

Design Guidelines, and Video Documentation. The full text of the Program Comment can be found in the Council's Notice of Approval, published in the **Federal Register** on June 7, 2002, Vol. 167, No. 110, pp. 39332–39335.

Dated: March 25, 2002.

Raymond J. Fatz,

*Deputy Assistant Secretary of the Army
(Environment, Safety and Occupational
Health), OASA (I&E).*

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DEPARTMENT OF EDUCATION

[CFDA No. 84.354A]

Office of Innovation and Improvement; Credit Enhancement for Charter School Facilities Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2003

Purpose of Program: This program will provide grants to eligible entities to permit them to enhance the credit of charter schools so that they can access private-sector and other non-Federal capital to acquire, construct, and renovate facilities at a reasonable cost. Grant projects awarded under this program will be of sufficient size, scope, and quality to enable the grantees to implement effective strategies.

Eligible Applicants: (A) A public entity, such as a State or local governmental entity; (B) A private, nonprofit entity; or (C) A consortium of entities described in (A) and (B).

Applications Available: April 3, 2003.

*Deadline for Transmittal of
Applications:* June 3, 2003.

*Deadline for Intergovernmental
Review:* August 2, 2003.

Estimated Available Funds:
\$25,000,000.

Estimated Range of Awards: \$2.5
million–\$10 million.

Estimated Average Size of Awards:
\$8.3 million.

Estimated Number of Awards: 3–5.
The Secretary will make, if possible, at least one award in each of the three categories of eligible applicants.

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

Project Period: From the start date indicated on the grant award document until the Federal funds and earnings on those funds have been expended for the grant purposes or until financing facilitated by the grant has been retired, whichever is later.

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 50 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.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, 86, 97, 98, and 99.

SUPPLEMENTARY INFORMATION:

Application Content

Each Credit Enhancement for Charter School Facilities Program application must include the following specific program elements:

1. A statement identifying the activities proposed to be undertaken with grant funds (the “grant project”) and the timeline for the activities, including how the applicant will determine which charter schools will receive assistance, how much and what types of assistance these schools will receive, the type of schools to be served, and what procedures the applicant will use for documenting grant project procedures and results.

2. A description of the involvement of charter schools in the application’s development and design of the proposed grant project.

3. A description of the applicant’s expertise in capital markets financing and its organizational capacity to implement the proposed grant project successfully. (Consortium applicants must list information for each of the participating organizations.)

4. A description of how the proposed grant project will leverage the maximum amount of private-sector and other non-Federal capital relative to the amount of Credit Enhancement for Charter School Facilities Program funding used, the definition of “leverage” the applicant has used in developing that description, the type of assistance to be provided, how the assistance would sufficiently reduce the costs that charter schools face so that it would enable them to obtain or improve school facilities that they would not be able to obtain or improve absent the assistance, and how the proposed activities will otherwise enhance credit available to charter schools.

5. In the case of an application submitted by a State governmental entity, a description of current and

planned State funding policy and other forms of financial assistance that will help charter schools meet their facility needs.

Use of Funds

Grant recipients, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, must deposit the grant funds received under this program (other than funds used for administrative costs) in a reserve account established and maintained by the grantee for this purpose. Amounts deposited in such account shall be used by the grantee for one or more of the following purposes in order to assist charter schools in accessing private-sector and other non-Federal capital:

(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein.

(2) Guaranteeing and insuring leases of personal and real property.

(3) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

(4) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (such as the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

Funds received under this program and deposited in the reserve account must be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities. Investments must be designed to preserve principal.

Any earnings on funds, including fees, received under this program must be deposited in the reserve account and be used in accordance with the requirements of this program.

An eligible entity receiving a grant under this program must use the funds deposited in the reserve account to assist multiple charter schools in accessing capital to accomplish one or both of the following objectives:

(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

(2) The construction of new facilities, or the renovation, repair, or alteration of

existing facilities, necessary to commence or continue the operation of a charter school.

Grantees must ensure that all costs incurred using funds from the reserve account are reasonable. The burden of proof is upon the grantee, as a fiduciary under its agreements with the Secretary, to establish that costs are reasonable. Each grantee must also clearly indicate with respect to each financial obligation it enters into pursuant to this grant program that the full faith and credit of the United States is not pledged to the payment of funds under such obligation.

Grantee Performance Agreements and Reporting Requirements

Applicants that are selected to receive an award must enter into a written Performance Agreement with the Department prior to drawing down funds, unless the grantee receives written permission from the Department in the interim to draw down a specific limited amount of funds. A key element of the Performance Agreement is the performance goals for the grant. These performance goals will include the program's two performance indicators: (1) The amount of funding grantees leverage for charter schools to acquire, construct, and renovate school facilities and (2) the number of charter schools served. In developing performance goals, Department staff and each applicant will rely on the applicant's annual projections submitted under the Business/Organizational Capacity section of the application and the objectives established in the approved application. The Performance Agreement will also describe the ways in which the Department and the grantee will work together to accomplish the purposes of the program.

The Secretary, in accordance with chapter 37 of title 31, United States Code, will collect all of the funds in the reserve account established with grant funds (including any earnings on those funds) if the Secretary determines that the grantee has permanently ceased to use all or a portion of the funds in such account to accomplish the purposes described in the authorizing statute and the Performance Agreement or, if not earlier than two years after the date on which the entity first received these funds, the entity has failed to make substantial progress in undertaking the grant project.

During each fiscal year that the grantee's obligation to the Federal Government remains in effect, grantees will submit reports (as detailed below) to the Department. The grantee's

commitment continues for the duration of the project period.

Applicants selected for funding will be required to submit the following reports to the Department:

1. An annual report that includes—
 - a. A copy of the most recent financial statements and any accompanying opinion on such statements prepared by the independent public accountant reviewing the financial records of the grantee;
 - b. A copy of any report made on an audit of the financial records of the grantee conducted during the reporting period;
 - c. An evaluation by the grantee of the effectiveness of its use of the Federal funds in leveraging private-sector and other non-Federal funds;
 - d. A description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the grantee during the reporting period;
 - e. A narrative description of the grantee's activities in support of the objectives of the program and its performance goals, including a listing and description of the charter schools served during the reporting period; and
 - f. Such other information as the Secretary may require.
2. Semiannual reports that include internal financial statements and other information as the Secretary may require in the Performance Agreement.

Grantees must also cooperate and assist the Department with any periodic financial and compliance audits of the grantee, as determined necessary by the Department. The specific Performance Agreement between the grantee and the Department may contain additional reporting requirements.

Grantees must maintain and enforce standards of conduct governing the performance of their employees, officers, directors, trustees, and agents engaged in the selection, award, and administration of contracts or agreements related to this grant. The standards of conduct must, at a minimum, require disclosure of direct and indirect financial or other interests, mandate disinterested decision-making, and indicate corrective actions to be taken in the event of violation.

Limitation on Administrative Costs

A grantee may use not more than 0.25 percent (one quarter of one percent) of the grant funds for the administrative costs of the grant.

Charter Schools Eligible to Benefit From This Program

The charter schools that a grantee selects to benefit from this program

must meet the definition of a charter school, as defined in the Public Charter Schools Program authorizing statute in section 5210(1) of the Elementary and Secondary Education Act of 1965 (ESEA). This definition is repeated as follows in this application notice for the convenience of the applicant.

(1) A charter school is a public school that—

(A) In accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph [paragraph (1) of ESEA section 5210];

(B) Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) Provides a program of elementary or secondary education, or both;

(E) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) Does not charge tuition;

(G) Complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

(H) Is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(I) Agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program [the Public Charter Schools Program];

(J) Meets all applicable Federal, State, and local health and safety requirements;

(K) Operates in accordance with State law; and

(L) Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments

mutually agreeable to the authorized public chartering agency and the charter school.

Competitive Preference Priority

Under 34 CFR 75.105(c)(2)(i) the Secretary awards additional points to an application that proposes to increase the capacity of charter schools to offer public school choice in those communities with the greatest need for this choice. The Secretary awards up to an additional 15 points to an application, depending on how well the application addresses 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 Elementary and Secondary Education Act as amended by the No Child Left Behind Act;
- 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.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary will use the following project selection criteria. The Secretary gives distinct weight to the listed criteria. Within each criterion, the Secretary evaluates each factor equally.

The maximum score for all of the selection criteria is 100 points. The maximum score for each criterion is indicated in parenthesis.

The selection criteria address two important questions:

A. Does the applicant have the ability to carry out the proposed grant project?

B. Has the applicant proposed a grant project that will make a significant contribution toward meeting the purpose of the Credit Enhancement for Charter School Facilities Program and thereby increase charter schools' access to facilities financing?

A. The selection criteria related to the applicant's capacity to carry out the proposed grant project include:

1. *The business and organizational capacity of the applicant to carry out the grant project (35 points).*

- The amount and quality of experience the applicant has in carrying out the activities it proposes to undertake in its application, such as enhancing the credit on debt issuances, guaranteeing leases, and facilitating financing;

- The applicant's financial stability;
- The adequacy of the applicant's policies and procedures regarding loan underwriting, portfolio monitoring, and financial management to protect against unwarranted risk;

- The adequacy of the applicant's standards of conduct and organizational structure to prevent conflicts of interest; and

- The resources to be contributed by each co-applicant (consortium member), partner, or other grant project participant to the implementation and success of the grant project.

- For State governmental entities, the extent to which steps have or will be taken to help charter schools within the State obtain adequate facilities.

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

- The qualifications, including relevant training and experience, of the project manager and other members of the grant project team, including consultants or subcontractors; and

- The adequacy and appropriateness of the applicant's staffing plan for the grant project.

- For non-profits only, an IRS Form 990 and the qualifications, including relevant training and experience, and independence of members of the board of directors.

B. The selection criteria related to the potential contribution of the proposed grant project to achieving the purpose of the Credit Enhancement for Charter School Facilities Program include:

1. *The quality of the design and potential significance of the proposed grant project (35 points).*

- The extent to which the grant project goals, objectives, and timeline are clearly specified, measurable, and appropriate for the purpose of the Credit Enhancement for Charter School Facilities Program;

- The extent to which the grant project implementation plan and activities, including the partnerships established, are likely to achieve the objectives sought by the project;

- The extent to which the proposed grant project is likely to produce results that will be documented and helpful to others nationally in providing facilities financing assistance to charter schools;

- The extent to which the grant project will use appropriate criteria for selecting charter schools for assistance and for determining the type and amount of assistance to be given;

- The importance or magnitude of the results or outcomes likely to be attained by the proposed grant project (e.g., the number and variety of charter schools assisted that would not have been able to meet their school facility needs

absent the assistance and the amount of capital leveraged); and

- 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.

2. *The quality of the services (15 points).*

- The extent to which the services to be provided by the proposed grant project reflect the needs of the charter schools to be served;

- The extent to which charter schools and chartering agencies were involved in the design of, and demonstrate support for, the grant project;

- The extent to which the technical assistance and other services to be provided by the proposed grant project involve the use of cost-effective strategies for increasing charter schools' access to facilities financing; and

- The extent to which the services to be provided by the proposed grant project are focused on assisting quality charter schools that have the greatest needs for assistance under the program.

Waiver of Proposed Rulemaking: It is the Secretary's practice, in accordance with the Administrative Procedure Act (5 U.S.C. 553), to offer interested parties the opportunity to comment on proposed rules. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, allows the Secretary to exempt from rulemaking requirements rules governing the first grant competition under a new or substantially revised program authority (20 U.S.C. 1232(d)(1)). This program authority was substantially revised under the No Child Left Behind Act of 2001 and this would be the first grant competition under that revised authority. The Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment in order to ensure timely grant awards. These rules would apply to the FY 2003 grant competition only.

For Applications Contact: 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: <http://www.ed.gov/pubs/edpubs.html>.

Or you may contact ED Pubs at its e-mail address:

edpubs@inet.ed.gov.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.354A.

FOR FURTHER INFORMATION CONTACT: Jim Houser, U.S. Department of Education, 400 Maryland Avenue, SW., room 3C140, Washington, DC 20202-6140. Telephone: (202) 401-0307 or via Internet: Jim.Houser@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, audiotope, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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

The Department intends to offer further information about the program at the following Internet site: <http://www.ed.gov/offices/OII/portfolio/facilities.html>.

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

Program Authority: Elementary and Secondary Education Act of 1965, title V, part B, subpart 2, as amended by the No Child Left Behind Act, 2001 (20 U.S.C. 7223-7223j).

Dated: March 31, 2003.

Nina S. Rees,

Deputy Under Secretary for Innovation and Improvement.

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BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[CFDA No. 84.069]

Federal Student Aid; Leveraging Educational Assistance Partnership and Special Leveraging Educational Assistance Partnership Programs

AGENCY: Department of Education.

ACTION: Notice of the closing date for receipt of State applications for Award Year 2003-2004 funds.

SUMMARY: This is a notice of the closing date for receipt of State applications for Award Year 2003-2004 funds under the Leveraging Educational Assistance Partnership (LEAP) and Special Leveraging Educational Assistance Partnership (SLEAP) programs.

The LEAP and SLEAP programs, authorized under Title IV, Part A, Subpart 4 of the Higher Education Act of 1965 as amended (HEA), assist States in providing aid to students with substantial financial need to help them pay for their postsecondary education costs through matching formula grants to States. Under section 415C(a) of the HEA, a State must submit an application to participate in the LEAP and SLEAP programs through the State agency that administered its LEAP Program as of July 1, 1985, unless the Governor of the State has subsequently designated, and the Department has approved, a different State agency to administer the LEAP Program.

DATES: To receive an allotment under the LEAP and SLEAP programs for Award Year 2003-2004, applications submitted electronically must be received by 11:59 p.m. (Eastern time) May 30, 2003. Paper applications must be received by May 23, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Gerrans, LEAP Program Manager, Financial Partners, U.S. Department of Education, Federal Student Aid, 830 First Street, NE., Room 111H1, Washington, DC 20202. Telephone: (202) 377-3304.

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, audiotope, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Individuals with disabilities also may obtain a copy of the application in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative

format the standard forms included in the application package.

SUPPLEMENTARY INFORMATION: Only the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands may submit an application for funding under the LEAP and SLEAP programs.

State allotments for each award year are determined according to the statutorily mandated formula under section 415B of the HEA and are not negotiable. A State may also request its share of reallocation, in addition to its basic allotment, which is contingent upon the availability of such additional funds.

In Award Year 2002-2003, 47 States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands received funds under the LEAP Program. Additionally, 34 States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands received funds under the SLEAP Program.

On-Line Application Submitted Electronically: The Financial Partners Channel within Federal Student Aid has automated the LEAP and SLEAP application process in the Financial Management System (FMS). Applicants are encouraged to use the web-based form (Form 1288-E OMB 1845-0028) which is available on the FMS LEAP on-line system at the following Internet address: <http://fms.sfa.ed.gov>

Paper Application Delivered by Mail: States or territories may request a paper version of the application (Form 1288 OMB 1845-0028) by contacting Mr. Greg Gerrans, LEAP Program Manager, at (202) 377-3304 or by E-mail at greg.gerrans@ed.gov. A paper version will be mailed to you. An application sent by mail must be addressed to: Mr. Greg Gerrans, LEAP Program Manager, Financial Partners, U.S. Department of Education, Federal Student Aid, 830 First Street, NE., Room 111H1, Washington, DC 20202.

The Department of Education encourages applicants that are completing a paper application to use certified or at least first-class mail when sending the application by mail to the Department. Applications that are mailed must be received by the Department no later than May 23, 2003.

A late applicant cannot be assured that its application will be considered for Award Year 2003-2004 funding.

Paper Applications Delivered by Hand: Applications that are hand-delivered must be delivered to Mr. Greg Gerrans, LEAP Program Manager,