



Federal Register

**Monday,
February 2, 2004**

Part II

Department of Education

**Magnet Schools Assistance Program;
Notice Inviting Applications for New
Awards for Fiscal Year (FY) 2004; Notice
and Final Rule**

DEPARTMENT OF EDUCATION

Office of Innovation and Improvement; Overview Information; Magnet Schools Assistance Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004

Catalog of Federal Domestic Assistance (CFDA) Number: 84.165A.

DATES:

Applications Available: February 2, 2004.

Deadline for Transmittal of Applications: March 15, 2004.

Deadline for Intergovernmental Review: May 14, 2004.

Eligible Applicants: Local educational agencies (LEAs) or consortia of LEAs.

Estimated Available Funds: Although the Congress has not enacted a final appropriation for FY 2004, the Department is inviting applications for this competition now so that it may be prepared to make awards following final action on the Department's appropriations bill. Based on the congressional action to date, we estimate that \$103,750,000 will be available for new awards under this competition. The actual level of funding depends on final congressional action.

Estimated Range of Awards: \$250,000–\$3,500,000 per year.

Estimated Average Size of Awards: \$2,075,000 per year.

Maximum Award: We will reject any application that proposes a budget exceeding \$4,000,000 for a single budget period of 12 months. The Deputy Under Secretary for Innovation and Improvement may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 50.

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

Project Period: Up to 36 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Magnet Schools Assistance Program (MSAP) provides grants to eligible LEAs and consortia of LEAs to support magnet schools that are part of an approved desegregation plan. Through the implementation of magnet schools, these program resources can be used in pursuit of the objectives of the ESEA, as reauthorized by the No Child Left Behind Act of 2001 (NCLB), which enables all elementary and secondary students to achieve to high standards and holds schools, LEAs, and States accountable for ensuring that they do so. In particular, the MSAP provides an opportunity for eligible entities to focus

on expanding their capacity to provide public school choice to students who attend schools identified for improvement, corrective action, or restructuring under Title I, part A of the ESEA (Title I).

Priorities: This competition includes three competitive priorities taken from the regulations for this program, an additional competitive priority under the General Education Provisions Act, and an invitational priority. These priorities are as follows:

In accordance with 34 CFR 75.105(b)(2)(ii), the following three priorities are from the regulations for this program (34 CFR 280.32(b)–(d)).

Competitive Preference Priorities: For FY 2004 these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 30 points to an application, depending on how well the application meets these priorities.

These priorities are:

Need for assistance (up to 10 additional points). The Secretary evaluates the applicant's need for assistance under this part, by considering—

(a) The costs of fully implementing the magnet schools project as proposed;

(b) The resources available to the applicant to carry out the project if funds under the program were not provided;

(c) The extent to which the costs of the project exceed the applicant's resources; and

(d) The difficulty of effectively carrying out the approved plan and the project for which assistance is sought, including consideration of how the design of the magnet schools project—e.g., the type of program proposed, the location of the magnet school within the LEA—impacts on the applicant's ability to successfully carry out the approved plan.

New or revised magnet schools projects (up to 10 additional points). The Secretary determines the extent to which the applicant proposes to carry out new magnet schools projects or significantly revise existing magnet schools projects.

Selection of students (up to 10 additional points). The Secretary determines the extent to which the applicant proposes to select students to attend magnet schools by methods such as lottery, rather than through academic examination.

We are establishing the following priority for the FY 2004 grant competition only, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA).

Competitive Preference Priority: For FY

2004 this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application, depending on how well the application meets this priority.

We establish this priority to provide eligible LEAs with an opportunity to use magnet schools to expand their capacity to provide public school choice to parents whose children attend schools that have not made adequate yearly progress (as that term is defined in ESEA, Title I, section 1111(b)(2)) for at least two consecutive years.

This priority is:

Expanding capacity to provide choice. The extent to which the applicant proposes to help parents whose children attend low-performing schools (that is, schools that have been identified for school improvement, corrective action, or restructuring under Title I) by—

(a) Selecting schools identified for school improvement, corrective action, or restructuring under Title I as magnet schools to be funded under this project and improving the quality of teaching and instruction in these schools;

(b) Maximizing the opportunity for students in low-performing schools to attend higher-performing magnet schools funded under the project and reducing minority group isolation in the low-performing sending schools; or

(c) Effectively informing parents whose children attend low-performing schools about choices that are available to them in the magnet schools to be funded under the project.

Under this competition we are also particularly interested in applications that address the following priority.

Invitational Priority: For FY 2004 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:

Implementation of a rigorous evaluation to assess the effectiveness of particular interventions that are included in the project. The Secretary intends that this priority will allow program participants and the Department to determine whether the interventions identified for this rigorous evaluation produce meaningful effects on student achievement or teacher performance, as appropriate.

Evaluation methods using an experimental design are best for determining the effectiveness of the identified intervention(s). Thus, a project that addresses this invitational priority would use an experimental design under which participants—that

is, students, teachers, classrooms, or schools—are randomly assigned (a) to participate in the project activities being evaluated or (b) to a control group that does not participate in the project activities being evaluated.

If random assignment is not feasible, a project that addresses this invitational priority would use a quasi-experimental design with carefully matched comparison conditions. This alternative design attempts to approximate a randomly assigned control group by matching participants—that is, students, teachers, classrooms or schools—with non-participants having similar pre-program characteristics.

Proposed evaluation strategies that use neither experimental designs with random assignment nor quasi-experimental designs using a matched comparison group would not be responsive to this priority.

To be responsive to the invitational priority, the project evaluator would collect—before the project commences and after it ends—valid and reliable data that measure the impact of participation in the program or in the comparison group.

In determining the appropriateness of the proposed rigorous evaluation under the invitational priority, we will consider the extent to which the applicant presents a feasible, credible plan that includes the following:

(1) A clear description of the magnet school(s) and magnet school activities to be evaluated.

(2) The type of design to be used (that is, random assignment or matched comparison).

(3) The outcome(s) to be measured.

(4) A discussion of how the applicant plans to assign students, teachers, classrooms, or schools (as appropriate) to the project and control group or match them for comparison with other students, teachers, classrooms, or schools.

(5) A proposed evaluator, preferably independent, with the necessary background and technical expertise to carry out the proposed evaluation.

(6) Clearly identified costs that are directly allocable to the implementation of the rigorous evaluation proposed in response to this invitational priority.

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 priorities. Ordinarily, this practice would have applied to the competitive preference priority for expanding capacity to provide choice. Section 437(d)(1) of the General Education Provisions Act (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 Magnet Schools Assistance program grant competition under the ESEA, as amended by the NCLB, and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forego public comment on the proposed competitive preference priority for expanding capacity to provide choice under section 437(d)(1). This competitive preference priority will apply to the FY 2004 grant competition only.

Program Authority: 20 U.S.C. 7231–7231j.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99. (b) The regulations for this program in 34 CFR part 280.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: Although the Congress has not enacted a final appropriation for FY 2004, the Department is inviting applications for this competition now so that it may be prepared to make awards following final action on the Department's appropriations bill. Based on the congressional action to date, we estimate that \$103,750,000 will be available for new awards under this competition. The actual level of funding depends on final congressional action.

Estimated Range of Awards: \$250,000–\$3,500,000 per year.

Estimated Average Size of Awards: \$2,075,000 per year.

Maximum Award: We will reject any application that proposes a budget exceeding \$4,000,000 for a single budget period of 12 months. The Deputy Under Secretary for Innovation and Improvement may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 50.

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

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* LEAs or consortia of LEAs.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

3. *Other:* Applicants must submit with their applications one of the following types of plans to establish

eligibility to receive MSAP assistance: (a) A desegregation plan required by a court order; (b) a plan required by a State agency or an official of competent jurisdiction; (c) a plan required by the Office for Civil Rights (OCR), United States Department of Education (ED), under Title VI of the Civil Rights Act of 1964 (Title VI plan); or (d) a voluntary plan adopted by the applicant and submitted to us for approval as part of the application.

Under the MSAP regulations, applicants are required to provide all of the information required at 34 CFR 280.20(a)–(g) in order to satisfy the civil rights eligibility requirements found in 34 CFR 280.2(a)(2) and (b).

In addition to the particular data and other items for required and voluntary plans described in the application package, an application must include—

- Signed civil rights assurances (included in the application package);
- A copy of the applicant's plan; and
- An assurance that the plan is being implemented or will be implemented if the application is funded.

Required Plans

1. *Plans required by a court order.* An applicant that submits a plan required by a court order must submit complete and signed copies of all court or State documents demonstrating that the magnet schools are a part of the approved plan. Examples of the types of documents that would meet this requirement include—

- A Federal or State court order that establishes or amends a previous order or orders by establishing additional or different specific magnet schools;
- A Federal or State court order that requires or approves the establishment of one or more unspecified magnet schools or that authorizes the inclusion of magnet schools at the discretion of the applicant.

2. *Plans required by a State agency or official of competent jurisdiction.* An applicant submitting a plan ordered by a State agency or official of competent jurisdiction must provide documentation that shows that the plan was ordered based upon a determination that State law was violated. In the absence of this documentation, the applicant should consider its plan to be a voluntary plan and submit the data and information necessary for voluntary plans.

3. *Title VI required plans.* An applicant that submits a plan required by OCR under Title VI must submit a complete copy of the plan demonstrating that magnet schools are part of the approved plan.

4. *Modifications to required plans.* A previously approved desegregation plan that does not include the magnet school or program for which the applicant is now seeking assistance must be modified to include the magnet school component. The modification to the plan must be approved by the court, agency, or official that originally approved the plan. An applicant that wishes to modify a previously approved OCR Title VI plan to include different or additional magnet schools must submit the proposed modification for review and approval to the OCR Regional Office that approved its original plan.

An applicant should indicate in its application if it is seeking to modify its previously approved plan. However, all applicants must submit proof of approval of all modifications to their plans to ED by April 12, 2004. Proof of plan modifications should be mailed to the person and address identified in **FOR FURTHER INFORMATION CONTACT** elsewhere in this notice.

Voluntary Plans

A voluntary plan must be approved by ED each time an application is submitted for funding. Even if ED has approved a voluntary plan in an LEA in the past, the plan must be resubmitted for approval as part of the application.

The enrollment and other information as required by the regulations at § 280.20(f) and (g) for applicants with voluntary plans (specific requirements are detailed in the application package) are critical to our determination of an applicant's eligibility under a voluntary plan.

Narrow Tailoring. The purposes of the MSAP include the reduction, elimination or prevention of minority group isolation. In the past grant cycle, all districts submitting voluntary plans were able to achieve this purpose using race-neutral admissions practices. If a district proposes to use race in its voluntary plan, it must provide a justification for why race-neutral approaches would not prove effective. It must also demonstrate that its plan is adequate under Title VI. In order for a voluntary plan involving a racial classification to be adequate under Title VI, the plan must be narrowly tailored to accomplish the objective of reducing, eliminating, or preventing minority group isolation.

IV. Application and Submission Information

1. *Address to Request Application Package:* Steven L. Brockhouse, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E122, Washington,

DC 20202-5961. Telephone: (202) 260-2476 or by e-mail: steve.brockhouse@ed.gov.

You may also obtain an application package via Internet. To obtain a copy via Internet use the following address: <http://www.ed.gov/fund/grant/apply/grantapps/index.html>.

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 a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

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: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria and competitive preference priorities that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 250 pages, using the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; Part V, the desegregation plan and related information; or the one-page abstract, the resumes, or letters of support. However, you must include all of the application narrative in Part III.

Our reviewers will not read any pages of your application that—

- Exceed the page limit if you apply these standards; or
- Exceed the equivalent of the page limit if you apply other standards.

3. *Submission Dates and Times:* Applications Available: February 2, 2004.

Deadline for Transmittal of Applications: March 15, 2004.

The dates and times 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.

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

Deadline for Intergovernmental Review: May 14, 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 Restrictions:* We specify unallowable costs in 34 CFR 280.41. We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

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.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 280.31 and are as follows:

- (a) *Plan of operation.* (25 points)
 - (1) The Secretary reviews each application to determine the quality of the plan of operation for the project.
 - (2) The Secretary determines the extent to which the applicant demonstrates—
 - (i) The effectiveness of its management plan to ensure proper and efficient administration of the project;
 - (ii) The effectiveness of its plan to attain specific outcomes that—
 - (A) Will accomplish the purposes of the program;
 - (B) Are attainable within the project period;
 - (C) Are measurable and quantifiable; and
 - (D) For multi-year projects, can be used to determine the project's progress in meeting its intended outcomes;
 - (iii) The effectiveness of its plan for utilizing its resources and personnel to achieve the objectives of the project, including how well it utilizes key personnel to complete tasks and achieve the objectives of the project;
 - (iv) How it will ensure equal access and treatment for eligible project participants who have been traditionally underrepresented in courses or activities offered as part of the magnet school, e.g., women and girls in mathematics, science or technology courses, and disabled students; and
 - (v) The effectiveness of its plan to recruit students from different social, economic, ethnic, and racial backgrounds into the magnet schools.

(b) *Quality of personnel.* (10 points)

(1) The Secretary reviews each application to determine the qualifications of the personnel the applicant plans to use on the project.

(2) The Secretary determines the extent to which—

(i) The project director (if one is used) is qualified to manage the project;

(ii) Other key personnel are qualified to manage the project;

(iii) Teachers who will provide instruction in participating magnet schools are qualified to implement the special curriculum of the magnet schools; and

(iv) The applicant, as part of its nondiscriminatory employment practices will ensure that its personnel are selected for employment without regard to race, religion, color, national origin, sex, age, or disability.

(3) To determine personnel qualifications the Secretary considers experience and training in fields related to the objectives of the project, including the key personnel's knowledge of and experience in curriculum development and desegregation strategies.

(c) *Quality of project design.* (35 points)

(1) The Secretary reviews each application to determine the quality of the project design.

(2) The Secretary determines the extent to which each magnet school for which funding is sought will—

(i) Foster interaction among students of different social, economic, ethnic, and racial backgrounds in classroom activities, extracurricular activities, or other activities in the magnet schools (or, if appropriate, in the schools in which the magnet school programs operate);

(ii) Address the educational needs of the students who will be enrolled in the magnet schools;

(iii) Carry out a high quality educational program that will substantially strengthen students' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, music, or vocational skills;

(iv) Encourage greater parental decisionmaking and involvement; and

(v) Improve the racial balance of students in the applicant's schools by reducing, eliminating, or preventing minority group isolation in its schools.

(d) *Budget and resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources and the cost-effectiveness of the budget for the project, including—

(1) The adequacy of the facilities that the applicant plans to use;

(2) The adequacy of the equipment and supplies that the applicant plans to use; and

(3) The adequacy and reasonableness of the budget for the project in relation to the objectives of the project.

(e) *Evaluation plan.* (15 points) The Secretary determines the extent to which the evaluation plan for the project—

(1) Includes methods that are appropriate to the project;

(2) Will determine how successful the project is in meeting its intended outcomes, including its goals for desegregating its students and increasing student achievement; and

(3) Includes methods that are objective and that will produce data that are quantifiable.

(f) *Commitment and capacity.* (10 points)

(1) The Secretary reviews each application to determine whether the applicant is likely to continue the magnet school activities after assistance under the regulations is no longer available.

(2) The Secretary determines the extent to which the applicant—

(i) Is committed to the magnet schools project; and

(ii) Has identified other resources to continue support for the magnet school activities when assistance under this program is no longer available.

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 Notification (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 an 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, including information that documents the extent of success in addressing the performance measures described in the following paragraph.

4. *Performance Measures:* The Secretary has established two performance measures for assessing the effectiveness of the MSAP:

(a) The percentage of magnet schools whose student applicant pool reflects a racial and ethnic composition that, in relation to the total enrollment of the school, reduces, eliminates or prevents minority group isolation increases annually. The Secretary has set an overall performance target that calls for the percentage of magnet schools whose student applicant pool would have a beneficial effect on the reduction, prevention or elimination of minority group isolation in participating project schools to increase annually from a baseline established with magnet school applicant data from the first year of the project.

(b) The percentage of magnet schools whose students from major racial and ethnic groups meet or exceed their State's adequate yearly progress standard increases annually, in accordance with their State's plan required by section 1111 of the ESEA. The Secretary has set an overall performance target that calls for the percentage of magnet schools whose students meet or exceed the adequate yearly progress standard to increase annually from a baseline established by participating schools' performance in the school year prior to the beginning of the project.

*VII. Agency Contact***FOR FURTHER INFORMATION CONTACT:**

Steven L. Brockhouse, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E122, Washington, DC 20202-5961. Telephone: (202) 260-2476 or by e-mail: steve.brockhouse@ed.gov.

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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 person 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.

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.

Dated: January 27, 2004.

Nina Shokraii Rees,

Deputy Under Secretary for Innovation and Improvement.

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