

## DEPARTMENT OF EDUCATION

**Technical Assistance on Data Collection—Technical Assistance Center for Data Collection, Analysis, and Use for Accountability in Special Education and Early Intervention**

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

**ACTION:** Notice of final priority and eligibility requirements.

**SUMMARY:** The Assistant Secretary for Special Education and Rehabilitative Services announces a funding priority and eligibility requirements under the Technical Assistance on State Data Collection program authorized under the Individuals with Disabilities Education Act (IDEA). The Assistant Secretary may use the priority and eligibility requirements for competitions in fiscal year (FY) 2007 and later years. We take this action to focus attention on an identified national need to provide technical assistance to improve the capacity of States to meet data collection requirements relating to their implementation of section 616 of the IDEA.

**DATES:** *Effective Date:* This priority is effective August 6, 2006.

**FOR FURTHER INFORMATION CONTACT:** Scott Campbell Brown, U.S. Department of Education, 400 Maryland Avenue, SW., room 4076, Potomac Center Plaza, Washington, DC 20202-2700. Telephone: (202) 245-7282 or via Internet: [Scott.Brown@ed.gov](mailto:Scott.Brown@ed.gov).

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

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

**SUPPLEMENTARY INFORMATION:** We published a notice of proposed priority and eligibility requirements (NPP) for this program in the **Federal Register** on January 26, 2007 (72 FR 3809). Under the Technical Assistance on State Data Collection program established under section 616(i)(2) of the IDEA, we make awards to provide technical assistance to improve the capacity of States to meet the section 616 data collection requirements. In the NPP, we described our rationale for the priority and eligibility requirements proposed. This notice of final priority and eligibility requirements contains no changes from the NPP.

**Analysis of Comments and Changes**

In response to the Secretary's invitation in the NPP, four parties submitted comments on the proposed priority. An analysis of the comments follows. We group major issues according to subject. Generally, we do not address technical and other minor and suggested changes that we are not allowed to make under the applicable statutory authority.

*Comment:* Two commenters requested that the priority include activities that would improve a State's use of data to improve compliance with the IDEA, such as providing guidance to States in developing corrective action plans to remedy noncompliance. The commenters also suggested that the priority be more prescriptive about the data activities that the Center must provide.

*Discussion:* Under section 616(i)(2) of the IDEA, funds must be used to improve the capacity of States to meet the section 616 data collection requirements. Therefore, activities aimed at improving a State's compliance with the IDEA are allowable only to the extent that the activities improve the capacity of a State to meet the section 616 data requirements. For example, activities that help a State collect better section 616 data to demonstrate correction of noncompliance, or activities that help a State collect more accurate data through monitoring would be allowable. However, activities focused solely on correcting noncompliance or using data to improve program performance are not allowable.

Paragraph (c) in the priority provides examples of activities that the Center may conduct to improve States' data quality. We do not agree that the priority should be more prescriptive about the types of activities that the Center must provide. Rather, we believe that the Center should have the flexibility to work with States and determine the activities that would be most appropriate, given each State's unique needs.

*Changes:* None.

*Comment:* One commenter requested that the priority place more emphasis on providing on-site technical assistance to States. Another commenter stated that more than 30 percent of the funds should be used to provide direct technical assistance to States.

*Discussion:* This new priority combines functions previously performed by two different entities under separate awards. Prior to issuing this priority, the Department analyzed the past level of effort expended by these entities for activities under

paragraph (c), as well as their level of effort for other activities covered by this priority. We then applied that ratio to establish the requirement that 30 percent of the funds in this priority be spent on providing on-site technical assistance. We believe the priority provides the Center with the flexibility to work with States and to determine the activities that would be most appropriate, given each State's unique needs. At the same time, we believe that if the priority placed more emphasis on on-site technical assistance, other critical activities outside of paragraph (c) would suffer.

*Changes:* None.

*Comment:* One commenter urged that applicants be required to describe the services they will provide directly and those that will be provided by subcontractors.

*Discussion:* There is no requirement in this priority for applicants to contract with other organizations. It is up to applicants to describe in their applications the proposed services and key personnel. If an applicant chooses to contract with other organizations for certain activities, the activities of the contractors in support of the applicant should be described.

*Changes:* None.

*Comment:* One commenter recommended that the Center develop training modules on (a) Reporting data to the public in a manner that is easily understood and accessible and (b) involving stakeholders in States' exercise of general supervision responsibilities.

*Discussion:* While we agree that stakeholder involvement and public reporting are important components of States' exercise of general supervision, they are not the focus of this priority. The funds supporting this priority can only be used to improve the capacity of States to meet the 616 data collection requirements.

*Changes:* None.

*Comment:* One commenter urged that the technical assistance activities listed in the priority include helping States (a) Provide public report cards and data collection reports that are easily understood by the public, and (b) involve stakeholders in decision making related to these reports and data. The commenter also recommended that the technical assistance activities include assisting States to form stakeholder groups that include families to guide activities related to a State's Performance Plan (SPP).

*Discussion:* It is not clear how the activities proposed by the commenter will improve the capacity of the States to meet the section 616 data collection

requirements. Activities directed solely at improving the reporting of data to the public or involving stakeholders in State activities would not be allowable activities under the priority.

*Changes:* None.

*Comment:* One commenter recommended that the priority include a requirement for data sharing and collaboration with the National Center on Dispute Resolution and other technical assistance centers.

*Discussion:* The purpose of this priority is to provide technical assistance to States to improve their data and data collection systems. Under the activities included in paragraph (a), the Center must develop and implement an annual strategic plan for technical assistance and dissemination to improve State-reported data. Collaborating with other technical assistance centers will likely be a component of the strategic plan. However, we believe it would be inappropriate to require data sharing and collaboration with any specific technical assistance center and therefore, decline to change the priority in the manner suggested by the commenter.

*Changes:* None.

**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**. When inviting applications, we designate the priority as absolute, competitive preference, or invitational. 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 either (1) awarding additional points, depending on how well, or the extent to which, the application meets the competitive preference priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive preference 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 invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

## Priority

*Technical Assistance Center for Data Collection, Analysis, and Use for Accountability in Special Education and Early Intervention*

**Absolute Priority:** The Assistant Secretary for Special Education and Rehabilitative Services establishes a priority for the funding of a Technical

Assistance Center for Data Collection, Analysis, and Use for Accountability in Special Education and Early Intervention (Center) to provide: (1) Technical assistance and information to States to help them provide high-quality data needed to implement parts B and C of the IDEA and improve their data collection infrastructures; and (2) assistance to the Department regarding these data collections. The Center's activities and products must include, but are not limited to, the following:

(a) Develop and implement an annual strategic plan for technical assistance and dissemination to improve State-reported data. At the end of each year, the Center must prepare and submit to the Department a summary and evaluation of its technical assistance and dissemination activities for the year;

(b) Design and conduct two national data managers' meetings each year of the project period, of approximately 100 participants each, to provide information and technical assistance to State Part B and C data managers. Both meetings must be held in the Washington, DC metropolitan area in facilities that are accessible to individuals with disabilities. The Center must arrange and pay for meeting rooms; honoraria and expenses for speakers; visual aids and print materials; and travel expenses, lodging, and per diem at government rates for one to two representatives from each State or reporting entity. The meetings must include both large-group and small-group sessions, as well as time for informal discussions. Topics for the meetings must include specific State-reported data problems identified during the year, methods of data collection and verification, updates on Federal reporting requirements, potential uses of data by States, and reports on other data collections specified by the Office of Special Education Programs (OSEP). Each meeting also must include a training session for new State data managers. After each meeting, the Center must prepare and disseminate a newsletter that summarizes meeting highlights and describes key presentations and handouts;

(c) Provide technical assistance and information to States to improve State data quality through activities such as: (1) Developing data systems, including monitoring systems, that incorporate the collection and analysis of valid data to measure Statewide progress on State targets; (2) developing data systems, including monitoring systems, that incorporate the collection and analysis of valid data, to measure local progress

on State targets; (3) interpreting and portraying data related to State targets, including data obtained through monitoring; (4) incorporating data analysis results into State and local strategies for improving performance under parts B and C; (5) developing and revising measurable and rigorous targets based on data and input from stakeholder groups, for State Performance Plans (SPPs); (6) collecting and disseminating valid and reliable assessment data relative to State achievement standards; (7) developing technically-sound sampling plans for collecting valid and reliable data on SPP indicators that permit sampling; and (8) developing training modules for SEAs, State lead agencies, local educational agencies (LEAs) and early intervention service (EIS) programs that focus on collecting high-quality data;

(d) Develop and distribute to States: (1) Annual updates of the part B and part C data dictionaries, data collection histories, and data fact sheets; (2) current State data system profiles describing the types of systems employed by States including their efforts to ensure collection of high-quality data; (3) analyses of data provided by States under sections 616 and 618 of the IDEA addressing the process by which a State collects, enters, and verifies data; (4) based on State-reported data, a description and analysis of data trends relative to States' performance on their measurable and rigorous targets; (5) tables of annual State data organized to provide States with an enhanced perspective of their performance relative to other States; (6) data and other information for the Web site, <http://www.IDEADATA.org>; (7) analyses of part B and part C annual performance report data; (8) training modules for both State and local agencies that focus on collecting high-quality data; (9) documents, as needed by the Department, for meetings with the Education Information Management Advisory Committee (EIMAC), a standing committee of the Council of Chief State School Officers; (10) updated annual versions of the Early Intervention Data Handbook and supporting materials, as requested; (11) annual studies of extant data from other sources to analyze broad trends in the population characteristics of infants, toddlers, and children with disabilities, as requested by OSEP; and (12) other documents requested by the Department, including roughly five to seven ad hoc analyses per month;

(e) Provide direct interaction with, and support to, States by mail, telephone, online communication, video, or on-site visits, including

providing customized technical assistance. The Center also must participate in the semi-annual EIMAC meetings and other meetings, as requested by the Department;

(f) Assist States to provide high-quality data to the Department's ED*Facts* system. The Center must log in data, check data for completeness and errors or anomalies, communicate with States to resolve any errors or anomalies, and prepare data notes on any unresolved problems. The Center also must provide monthly and annual data status reports to OSEP, including all data notes related to data reported through ED*Facts*;

(g) Assist the Department with developing forms for collecting data not submitted through ED*Facts*, such as data related to part C of the IDEA. The Center also must prepare forms clearance packages for submission to the Office of Management and Budget (OMB). At the direction of OSEP, the Center must prepare responses to public comments received on proposed information collection packages and revise the forms, if necessary. As directed by OSEP, the Center must take the following steps in developing a new data collection form: (1) Convene a task force of State representatives, relevant stakeholders, and Department personnel; (2) prepare a draft form based on the task force recommendations; (3) pilot test the draft form; (4) revise the form as necessary; and (5) prepare the OMB clearance forms;

(h) Conduct an annual assessment of the operations and processes to collect section 618 data from States and make specific recommendations to OSEP to improve, enhance, or redesign current processes to meet the Department's needs for data collections in ED*Facts*. The annual study must consider the availability of new Internet and other technologies to collect and report data, as well as any new data needs;

(i) Establish, maintain, and meet at least annually with a national advisory group that will be responsible for providing annual feedback on the plans, activities, and accomplishments of the Center;

(j) Maintain ongoing communication with the OSEP Project Officer, including monthly conference calls. The Center must budget for a three-day Project Directors' meeting in Washington, DC during each year of the project, plus ten additional two-day trips annually to Washington, DC to attend national meetings and to meet with the OSEP Project Officer and other funded projects for purposes of cross-project collaboration and information exchange;

(k) Budget five percent of the award amount annually to support emerging needs as identified jointly through consultation with the OSEP project officer; and

(l) If the project maintains a Web site, include relevant information and documents in a format that meets a government or industry-recognized standard for accessibility.

**Note:** In each budget period of 12 months, approximately 30 percent of the effort under this priority must be devoted to activities and products described in paragraph (c) of the priority (technical assistance and information to States), and approximately 70 percent of the effort must be devoted to the remaining activities described in the priority.

#### Fourth and Fifth Years of the Project

In deciding whether to continue funding the Center for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), and in addition—

(1) The recommendation of a review team consisting of experts selected by the Secretary, which review will be conducted in Washington, DC during the last half of the project's second year. The Center must budget for travel expenses associated with this one-day intensive review;

(2) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been, or are being, met by the Center; and

(3) Evidence of the degree to which the Center's activities have contributed to improvements in the quality of State-reported data.

#### Eligibility Requirements

The following entities are eligible for funding under this program: Public and private agencies and organizations, including for-profit and non-profit agencies and organizations.

#### Executive Order 12866

This notice of final priority and eligibility requirements has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits 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 this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action, we have determined that the benefits of the regulatory action justify the costs.

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

#### 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 Federal financial assistance.

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

#### Electronic Access to This Document

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

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

(Catalog of Federal Domestic Assistance Number 84.373Y Technical Assistance on Data Collection—Technical Assistance Center for Data Collection, Analysis, and Use for Accountability in Special Education and Early Intervention)

**Program Authority:** 20 U.S.C. 1411(c) and 1416(i)(2).

Dated: June 29, 2007.

**Jennifer Sheehy,**

*Director of Policy and Planning for Special Education and Rehabilitative Services.*

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