



# Federal Register

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**Monday,  
February 23, 2004**

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## **Part IV**

### **Department of Education**

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**Office of Innovation and Improvement;  
Overview Information; State Charter  
School Facilities Incentive Grants  
Program; Notice Inviting Applications for  
New Awards for Fiscal Year (FY) 2004;  
Notice**

**DEPARTMENT OF EDUCATION****Office of Innovation and Improvement;  
Overview Information; State Charter  
School Facilities Incentive Grants  
Program; Notice Inviting Applications  
for New Awards for Fiscal Year (FY)  
2004**

*Catalog of Federal Domestic Assistance (CFDA) Number:* 84.282D.

**DATES:** *Applications Available:* March 12, 2004.

*Deadline for Transmittal of Applications:* July 1, 2004.

*Deadline for Intergovernmental Review:* August 30, 2004.

*Eligible Applicants:* States that have enacted a State law authorizing per-pupil facilities aid for charter schools.

*Estimated Available Funds:* \$18,700,000.

*Estimated Range of Awards:* \$2,000,000–\$10,000,000.

*Estimated Average Size of Awards:* \$3,740,000.

*Estimated Number of Awards:* 5.

**Note:** Contingent upon the availability of funds, we may make additional awards in future years from the rank-ordered list of unfunded applications from this competition.

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

*Project Period:* The program duration may be for a period of up to 5 years.

**Full Text of Announcement****I. Funding Opportunity Description**

*Purpose of Program:* This program will provide grants to eligible States to help them establish or enhance, and administer, per-pupil facilities aid programs for charter schools.

**Priorities**

*Competitive Preference Priority:* In accordance with 34 CFR 75.105(b)(2)(iv), the following priority is from sections 5202(e) and 5205(b) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. For this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 20 points to an application, depending on how well the application meets this priority.

This priority is:

The Secretary gives priority to States to the extent that States meet all four of the statutory criteria described in paragraphs (a) through (d) of this section.

A State educational agency (SEA) that does not meet any one of the four statutory criteria will not receive any priority points.

In order to receive preference, an applicant must identify the statutory

criteria that it meets and provide documentation supporting its claims.

**Statutory Criteria**

(a) *Periodic Review and Evaluation* (5 points, ESEA paragraph 5202(e)(2)). The State provides for periodic review and evaluation by the authorized public chartering agency of each charter school at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the student's academic performance requirements and goals for charter schools as provided under State law or the school's charter.

(b) *Number of High-Quality Charter Schools* (5 points, ESEA subparagraph 5202(e)(3)(A)). The State has demonstrated progress in increasing the number of high-quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which an SEA or eligible applicant applies for a grant under this competition.

(c) *One Authorized Public Chartering Agency Other Than an LEA, or an Appeals Process* (5 points, ESEA subparagraph 5202(e)(3)(B)). The State—

(1) Provides for one authorized public chartering agency that is not an local educational agency (LEA), such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to State law; or

(2) In the case of a State in which LEAs are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

(d) *High Degree of Autonomy* (5 points, ESEA subparagraph 5202(e)(3)(C)). The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

*Invitational Priority:* Under this competition we are particularly interested in applications that address the following priority. For this competition this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

*School choice.* The Secretary invites applications that propose to increase the capacity of charter schools to offer public school choice in those communities with the greatest need for

this choice by addressing the following factors:

- The extent to which the applicant would target services to geographic areas in which a large proportion or number of public schools have been identified for improvement, corrective action, or restructuring under title I of the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB);
- The extent to which the applicant would target services to geographic areas in which a large proportion of students perform poorly on State academic assessments; and
- The extent to which the applicant would target services to communities with large proportions of low-income students.

*Waiver of Proposed Rulemaking:* Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed selection criteria and other non-statutory requirements. Section 437(d)(1) of the General Education Provisions Act (GEPA) (20 U.S.C. 1232(d)(1)), however, allows the Secretary to exempt from rulemaking requirements rules governing the first grant competition under a new or substantially revised program authority. This is the first competition for this program. In order to ensure timely grant awards in FY 2004, the Secretary has decided to issue this application notice without first publishing the proposed selection criteria and other non-statutory requirements. These selection criteria and other non-statutory requirements, such as the clarification under "Funding Clarifications and Restrictions" that the program funds for this facilities program may be used for construction or the acquisition of real property, will apply to this grant competition only.

**Program Authority:** 20 U.S.C. 7221d(b).

*Applicable Regulations:* The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 76, 77, 79, 80, 81, 82, 84, 85, 86, 97, and 99.

**II. Award Information**

*Type of Award:* Discretionary grants.  
*Estimated Available Funds:* \$18,700,000.

*Estimated Range of Awards:* \$2,000,000–\$10,000,000.

*Estimated Average Size of Awards:* \$3,740,000.

*Estimated Number of Awards:* 5.

**Note:** Contingent upon the availability of funds, we may make additional awards in future years from the rank-ordered list of unfunded applications from this competition.

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

**Project Period:** The program duration may be for a period of up to 5 years.

### III. Eligibility Information

1. **Eligible Applicants:** States that have enacted a State law authorizing per-pupil facilities aid for charter schools.

2. **Cost Sharing or Matching:** Under section 5205(b)(2)(C) of the ESEA, as amended by the NCLB, States, or parties that are closely collaborating with them, are required to provide matching funds. The minimum non-Federal share of the total cost of the project increases each year of the grant, from 10 percent the first year to 80 percent in the fifth year.

Applicants that are initially selected to receive grants will not receive grant funds until they demonstrate, by July 15, 2004, that they have funded the non-Federal share of the matching funds required under this program. The Department reserves the right to revoke a grant award if an initial recipient does not have the required non-Federal funding by this date.

**Supplement-not-supplant provision.** Grantees shall use funds under this program to supplement, and not supplant, State and local public funds spent on per-pupil facilities aid programs, administration of these programs, and programs for charter schools in total at the State and local levels.

3. **Other:** The charter schools that a grantee selects to benefit from this program must meet the definition of a charter school, as defined in the Charter Schools Program authorizing statute in section 5210(1) of the ESEA. The definitions of *charter school* and *authorized public chartering agency* are in the application package.

### IV. Application and Submission Information

1. **Address to Request Application Package:** Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794-1398. Telephone (toll free): 1-877-433-7827. Fax: (301) 470-1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1-877-576-7734.

You may also contact ED Pubs at its Web site: [www.ed.gov/pubs/edpubs.html](http://www.ed.gov/pubs/edpubs.html) or you may contact ED Pubs at its e-mail address: [edpubs@inet.ed.gov](mailto:edpubs@inet.ed.gov)

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.282D.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille,

large print, audiotape, or computer diskette) by contacting the program contact persons listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contacts).

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

**Page Limit:** We have found that reviewers are able to conduct the highest-quality review when applications are concise and easy to read. Applicants are encouraged to limit their applications to no more than 30 double-spaced pages (not including the required forms and tables), to use a 12-point or larger-size font with one-inch margins at the top, bottom, and both sides, and to number pages consecutively. Furthermore, applicants are strongly encouraged to include a table of contents that specifies where each required part of the application is located.

3. **Submission Dates and Times:**  
**Applications Available:** March 12, 2004.

**Deadline for Transmittal of Applications:** July 1, 2004.

**Note:** We are requiring that applications for grants under this program be submitted electronically using the Electronic Grant Application System (e-Application) available through the Department's e-GRANTS system. For information about how to access the e-GRANTS system or to request a waiver of the electronic submission requirement, please refer to Section IV, *Other Submission Requirements*, in this notice.

The application package for this program specifies the hours of operation of the e-Application Web site. If you are requesting a waiver of the electronic submission requirement, the dates and times for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are also in the application package.

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

**Deadline for Intergovernmental Review:** August 30, 2004.

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

5. **Funding Clarifications and Restrictions:** Under 34 CFR 75.533, a grantee is prohibited from using grant funds for construction or the acquisition of real property, unless specifically

authorized by statute or regulation. Consistent with the provisions of 34 CFR 75.533, and based on the purpose of this facilities program, namely to provide funding for charter school facilities, we interpret section 5205(b) of the ESEA to permit the use of funds awarded under this competition and the acquisition of real property. Administrative costs in excess of five percent are not allowable under the program statute.

Administration of a per-pupil facilities aid program includes providing indirect costs, evaluation, technical assistance, dissemination, personnel costs, and any other costs involved in administering the State's per-pupil facilities aid program.

6. **Other Submission Requirements:** Instructions and requirements for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this program. **Application Procedures:** The Government Paperwork Elimination Act (GPEA) of 1998 (Pub. L. 105-277) and the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106-107) encourage us to undertake initiatives to improve our grant processes. Enhancing the ability of individuals and entities to conduct business with us electronically is a major part of our response to these Acts. Therefore, we are taking steps to adopt the Internet as our chief means of conducting transactions in order to improve services to our customers and to simplify and expedite our business processes.

We are requiring that applications for grants under the State Charter School Facilities Incentive Grants Program—CFDA Number 84.282D be submitted electronically using the Electronic Grant Application System (e-Application) available through the Department's e-GRANTS system. The e-GRANTS system is accessible through its portal page at: <http://e-grants.ed.gov>.

**Note:** The e-Application for this program will be available on March 12, 2004. Please be advised that applicants can begin work on program narrative sections, using a word processing program such as MS Word or WordPerfect, prior to the application availability date. Applicants should be aware that, in e-Application, the program narrative will be divided into sections with each selection criteria requiring a separate file upload. All files should be saved in .DOC or .RTF format, as the e-Application system only accepts those file types.

If you are unable to submit an application through the e-GRANTS system, you may submit a written request for a waiver of the electronic

submission requirement. In your request, you should explain the reason or reasons that prevent you from using the Internet to submit your application. Address your request to: Jim Houser, U.S. Department of Education, 400 Maryland Avenue, SW., room 3C140, Washington, DC 20202. Please submit your request no later than two weeks before the application deadline date.

If, within two weeks of the application deadline date, you are unable to submit an application electronically, you must submit a paper application by the application deadline date in accordance with the transmittal instructions in the application package. The paper application must include a written request for a waiver documenting the reasons that prevented you from using the Internet to submit your application.

*Pilot Project for Electronic Submission of Applications:* We are continuing to expand our pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The State Charter School Facilities Incentive Grants Program—CFDA Number 84.282D is one of the programs included in the pilot project. If you are an applicant under the State Charter School Facilities Incentive Grants Program, you must submit your application to us in electronic format or receive a waiver.

The pilot project involves the use of e-Application. If you use e-Application, you will be entering data online while completing your application. You may not e-mail an electronic copy of a grant application to us. The data you enter online will be saved into a database. We shall continue to evaluate the success of e-Application and solicit suggestions for its improvement.

If you participate in e-Application, please note the following:

- When you enter the e-Application system, you will find information about its hours of operation. We strongly recommend that you do not wait until the application deadline date to initiate an e-Application package.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424); program-specific tables, and all necessary assurances and certifications.
- Your e-Application must comply with any page limit requirements described in this notice.

- After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).

- Within three working days after submitting your electronic application, fax a signed copy of the Application for Federal Education Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.
2. The institution's Authorizing Representative must sign this form.
3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.
4. Fax the signed ED 424 to the Application Control Center at (202) 260-1349.

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

**Application Deadline Date Extension in Case of System Unavailability:** If you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

1. You are a registered user of e-Application and you have initiated an e-Application for this competition; and
2. (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or
- (b) The e-Application system is unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time) on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the persons listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contacts) or (2) the e-GRANTS help desk at 1-888-336-8930.

You may access the electronic grant application for the State Charter School Facilities Incentive Grants Program at: <http://e-grants.ed.gov>.

#### V. Application Review Information

*Selection Criteria:* The selection criteria for this program are as follows:

(a) *Adequacy of facility funding* (35 points).

(i) The extent to which the proposal provides adequate funding for charter school facilities on a per-pupil basis.

(ii) The extent to which there is adequate funding, including funds other than per-pupil facilities aid, for charter schools to meet their facility needs.

(b) *Quality of plan* (35 points).

(i) The likelihood that the proposed grant project will result in the State either retaining a new per-pupil facilities aid program or continuing to enhance such a program without the total amount of assistance (State and Federal) declining over a five-year period.

(ii) The flexibility charter schools have in their use of facility funds for the various authorized purposes.

(iii) The quality of the plan for identifying charter schools and determining their eligibility to receive funds.

(iv) The formula's ability to target resources to charter schools with the greatest need and the highest proportions of students in poverty.

(v) For projects that plan to reserve funds for evaluation, the quality of the applicant's plan to use grant funds for this purpose.

(vi) For projects that plan to reserve funds for technical assistance, dissemination, or personnel, the quality of the applicant's plan to use grant funds for these purposes.

(c) *The grant project team* (15 points).

(i) The qualifications, including relevant training and experience, of the project manager and other members of the grant project team, including employees not paid with grant funds, consultants, and subcontractors.

(ii) The adequacy and appropriateness of the applicant's staffing plan for the grant project.

(d) *The budget* (15 points).

(i) The extent to which the requested grant amount and the project costs are reasonable in relation to the objectives, design, and potential significance of the proposed grant project.

(ii) The extent to which the costs are reasonable in relation to the number of students served and to the anticipated results and benefits.

(iii) The extent to which the Federal share of the costs of the project (which may not exceed the percentages allowed under section 5205(b)(2)(C) of the ESEA) falls below the maximums allowed, particularly in the initial years of the program.

(iv) The need for per-pupil charter school facility funding in the State.

## VI. Award Administration Information

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

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

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

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

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the

most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* The performance measure for this program is growth in the number of States with per-pupil facilities aid programs for charter schools. The Department may develop additional measures at a later date that may require data collection from grantees.

## VII. Agency Contacts

### FOR FURTHER INFORMATION CONTACT:

Valarie Perkins or Jim Houser, U.S. Department of Education, 400 Maryland Avenue, SW., room 3C140, Washington, DC 20202-6140. Telephone: (202) 260-1924 or by e-mail: [charter.facilities@ed.gov](mailto:charter.facilities@ed.gov).

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

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact persons listed in this section.

## VIII. Other Information

*Electronic Access to This Document:* You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: [www.ed.gov/news/fedregister](http://www.ed.gov/news/fedregister).

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

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: [www.gpoaccess.gov/nara/index.html](http://www.gpoaccess.gov/nara/index.html).

Dated: February 18, 2004.

**Nina Shokraii Rees,**

*Deputy Under Secretary for Innovation and Improvement.*

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