

**ARRA "Race to the Top" State Incentive Grant Program
Notice of Proposed Priorities, Requirements, and Selection Criteria**

**INITIAL SUMMARY AND ANALYSIS
JULY 27, 2009**

Introduction

President Obama and Secretary of Education Arne Duncan on July 24, 2009, released proposed priorities, requirements, and selection criteria for the \$4 billion Race to the Top Fund (RTTT), enacted by the American Recovery and Reinvestment Act of 2009 (ARRA). These proposed policies will be published for public comment in the *Federal Register* during the week of July 27, 2009. RTTT represents a major ARRA leverage point for education reform by providing competitive grants to states to reward and support education reform in the four priority policy areas identified in the ARRA's State Fiscal Stabilization Fund (SFSF): promoting college- and career-ready standards and aligned, improved assessments; enhancing teacher effectiveness and promoting the equitable distribution of effective teachers for low-income and minority children; strengthening state longitudinal data systems that foster fuller collection, sharing, and use of data; and supporting the turn around of chronically underperforming schools. Funding will be distributed in two phases. Public comments on the proposed policies are due to the U.S. Department of Education (USED) thirty days after the notice is published in the *Federal Register*.

To be clear, the July 24 notice does not invite RTTT applications. That will be done in a subsequent notice to be published by USED, presumably at the same time that the priorities, requirements, and criteria are published in final form following the public comment period.

Despite the absence of a final notice and application, it is expected that interested states will begin working on their RTTT applications even as they are considering comments and proposed changes to the draft notice. For that reason, we have attached a "blueprint" in graphic form that itemizes the provisions of the RTTT draft notice and may be useful to applicants. Given the scope of the requirements and criteria, it is particularly important that applicants address the elements and evidence for each area, but applicants also should consider how to tie their application together through an overarching vision, demonstrating coherence and alignment of the state's efforts across reform areas.

Overall Approach of the RTTT Notice

The proposed RTTT priorities, requirements, and criteria focus on funding state applicants that take a comprehensive approach to all four reform areas (or "assurances") and that are able to demonstrate, *in each of these areas*, both significant progress to date and ambitious, achievable plans for further progress using RTTT funds. The notice proposes very detailed elements and evidence that will be expected by USED to address each of the reform areas and other general criteria. In particular, the proposed criteria focus on the four reform areas and include for each area both "State Reform Conditions" criteria, which relate to what progress the state already has made or whether the conditions exist for reform, and "Reform Plan" criteria, which relate to the state's plan to move forward in the area, including whether the state has ambitious and achievable annual performance goals for each area. Also – to our knowledge, for the first time in a competitive grant program – USED, in an appendix to the notice, proposes to prescribe specific evidence that states will be expected to provide to address many of the criteria. For a limited number of criteria, the criteria and evidence differ for Phase 1 and Phase 2 applications.

In addition, the proposed notice includes in an appendix proposed USED-mandated annual performance measures tied back to many of the specific "Reform Plan" criteria and a requirement that

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states develop their own performance measures for the remaining Reform Plan criteria. Applicants need to provide in their applications specific annual targets for four school years for both the USED-mandated and the state's own performance measures. Funded states will be required to report annually on the performance measures and other conditions for the conduct of the project. The notice also proposes that funded states may be required to enter into a performance or cooperative agreement with USED, which contemplates close and significant USED oversight of the project.

The notice also indicates that USED may set aside up to \$350 million for a separate RTTT Standards and Assessment competition for awards to consortia of states related to the development of assessments aligned to the common core of standards, referring indirectly to the common core being developed through a joint effort of the Council of Chief State School Officers and the National Governors' Association. USED would publish a separate notice for that competition. Evidence required in the appendix to the notice – related to State Reform Conditions criteria for assessments -- presumes that USED will, in fact, conduct the separate competition and that RTTT applicant states will be expected to join a consortium applying for those funds.

As a competitive grant program, RTTT will not allocate funds by formula to all the states. Rather, states that meet eligibility and application requirements and any "absolute priorities" established by USED will submit applications for qualitative review by USED officials and peer reviewers under selection criteria established in the law and by USED through this process of notice and comment.

No specific deadline for applications has been announced, but it is expected based on prior USED announcements that final RTTT applications will be available by October 2009, with phase one applications due December 2009 and phase two applications due in spring or summer 2010. The notice does not address whether some percentage of the available funds will be held back for phase 2. That may depend on the quality of applications submitted in phase 1. A state that applies in phase 1 and is not selected for funding may reapply in phase 2.

The July 24 notice does not address how many states are likely to be funded under RTTT or the size of awards. Prior statements by Secretary Duncan and others have indicated USED's intent to focus on sizeable grants to a limited number of states. It is possible that guidance on these issues will be provided in the final application notice. Also, the notice does not expressly indicate project length. However, the performance indicator chart in the appendix to the current notice suggests that the grants will support a four-year project ending in school year 2013-14.

ARRA Statutory Requirements for RTTT

As outlined in the USED notice, the ARRA statute includes very limited requirements for RTTT grants. It provides that grants must be made to states that have made significant progress in meeting the four reform areas and also requires that 50% of a state's grant must be sub-granted to LEAs in the state based on their relative shares of funding under Part A of Title I, ESEA. Application requirements in the law relate to state progress in the four reform areas and state strategies and proposed uses of RTTT funds to improve student academic achievement, give priority to high need LEAs, and close achievement gaps. USED's notice elaborates on and supplements these requirements by adding proposed priorities, requirements, and criteria that would guide the RTTT grant program.

Proposed RTTT Application Priorities

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The USED notice proposes a small number of *priorities* for RTTT applications, with differing levels of significance. (Under federal law, "absolute" priorities must be met for applications to be considered, "competitive" priorities are awarded points or otherwise considered in application review, and "invitational" priorities signify an interest from USED, but are not directly valued in application review).

- Proposed Absolute Priority: The notice includes one proposed absolute priority: The state's application must include a plan for comprehensively addressing each of the four reform areas. This approach is reinforced in the proposed selection criteria, which focus on the reform areas.
- Proposed Competitive Preference Priority: The notice includes one proposed competitive preference priority: The notice seeks state applications that emphasize Science, Technology, Engineering, and Mathematics (STEM), including offering a rigorous course of study in STEM; cooperating with industry experts, museums, universities, and other STEM partners in assisting teachers in integrating and strengthening STEM instruction; and preparing more students, including underrepresented groups and women and girls, for STEM careers.
- Proposed Invitational Priorities: The notice also includes three proposed invitational priorities: (1) projects to extend statewide longitudinal data systems to integrate data from special education, early childhood education, human resources, finance, and other areas to allow users to answer important policy and practice questions, or projects for states to work together to adapt use of statewide longitudinal data systems across states; (2) projects that address coordination and vertical alignment of early childhood, K-12, and postsecondary institutions and programs to create a more seamless P-16 educational experience, particularly at key transition points; and (3) projects in which the state's participating LEAs provide schools with appropriate flexibility and autonomy conducive to reform and innovation, such as selecting staff, reorganizing the school day or year to expand learning time, awarding credit to students based on performance rather than instructional time, etc.

Proposed RTTT Application Requirements

The USED notice includes several proposed requirements for RTTT applications. Each of these requirements would have to be met or agreed to by the applicant as a precondition for receiving a grant. The proposed requirements include:

- Proposed Eligibility Requirements: The notice includes two proposed eligibility requirements: (1) the state's applications for phase 1 and phase 2 funding under the SFSF must be approved by USED by the time a grant would be made to the state under RTTT; and (2) the state must have no legal barriers to linking student achievement data or student growth data to teachers and principals for the purpose of teacher and principal evaluation. With regard to the latter requirement, states that prohibit linking student and teacher data may have to remove that prohibition through legislative or other action before receiving a grant, which could delay some states until the phase 2 application process. There are legal arguments, however, that these states can "remove" this restriction more quickly and without state legislative action.
- Proposed Application Requirements: The notice includes several proposed application requirements, including that the state's application: (1) be signed by the governor, chief state school officer, and president of the state board of education; (2) describe the progress the state

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has made to date in each of the four reform areas, including how it has used ARRA and other federal and state funding over the last several years to pursue reforms in these areas; (3) include financial data showing the percentage of total revenues available to the state that were used to support K-12 and postsecondary education for FY 2008 and FY 2009; (4) demonstrate statewide support from education stakeholders and LEAs (including charter school LEAs), including letters of commitment from the state's union leadership and from business, community, and civil rights leaders; (5) describe how the state will use RTTT funds to address the reform areas and achieve targets for improving student achievement and graduation rates and for closing achievement gaps, as well as give priority to high need LEAs; and (6) include evidence prescribed in the notice to address State Reform Conditions criteria, and a detailed plan for each Reform Plan criterion on the activities to be undertaken, their rationale, timelines, resources to be used to support the activities, and annual targets for performance measures prescribed in the notice for four school years, beginning with the 2010-11 school year. The state also must submit a certification from the state attorney general or other chief state legal officer, that the state's statements and conclusions regarding state law are complete, accurate, and a reasonable interpretation of state law. These are very detailed and precise requirements. Further, the requirements related to stakeholder support strongly suggest that each state planning to apply for RTTT funds should develop a process for communication with and input from key stakeholders during the application development process.

- Proposed Project Requirements: The notice's proposed project requirements focus on requiring grantee states to report annually on performance measures and overall progress of the project. The proposed performance measures are included in an appendix to the notice. They focus on quantitative measures, such as how many districts, schools, or teachers are subject to a certain policy or activity. Funded states also will be required either to participate in a national evaluation or conduct their own evaluation (to be determined by USED and announced in the notice that will invite applications) and to comply with other conditions (such as annual fund drawdown schedules tied to goals and making all project outputs - e.g. materials, tools, processes, systems - freely available on a USED-identified or sponsored website).

Proposed RTTT Selection Criteria

Finally, the USED notice also includes multiple proposed criteria to be used by USED and its peer reviewers in conducting a qualitative review of applications in order to select states for RTTT funding. The criteria are organized under the four reform areas (or "assurances"), along with a fifth group of "overall" criteria. The notice indicates that the criteria will be weighted by assigning the maximum possible points for each criterion, but it does not include any proposed points. The weighting will be announced in the notice inviting applications. Despite the absence of specific proposals for assigning points to the criteria in this document, that is an appropriate issue for public comment. If a state or other interested party believes that certain criteria are more important than others, it would be appropriate to recommend that the criteria be weighted accordingly.

The following is a summary with examples of proposed criteria and evidence of particular interest. For an exhaustive list, please see the attached RTTT notice "blueprint" table.

1. Standards and Assessments: These proposed criteria relate to the state's commitment to adopting and implementing the common core of college- and career-ready, internationally benchmarked standards, as well as participating with a consortium of states in jointly

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developing assessments aligned with the common core. The proposed notice defines the common core of standards to be identical across states, except that states may supplement the common standards, provided the additional standards do not exceed 15% of the state's total standards for the content area.

The State Reform Conditions Criterion for phase 1 applications is whether the state has joined a consortium of states to jointly develop a common core of college- and career-ready, internationally benchmarked standards and the extent to which this consortium includes a significant number of states. For phase 2 applications, the state would have had to adopt the common standards developed through this process. With regard to assessments, the notice indicates that for a phase 1 application, it would be satisfactory evidence to provide a statement of intent to join a consortium to apply for a grant under the RTTT Standards and Assessment competition that will be separately announced. Phase 2 applications would need to document that the state's consortium has applied for the separate grant or other evidence of the state's plan to develop and adopt common, high-quality assessments. The Reform Plan Criteria contemplate a plan for implementing the common standards in the state through activities such as aligning high school exit criteria and college entrance requirements with the new assessments; developing aligned curricular frameworks and materials, and formative and interim assessments; and providing professional development materials and training in the use of high quality assessments and the results of those assessments in instruction.

2. Data Systems to Support Instruction: These proposed criteria relate to the development of a statewide data system that promotes better use of data for instruction and research. Evidence for the State Reform Conditions Criteria includes a description of the extent to which all 12 elements specified in the America Competes Act will be in place. Reform Plan Criteria stress the accessibility and use of data to inform and engage stakeholders; the use of data to inform instructional practices and decision-making; and ambitious targets to increase research and evaluation of instructional approaches and materials (all while complying with the Family Educational Rights and Privacy Act (FERPA)).
3. "Great Teachers and Leaders": These proposed criteria address state efforts to improve teacher effectiveness and the equitable distribution of effective teachers. The State Reform Conditions Criterion relates to the extent to which the state has legal structures that permit alternative certification programs. The notice also includes multiple Reform Plan Criteria for this area, including: (1) plans to link student achievement data to teachers and principals and the programs where those teachers and principals were credentialed, and to publicly report those findings for each credentialing program; (2) plans to establish ambitious targets for differentiating teacher and principal effectiveness using multiple rating categories that include student growth and using this information in evaluations, compensation, advancement, tenure, and dismissal decisions; (3) plans to measure student growth and share that information with teachers, principals, and families; (4) plans for the state and participating LEAs to increase use of rapid-time student progress and performance data to drive supports to teachers and principals, such as professional development and time for common planning; and (5) plans to increase the number and percentage of highly effective teachers and principals in high-poverty schools and the number and percentage of effective teachers teaching hard-to-staff subjects.
4. "Turning Around Struggling Schools": These proposed criteria address the state's efforts to support schools identified for improvement or more severe interventions. One State Reform Conditions Criterion for this area relates to whether the state has legal authority to intervene

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directly in the state's lowest performing schools and in LEAs that are in improvement or corrective action status. Another relates to the extent to which the state can increase the supply of high-quality charter schools, as measured by whether it has a charter school law that does not inhibit an increase in the number of charter schools in the state or restrict student enrollment in these schools; the nature and extent of state policies or laws on the chartering, monitoring, and accountability systems for charter schools (including whether student achievement is a factor in these decisions); and whether there are equitable funding and facilities for charter schools. The Reform Plan Criterion considers the extent to which there is an ambitious plan to identify the lowest performing five percent of persistently low-performing schools, and support LEAs in turning them around with new leadership and a majority of new staff, new governance, or other specified school transformation models, such as extended learning time, community-oriented supports, and community and family engagement.

5. Overall Criteria: These criteria include the State Reform Conditions Criteria of state progress in each of the reform areas and use of ARRA and other federal and state funds over the past several years for reforms in these areas; state progress in increasing student achievement and decreasing achievement gaps, as reported on NAEP since 2003, and in increasing graduation rates; the adoption of state law and policy conducive to education reform and innovation; maintenance of state funding for education as a proportion of state revenue in FY 2009 compared to FY 2008; and support from key stakeholders, including state union leadership and leaders from business, community, and civil rights groups, and from LEAs, including charter school LEAs, including the strength of MOUs between each participating LEA and the state, which must at a minimum be signed by the LEA superintendent, the president of the local school board, and the local teachers' union president. Overall Reform Plan Criteria include ambitious targets for gains in student achievement and graduation rates, as well as closing the achievement gap, and a high quality plan to build capacity to carry out the grant, support LEAs, continue reforms after the grant ends, collaborate with other states, and coordinate or repurpose education funds from other sources to align with RTTT goals.

Conclusion

In sum, there are few surprises in USED's RTTT notice. The proposed priorities, requirements, and criteria focus on each and all of the ARRA SFSF reform areas or "assurances," and establish criteria for each assurance that examine both state leadership and progress to date as well as state plans for future significant reform. At the same time, the RTTT notice would create a deep and direct partnership of state policy and federal oversight of RTTT grants, and a detailed structure for state applications and for measuring the performance of funded states. The other most notable policy reflected in the proposed notice is the extent to which it endorses the state-led common standards and assessment effort and makes it a core criterion for funding under the RTTT. States and other stakeholders have 30 days from publication in the *Federal Register* to provide comments on this draft notice, even as states begin work on their RTTT applications.

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If you have questions about USED's ARRA RTTT notice, or other ARRA issues, please contact **Scott Palmer**, Managing Partner, at scott.palmer@educationcounsel.com or (202) 545-2916; **Reg Leichy**, Partner, at

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