

DEPARTMENT OF EDUCATION

34 CFR Part 611

RIN 1840-AC67

Teacher Quality Enhancement Grants Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Assistant Secretary for Postsecondary Education (Assistant Secretary) proposes to develop regulations that would apply the eight percent (8%) indirect cost limitation for the Department's educational training grants to all States and local educational agencies (LEAs) receiving funds under the Teacher Quality Enhancement Grants Program for States and Partnerships authorized by sections 201-205 of the Higher Education Act (HEA), as amended by the Higher Education Amendments of 1998. These proposed regulations would ensure that the limited funding available to support program activities is concentrated on direct support for improvements in teacher licensing, certification, preparation, and recruitment, rather than for recipient "overhead."

DATES: We must receive your comments on or before June 18, 1999.

ADDRESSEES: All comments concerning these proposed regulations should be addressed to: Dr. Louis Venuto, Higher Education Programs, Office of Postsecondary Education, 400 Maryland Ave. SW., Portals Building, Room 6234, Washington, DC 20202-5131; Telephone: (202) 708-8847, or by FAX to: (202) 260-9272. If you prefer to send your comments through the Internet use the following address: comments@ed.gov.

You must include the term "Indirect Costs" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Dr. Louis Venuto, Higher Education Programs, Office of Postsecondary Education, 400 Maryland Avenue, SW, Portals Building, Room 6234, Washington, DC 20202-5131; Telephone: (202) 708-8847; FAX (202) 260-9272. 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 alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding these proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to 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 all public comments about these proposed regulations at the Department of Education, 1250 Maryland Avenue, SW., Room 6234, Portal Building, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, you may call (202) 205-8113 or (202) 260-9895. If you use a TDD, you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

General

Background: On October 8, 1998, the President signed into law the Higher Education Amendments of 1998 (Pub. L. 105-244). Title II of this law addresses the Nation's need to ensure that new teachers enter the classroom prepared to teach all students to high standards by authorizing, as Title II of the Higher Education Act, Teacher Quality Enhancement Grants for States and Partnerships. The new Teacher Quality Enhancement Grants programs provide an historic opportunity to effect positive change in the recruitment, preparation, licensing, and on-going support of teachers in America. The programs are designed to increase student achievement by implementing comprehensive approaches to improving teacher quality.

More specifically, the Teacher Quality Enhancement Grants Program include three new competitive grant programs:

State Grants Program: Competitive grants to States will support the implementation of comprehensive statewide reforms to improve the quality of a State's teaching force. By law, State activities must include one or more of the following activities: reforming teacher certification or licensure standards; implementing reforms to hold institutions of higher education accountable for preparing teachers who are highly competent in their subject areas; providing prospective teachers with alternative pathways into teaching; implementing programs of support for teachers during their initial periods of teaching and establishing, expanding, or improving alternative routes to State certification; developing effective methods of recruiting and rewarding highly competent teachers and removing incompetent or unqualified teachers; recruiting teachers for high-poverty urban and rural areas; and developing ways teachers can address the problem of social promotion.

Partnership Grants for Improving Teacher Preparation Program: The purpose of the Partnership program is to bring teacher preparation programs, schools of arts and sciences, and high-need school districts and schools together (as appropriate, with other stakeholders) to create fundamental change and improvement in traditional teacher education programs—thereby increasing teachers' capacity to help all students learn to high standards. Designed to support highly committed partnerships that will accelerate the change process in teacher education, the program will (1) strengthen the vital role of K-12 educators in the design and implementation of effective teacher education programs; and (2) increase collaboration between departments of arts and sciences and schools of education.

The program is designed to make an important impact on teacher education and thereby to increase significantly the number of new teachers emerging from programs that have been redesigned to ensure that new teachers have the content knowledge and teaching skills to be effective.

Teacher Recruitment Grants Program: In addition, there is a great need, especially in high-poverty communities, to recruit and prepare more people to become teachers. The Teacher Recruitment Grants—awarded either to States or to partnerships among high-need LEAs, teacher preparation institutions, and schools of arts and sciences—are designed to reduce shortages of highly qualified teachers in high-need school districts.

Local partnerships between school districts and teacher preparation institutions have been found to be very effective at providing teachers for communities where they are most needed. The "grow your own" approach is also effective for these communities because individuals who are already members of a community are likely to remain there after they become teachers. The recruitment grants will allow individual communities to determine their needs for teachers and to recruit and prepare teachers who meet those needs. States can also play an important role in ensuring that high-need school districts are able to recruit highly qualified teachers, and they can use the recruitment grants to develop and implement effective mechanisms to do so.

The Department announced the initial competitions for grants under these three programs by publishing a notice in the **Federal Register** on February 8, 1999 (64 FR 6139). The Department expects to make awards under the State and Teacher Recruitment programs by mid-July 1999, and awards under the Partnership program by early September 1999.

Need to Regulate: More than ever before in our history, teaching is the profession that is shaping the Nation's future—molding the skills of our future workforce and laying the foundation for good citizenship and full participation in community and civic life. Accordingly, what teachers know and are able to do is critically important. Yet, we face daunting challenges as we seek to ensure a national teaching force of the highest quality. America's schools will need to hire 2.2 million teachers over the next decade, more than half of whom will be first-time teachers. As classrooms grow more challenging and diverse, these teachers will need to be well prepared to teach all students to the highest standards. Contemporary classrooms and social conditions confront teachers with a range of complex challenges previously unknown in the profession. New education goals and tougher standards, more rigorous assessments, site-based management, greater interest in parental involvement, the continuing importance of safety and discipline, and expanded use of technology increase the knowledge and skills that teaching demands.

The three new Teacher Quality Enhancement Grants programs offer an opportunity to improve teacher quality in America by effectively addressing these challenges. However, success will depend upon how well we use the resources that Congress provides to

make sustained and meaningful improvements in teacher licensure, certification, preparation, and recruitment. For fiscal year 1999, Congress appropriated \$75 million for these three component programs. If these funds, and funds that Congress will appropriate for use in future years, are to achieve their purposes, we need to ensure that they are used as effectively as possible. To do so, it is necessary to place a reasonable limitation on the amount of program funds that Title II grant recipients may use to reimburse themselves for the "indirect costs" of program activities.

Sections 75.560–75.564 and 80.22 of the Education Department General Administrative Regulations (EDGAR) incorporate and apply cost principles developed by the Office of Management and Budget (OMB) for government-wide grant activities to projects and activities that States and local governments undertake with funds awarded under the Department's discretionary grants. These regulations provide that costs of project activities may be charged to grant funds in two forms: as direct costs and indirect costs. The direct costs of a grant are charges that are directly allocable to grant activities. Indirect costs, on the other hand, are charges that are incurred by so many programs or cost objectives that it would be either impossible or prohibitively expensive to calculate the precise amount of charges allocable to a particular program or grant activity. Examples of typical indirect costs are heat, electricity and other utilities, building services and depreciation, and general administration.

Generally, the formula for determining the amount of indirect costs that may be charged to any grant is based on application of a negotiated indirect cost rate to the grant's direct costs. Thus, the higher the indirect cost rate the more grant funds that will be charged for these "overhead" expenses, and the fewer grant funds that remain available for the costs of direct services. By their own terms, EDGAR regulations in sections 75.560–75.564 and 80.22 (which incorporate applicable OMB cost principles for determining a grant's allowable costs) provide that an agency's or institution's indirect cost rate depends, subject to EDGAR definitions, on the agency's or institution's own overall cost structure.

The best data available to the Department indicate that over 20 States have indirect cost rates of over 15 percent; two States has an indirect cost rates of 34 percent. If peer reviewers recommend these States for award of State or Teacher Recruitment Program

grants, over 15 percent or more of the funds that Congress has appropriated for these programs may support the States' indirect costs rather than the direct costs of activities designed to improve teacher quality. While recognizing the legitimacy of indirect costs, the Secretary believes that having these large amounts of funds compensate States and other recipients for their general overhead and related expenses is inconsistent with the purpose of the programs and the expectations that Congress and the Nation have for their success. Therefore, given (1) the pivotal significance of the Teacher Quality Enhancement Grants programs, (2) the national need that these programs have a maximum impact on the quality and quantity of highly-qualified new teachers, and (3) the fact that these programs are competitive, the Secretary has determined that a reasonable limitation on the indirect cost rate that States and LEAs may charge to their Teacher Quality Enhancement Grants program funds is appropriate.

Section 75.562 of EDGAR limits the indirect cost rate that institutions of higher education (IHEs) and nonprofit agencies may charge for educational training grants to eight percent of modified total direct costs. By the notice published in the **Federal Register** on February 8, 1999 (64 FR 6145–6146) that will govern the initial competition and awards under the Teacher Quality Enhancement Grants programs, the Secretary extended this eight percent cap on indirect cost rates to all grantee IHE and nonprofit agencies, regardless of whether the Partnership or Teacher Recruitment programs for which they receive funding are educational training grants. Section 75.562(a) of EDGAR acknowledges that educational training grants typically have a large proportion of their funds available for direct costs, since these grants largely implement previously developed materials and methods, rather than "support activities involving research, development, and dissemination of new educational materials and methods." The Secretary believes that Teacher Recruitment grants fit the category of educational training grants but that, depending on how they are implemented, Partnership program grants may not. Still, the Secretary believes that, as is the case with educational training grants, IHEs and nonprofit agency grantees that receive Partnership program grants will not have the need to support their activities with high indirect cost rates.

Similarly, the Secretary believes that States and LEAs that receive Teacher Quality Enhancement Grants program funds do not need to exercise high

indirect cost rates in order to fairly compensate themselves for the activities they will conduct under the State, Partnership, or Teacher Recruitment grant programs. Rather, given the important role that each grant recipient has in making the maximum impact with the program funds it receives, the Secretary believes that it is appropriate that *all* Teacher Quality Enhancement Grants program grant recipients have the same cap—eight percent—on the indirect costs they may charge.

Combined with the rule published in the **Federal Register** on February 8, 1999, the regulation proposed in proposed § 611.30 would do just that.

This proposal strikes a reasonable balance between the need to focus as much funding for the Teacher Quality Enhancement Grants programs as possible on direct services to improve teacher licensure, certification, preparation, and recruitment, and the reality that, to do so, recipients invariably must encounter some indirect costs. In addition, because these programs are competitive, States and LEAs (as well as IHEs and nonprofit agencies) that believe that they need additional indirect costs to implement these needed grant activities simply need not apply or accept grant awards. Therefore, this proposed regulation would not impose any non-reimbursed indirect costs on unwilling recipients.

If proposed § 611.30 becomes final, it will apply to all funding that States and LEAs receive under the three Teacher Quality Enhancement Grants programs, both under the initial and any subsequent program competitions. With regard to the initial competition being conducted in the spring of 1999, the Teacher Quality Enhancement Grants program application packages made available in February 1999 advised the public of the Department's intent to publish these proposed regulations. The application packages also advised States that, given the need for these programs to produce significant results, peer reviewers might rate applications that did not limit their indirect costs less competitively.

If these proposed regulations become final, it would in essence establish this guidance as a program requirement.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and

obtain information needed to achieve the goals.

These proposed regulations would address the National Education Goal that the Nation's teaching force will have the content knowledge and teaching skills needed to instruct all American students for the next century.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Entities that would be affected by these regulations are States and State agencies and LEAs. States and State agencies are not defined as "small entities" in the Regulatory Flexibility Act. Small LEAs are small entities for purposes of the Regulatory Flexibility Act. The final regulations would not have a significant impact on these small entities because the regulations would not impose excessive regulatory burden or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the appropriate expenditure of funds.

Paperwork Reduction Act of 1995

These proposed regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

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 is intended to provide early notification of our specific plans and actions for this program.

Assessment of Educational Impact

The Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

You may review this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (PDF) on the World Wide Web at either of the following sites:
<http://ocfo.ed.gov/fedreg.htm>

<http://www.ed.gov/news.html>

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office at (202) 512-1530 or, toll free, at 1-888-293-6498.

Note: The official version of the 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.access.gpo.gov/nara/index.html>.

Program Authority: 20 U.S.C. 1021 *et seq.*

List of Subjects in 34 CFR Part 611

Colleges and universities, Elementary and secondary education, Grant programs—education.

Dated: May 14, 1999.

David A. Longanecker,
Assistant Secretary, Office of Postsecondary Education.

(Catalog of Federal Domestic Assistance Number 84.336: Teacher Quality Enhancement Grants Program)

For reasons stated in the preamble, the Secretary proposes to amend Chapter VI of title 34 of the Code of Federal Regulations by adding the following new part 611 to read as follows:

PART 611—TEACHER QUALITY ENHANCEMENT GRANTS PROGRAM

Sec.

Subparts A—[Reserved]

Subpart D—What Conditions Must Be Met by a Grantee?

611.30 What is the maximum indirect cost rate for States and local educational agencies?

Authority: 20 U.S.C. 1021 *et seq.*, unless otherwise noted.

PART 611—TEACHER QUALITY ENHANCEMENT GRANTS PROGRAM

Subparts A [Reserved]

Subpart D—What Conditions Must Be Met by a Grantee?

§ 611.30 What is the maximum indirect cost rate for States and local educational agencies?

Notwithstanding 34 CFR 75.560–75.562 and 34 CFR 80.22, the maximum indirect cost rate that a State or local educational agency receiving funding under the Teacher Quality Enhancement Grants Program may use to charge indirect costs to these funds is the lesser of —

- (a) The rate established by the negotiated indirect cost agreement; or
- (b) Eight percent.

(Authority: 20 U.S.C. 1021 *et seq.*)

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