data to understand how to meet the requirements, thereby impacting program effectiveness and outcomes. For example, State-submitted data regarding local educational agency (LEA) maintenance of effort (MOE) and coordinated early intervening services (CEIS) for school year 2021-2022 indicate that 239 LEAs across 20 States failed to maintain effort, with approximately 28 percent of those failures occurring in public charter schools that are LEAs. The data also show that States made repayment for only 26 of those LEA MOE shortfalls at the time States submitted their data to the

Department. Assisting States in understanding and analyzing why LEAs, including public charter schools that are LEAs, are failing LEA MOE, and the factors contributing to delays in State repayments for MOE failures, has high-stakes implications for IDEA implementation, including ensuring that children with disabilities who attend public charter schools that are LEAs have sufficient resources to receive a free appropriate public education.

Changes to Federal fiscal requirements that impact the fiscal data States must submit to the Department require States to build their capacity to submit valid and reliable fiscal data. Starting in FY 2024, State lead agencies (LAs) for Part C are now reporting the data submission related to LAs' use of subgrants.<sup>1</sup> LAs have demonstrated confusion in determining whether or not they are subgranting and need to understand what these data represent as well as the underlying requirements when subgranting Federal funds, including the cross-cutting Federal fiscal requirements and related responsibilities that apply both to the LA as a pass-through entity and to its early intervention services (EIS) providers and programs as subgrantees.

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<sup>1</sup> Ten States indicated that they are currently subgranting IDEA Part C funds. It should be noted that subgranting of IDEA Part C funds was first permitted in the FY 2021 Consolidated Appropriations Act (HR 133), and is now supported by revisions to 34 CFR 76.50 of the Education Department General Administrative Regulations (EDGAR).

Changes within a State, such as the methods by which State and local special education and early intervention funding is calculated and distributed, can also impact its ability to submit accurate and valid fiscal data. As an example, when a State changes its special education funding formula from a per capita amount of State aid based on the number of children with disabilities in an LEA to a weighted formula that provides variable funding based on children within each of IDEA's 13 disability categories, the change potentially affects calculations of both State maintenance of financial support (MFS) and LEA MOE as well as a State's and LEAs' ability to meet MFS and LEA MOE respectively.

When States change LAs or shift LA responsibility under IDEA Part C to reorganize their early childhood programs and create offices that serve children birth to five,<sup>2</sup> this can also impact how fiscal data are collected, analyzed, and used. These types of organizational changes result in modifications to early intervention methods of establishing financial responsibility, consistent with 34 CFR 303.511, and often have implications for the LA's use of IDEA Part C funds and the methodology for determining indirect costs. There may also be the challenge of having new, inexperienced staff collecting, analyzing, and reporting IDEA Part C fiscal data in the new LA or office.

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<sup>2</sup> Since FY 2021, 11 States have changed lead agencies, with a number moving to newly created early learning agencies serving birth to five.



Even in States that have not reorganized their SEA or LA, the high rate of turnover among State staff responsible for implementing IDEA in some States is an ongoing challenge that creates a continuing need for supporting States' ability to accurately collect, report, analyze, and use fiscal data. In 2023, 23 percent of State Directors of Special Education, who are responsible for implementing IDEA Part B requirements including fiscal requirements, left their positions, and 38 percent of State Directors of Special Education had fewer than two years of experience in their roles that year.<sup>3</sup> Similar leadership trends can be found in Part C LAs. In 2023, 49 percent of Part C Coordinators, who are responsible for implementing IDEA Part C, including fiscal requirements and providing information related to their program's intended use of funds in the IDEA Part C grant application, had two years or less of experience in the position. In that same year, 74 percent of Part C Coordinators reported having five years or less experience.<sup>4</sup> The impacts of staff turnover on SEA and LA fiscal performance and data reporting can potentially include the loss of knowledge related to fiscal requirements; loss of institutional knowledge related to

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<sup>3</sup> National Center for Systemic Improvement. (2024). *State special education director snapshot: Trends in turnover and tenure*. <https://ncsi.wested.org/wp-content/uploads/2023/11/NCSI-Leadership-Turnover-ADA-FINAL.pdf>.

<sup>4</sup> IDEA Infant and Toddler Coordinators Association. (2024). *2023 Tipping points survey: Demographics, challenges, and opportunities*. [www.ideainfanttoddler.org/pdf/2023-Tipping-Points-Survey.pdf](http://www.ideainfanttoddler.org/pdf/2023-Tipping-Points-Survey.pdf).

State policies, procedures, and practices; and costs associated with recruiting and training new staff.<sup>5</sup>

The situations identified above highlight States' need for support in building the knowledge and expertise to help ensure compliance with IDEA's fiscal data requirements and to use the results to identify issues and improve State systems. Lack of staff knowledge and expertise may contribute to inaccurate reporting of IDEA fiscal data by a State, which may lead to noncompliance with IDEA fiscal requirements and potential monetary consequences, including the recovery of funds.

The Department has found that because of the complex nature of, and high-stakes need for meeting, IDEA fiscal requirements, SEA and LA staff request and readily take advantage of targeted and intensive TA activities, such as expert-led communities of practice and hands-on workshops, including workshops devoted to the development of IDEA fiscal policies and procedures operationalizing State practices, to build their capacity to address fiscal system needs.

To meet the array of complex challenges regarding the collection, reporting, analysis, and use of IDEA fiscal data by States; to ensure States have access to TA,

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<sup>5</sup> Research shows that the impact of staff turnover and inexperience on organizational performance is more pronounced in situations where staff are required to work on difficult tasks that require specialized skills. Meier, K. J., & Hicklin, A. (2008). Employee turnover and organizational performance: Testing a hypothesis from classical public administration. *Journal of Public Administration Research and Theory: J-PART*, 18(4), 573-590. [www.jstor.org/stable/25096385](http://www.jstor.org/stable/25096385).

including fiscal tools tailored to their individual circumstances; and to support them in collecting and reporting complex IDEA fiscal data to improve IDEA programs, the Department proposes a priority to establish and operate the National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Part B and Part C Fiscal Data.

*Proposed Priority:*

The purpose of this proposed priority is to fund a cooperative agreement to establish and operate the National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Part B and Part C Fiscal Data (Fiscal Data Center).

The Fiscal Data Center will provide TA to improve the capacity of States to meet the IDEA Part B and Part C fiscal data collection requirements under IDEA sections 618 and 642 and increase States' knowledge of the underlying IDEA fiscal requirements and calculations necessary to submit valid and reliable data for the following collections: (1) MFS in Section V of the IDEA Part B Annual State Application; (2) LEA MOE Reduction and CEIS; (3) Description of Use of IDEA Part B Section 611 Funds reserved for State administration and other State-level activities in Section III of the IDEA Part B Annual State Application; (4) Description of Use of Federal IDEA Part C Funds for the LA and the Interagency Coordinating Council

in Section III of the IDEA Part C Annual State Application; (5) IDEA Part C MOE requirements; (6) Restricted Indirect Cost Rate/Cost Allocation Plan Information in Sections III and IV of the IDEA Part C Annual State Application; and (7) Part C Subgranting, in Section III.F. of the Part C Annual State Application.

The Fiscal Data Center must be designed to achieve, at a minimum, the following expected outcomes:

(a) Increased capacity of States to collect, report, analyze, and use high-quality IDEA Part B and Part C fiscal data;

(b) Increased capacity of States to accurately perform calculations related to IDEA Part B and Part C statutory and regulatory fiscal requirements, and submit valid and reliable fiscal data under IDEA Part B and Part C;

(c) Improved State fiscal infrastructure to communicate and coordinate effective IDEA Part B and Part C fiscal data collections and reporting strategies among relevant State offices, including SEAs, LAS and other State agencies, LEAs, schools, public charter schools that are LEAs, and EIS programs or providers;

(d) Increased capacity of States to submit accurate and timely IDEA Part B and Part C fiscal data, and enhance State validation procedures to prevent errors in State-reported IDEA data;

(e) Increased capacity of States to train personnel to meet the IDEA Part B and Part C fiscal data collection and reporting requirements under sections 616, 618, and 642 of IDEA; and

(f) Increased capacity of SEAs and LAs to work with LEAs, including public charter schools that are LEAs, and EIS programs or providers to analyze and use IDEA fiscal data to identify issues and address those issues through monitoring, TA, and partner involvement.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Describe, in the narrative section of the application under "Significance," how the proposed project will—

(1) Address the current and emerging needs of States and local systems to collect, report, analyze, and use high-quality IDEA Part B and Part C fiscal data. To meet this requirement, the applicant must—

(i) Demonstrate knowledge of how SEAs, LAs, LEAs, including public charter schools that are LEAs, and EIS programs and providers are meeting IDEA Part B and Part C fiscal data collection and reporting requirements and the underlying statutory and regulatory fiscal requirements, as

well as knowledge of State and local data collection systems, as appropriate; and

(ii) Present applicable national, State, and local data to show the current capacity needs of SEAs, LAs, LEAs, including public charter schools that are LEAs, and EIS programs and providers to meet IDEA Part B and Part C fiscal data collection and reporting requirements; and

(2) Improve how SEAs and LAs use IDEA section 618 fiscal data as a means of both improving data quality and identifying programmatic strengths and areas for improvement, and indicate the likely magnitude or importance of the improvements.

(b) Describe, in the narrative section of the application under "Quality of project services," how the proposed project will—

(1) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in 34 CFR 77.1) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(2) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities,

describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following website provides more information on logic models and conceptual frameworks:

<https://ies.ed.gov/ncee/rel/Products/Region/central/Resource/100644>.

(3) Be based on current research and make use of evidence-based<sup>6</sup> practices (EBPs). To meet this requirement, the applicant must describe—

(i) The current research on the capacity of SEAs, LEAs, including public charter schools that are LEAs, LAs, and EIS providers to report and use IDEA Part B and Part C data submitted under section 616 and section 618, as a means of both improving data quality and identifying strengths and areas for improvement; and

(ii) How the proposed project will incorporate current research and EBPs in the development and delivery of its products and services;

(4) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

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<sup>6</sup> For purposes of these requirements, “evidence-based” means the proposed project component is supported by one or more of strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale (as such terms are defined in 34 CFR 77.1).

(i) How it proposes to expand the knowledge base on—

(A) Fiscal data management and data system integration needed for IDEA Part B and Part C data collection and reporting;

(B) IDEA fiscal data validation that leads to improvements in the validity and reliability of fiscal data required by IDEA; and

(C) Effective ways to communicate fiscal data to local consumers (e.g., parents, LEAs, including public charter schools that are LEAs, EIS programs or providers, the general public);

(ii) Its proposed approach to universal, general TA,<sup>7</sup> which must describe—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services;

(B) The products and services that the project proposes to make available;

(C) The development and maintenance of a high-quality website, with an easy-to-navigate design, that meets or exceeds government- or industry-recognized standards for accessibility; and

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<sup>7</sup> "Universal, general TA" means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.



(D) The expected reach and impact of universal, general TA;

(iii) Its proposed approach to targeted, specialized TA,<sup>8</sup> which must describe—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services;

(B) The products and services that the project proposes to make available; and

(C) The proposed approach to measure the readiness of potential TA recipients to work with the project, including, at a minimum, an assessment of potential recipients' current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,<sup>9</sup> which must describe—

(A) The intended recipients, including the type and number of recipients from a variety of settings and

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<sup>8</sup> "Targeted, specialized TA" means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

<sup>9</sup> "Intensive, sustained TA" means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. "TA services" are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

geographic distribution, that will receive the products and services;

(B) Its proposed approach to addressing States' challenges reporting high-quality IDEA fiscal data to the Department and the public, which should, at a minimum, include providing virtual and on-site consultation to the SEA or LA to—

(1) Implement model practices for the management of IDEA data and data system integration policies, procedures, processes, and activities within the State;

(2) Develop, use, or adapt tools to meet State-specific IDEA data needs;

(3) Develop a sustainability plan for the State to continue the management of IDEA data and data system integration work in the future; and

(4) Implement a cybersecurity plan to ensure a secure IDEA fiscal data system;

(C) Its proposed approach to measure the readiness of SEAs and LAs to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the State and local levels;

(D) Its proposed plan to prioritize States with the greatest need for intensive TA to receive products and services;

(E) Its proposed plan for assisting SEAs and LAs to build or enhance training systems that include professional development based on adult learning principles and coaching;

(F) Its proposed plan for working with appropriate levels of the education system (e.g., SEAs, LAs, regional TA providers, LEAs, including public charter schools that are LEAs, local EIS programs and providers, and families) to ensure that there is communication between each level and that there are systems in place to support the collection, reporting, analysis, and use of high-quality IDEA fiscal data as well as IDEA fiscal data management and data system integration; and

(G) The expected impact of intensive, sustained TA; and

(v) How the proposed project will intentionally engage families of children with disabilities and individuals with disabilities—including underserved families<sup>10</sup> and individuals—in the development, implementation, and evaluation of its products and services across all levels of TA;

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<sup>10</sup> For the purposes of this priority, “underserved families” refers to foster, kinship, migrant, technologically unconnected, and military- or veteran-connected families; and families of color, living in poverty, without documentation of immigration status, experiencing homelessness or housing insecurity, or impacted by the justice system, including the juvenile justice system. Underserved families also refers to families that include: members of a federally or State recognized Indian Tribe; English learners; adults who experience a disability; members who are lesbian, gay, bisexual, transgender, queer or questioning, or intersex (LGBTQI+); adults in need of improving their basic skills or with limited literacy; and disconnected adults.

(5) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration, including the process by which the proposed project will collaborate with Department-funded centers (including privacy TA centers such as the DaSy Center that provides Department-funded TA on early childhood data privacy, and the Privacy Technical Assistance Center) and other federally funded TA centers to develop and implement a coordinated TA plan when they are involved in a State; and

(iii) How the proposed project will use non-project resources, such as non-Federal funds and in-kind contributions, to achieve the intended project outcomes; and

(6) Systematically disseminate information, products, and services to varied intended audiences. To address this requirement the applicant must describe—

(i) The variety of dissemination strategies the project will use throughout the five years of the project to promote awareness and use of its products and services;

(ii) How the project will tailor dissemination strategies across all planned levels of TA to ensure that

products and services reach intended recipients, and those recipients can access and use those products and services;

(iii) How the project's dissemination plan is connected to the proposed outcomes of the project; and

(iv) How the project will evaluate and correct all digital products and external communications to ensure they meet or exceed government or industry-recognized standards for accessibility.

(c) In the narrative section of the application under "Quality of the project evaluation or other evidence-building," describe how the project will develop an evaluation plan in consultation with, and to be implemented by, a third-party evaluator.<sup>11</sup> The evaluation plan must—

(1) Articulate formative and summative evaluation questions, including important process and outcome evaluation questions. These questions must be related to the project's proposed logic model required under paragraph (b)(1)(ii) of these application and administrative requirements;

(2) Describe how progress in and fidelity of implementation, as well as project outcomes, will be measured to answer the evaluation questions. In measuring progress of implementation across all levels of TA, the

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<sup>11</sup> A "third-party" evaluator is an independent and impartial program evaluator who is contracted by the grantee to conduct an objective evaluation of the project. This evaluator must not have participated in the development or implementation of any project activities, except for the evaluation activities, nor have any financial interest in the outcome of the evaluation.

plan must include criteria for determining the extent to which the project's products and services reached intended recipients; data, including feedback from recipients, on how recipients used the products and services; and the impact of the products and services. The plan must also specify sources for data, and measures and instruments appropriate to the evaluation questions, including information on reliability and validity of the measures and associated instruments where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed logic model and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation and include staff assignments for completing the plan. The timeline must indicate that the data will be available annually for the Annual Performance Report and at the end of Year 2; and

(5) Dedicate sufficient funds in each budget year to cover the costs of developing or refining the evaluation plan in consultation with a third-party evaluator, as well as the costs associated with the implementation of the evaluation plan by the third-party evaluator.

(d) Describe, in the narrative section of the application under "Adequacy of resources and quality of the project personnel," how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities;

(4) The proposed project will have processes, resources, and funds in place to provide equitable access for project staff, contractors, and partners, who require digital accessibility accommodations;<sup>12</sup> and

(5) The proposed costs are reasonable in relation to the anticipated results and benefits, and funds will be spent in a way that increases their efficiency and cost-effectiveness.

(e) Describe, in the narrative section of the application under "Quality of the management plan,"—

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<sup>12</sup> For information about digital accessibility and accessibility standards from Section 508 of the Rehabilitation Act, visit <https://sites.ed.gov/idea/topic-areas/#Accessibility-Creating-Content>.

(1) How the proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Allocations of key project personnel and any consultants and subcontractors and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) How the proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) How the proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;



(2) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the Office of Special Education Programs (OSEP) project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A three-day project directors' conference in Washington, DC, during each year of the project period, provided that, if the conference is conducted virtually, the project must reallocate unused travel funds no later than the end of the third quarter of each budget period; and

(iii) Three annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP;

(3) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project

officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Budget at least 50 percent of the grant award for providing targeted and intensive TA to States; and

(5) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period and at the end of this award period, as appropriate.

*Types of Priorities:*

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

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

*Competitive preference priority:* Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that

meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

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

#### *Final Priority*

We will announce the final priority in a document in the *Federal Register*. We will determine the final priority after considering public comments on the proposed priority and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

*Note:* This document does *not* solicit applications. In any year in which we choose to use this proposed priority, we invite applications through a notice in the *Federal Register*.

*Executive Orders 12866, 13563, and 14094*

#### *Regulatory Impact Analysis*

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review

by OMB. Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, 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 \$200 million or more (adjusted every three years by the Administrator of Office of Information and Regulatory Affairs (OIRA) for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would meaningfully further the President's priorities, or the principles set forth in the Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866, as amended by Executive Order 14094.

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, as amended by Executive Order 14094. 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 priority only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

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

In accordance with these 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.

### *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 priority easier to understand, including answers to questions such as the following:

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

To send any comments about how the Department could make the proposed priority easier to understand, see the

instructions in the ADDRESSES section.

*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.

*Regulatory Flexibility Act Certification:* The Secretary certifies that the proposed priority would not have a significant economic impact on a substantial number of small entities. The small entities that this proposed regulatory action would affect are 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 priority would be limited to paperwork burden related to preparing an application and that the benefits of the proposed priority would outweigh any costs incurred by the applicants.

Participation in the Technical Assistance on State Data Collection program is voluntary. For this reason, the



proposed priority would impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for Technical Assistance on State Data Collection program funds, an eligible entity 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 Technical Assistance on State Data Collection program grant. An eligible entity probably would apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the proposed priority 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 eligible small 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 of 1995*

The proposed priority contains information collection requirements that are approved by OMB under OMB control number 1820-0028. The proposed priority does not affect the currently approved data collection.

*Accessible Format:* On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

*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 Department documents published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access Department documents published in the *Federal Register* by using the article search feature at

www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

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Glenna Wright-Gallo,  
*Assistant Secretary for Special  
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Services.*

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