

**§ 222.70 How does the Secretary determine whether a fiscally dependent local educational agency is making a reasonable tax effort?**

(a) If an LEA is fiscally dependent, as defined in § 222.2(c), the Secretary compares the LEA's imputed local tax rate, calculated under paragraph (b) of this section, with the average tax rate of its generally comparable LEAs, calculated under paragraph (c) of this section, to determine whether the LEA is making a reasonable tax effort.

(b) The Secretary imputes a local tax rate for a fiscally dependent LEA by—

(1) Dividing the assessed value of each classification of real property within the boundaries of the general government by the percentage of true value assigned to that property for tax purposes and aggregating the results;

(2) Determining the amount of locally derived revenues made available by the general government for the LEA's current expenditures (as defined in section 8013); and

(3) Dividing the amount determined in paragraph (b)(2) of this section by the amount determined in paragraph (b)(1) of this section.

(c) The Secretary performs the computations in paragraph (b) of this section for each of the fiscally dependent generally comparable LEAs and the computations in §§ 222.67–222.69, whichever is applicable, for each of the fiscally independent generally comparable LEAs and determines the average of all those tax rates.

(d) The Secretary determines that a fiscally dependent LEA described in § 222.62 (a) or (d) is making a reasonable tax effort if its imputed local tax rate is equal to at least 95 percent of the average tax rate of its generally comparable LEAs.

(e) The Secretary determines that a fiscally dependent LEA described in § 222.62(b) is making a reasonable tax effort if its imputed local tax rate is equal to at least 125 percent of the average tax rate of its generally comparable LEAs.

(Approved by the Office of Management and Budget under control number 1810-0036)

(Authority: 20 U.S.C. 7703(f))

**§ 222.71 What information must be provided by the State educational agency?**

The SEA of any State with an LEA applying for assistance under section 8003(f) shall provide the Secretary with relevant information necessary to determine whether the LEA is making a reasonable tax effort under §§ 222.67–222.70, whichever is applicable.

(Approved by the Office of Management and Budget under control number 1810-0036)

(Authority: 20 U.S.C. 7703(f))

**§ 222.72 How does the Secretary determine a maximum payment for local educational agencies that are eligible for financial assistance under section 8003(f)(2)(A) and § 222.63?**

(a) Except as otherwise provided in paragraphs (b) through (c) of this section or § 222.76, the Secretary determines a maximum payment under section 8003(f)(2)(A) for an eligible LEA by—

(1) First calculating the greater of—

(i) The State average per pupil expenditure (APPE) or the national APPE;

(ii) The APPE of generally comparable LEAs identified under §§ 222.39–222.41; or

(iii) The APPE of three generally comparable LEAs identified under § 222.74;

(2) Next subtracting from the amount calculated in paragraph (a)(1) of this section the average State aid per pupil amount received by the LEA;

(3) Multiplying the amount calculated in paragraph (a)(2) of this section by the total number of federally connected students in ADA who are eligible for basic support payments under section 8003(b);

(4) In the case of an LEA whose tax rate is at least 95 percent but less than 100 percent of the average tax rate of its generally comparable LEAs, reducing the amount calculated in paragraph (a)(3) of this section by the percentage that the average tax rate of its generally comparable LEAs exceeds the tax rate of the LEA; and

(5) Subtracting from the amount calculated in paragraph (a)(3), or paragraph (a)(4) of this section, the total amount of payments received by the eligible LEA under sections 8003 (b) and

**§ 222.73**

(d) for the fiscal year for which a payment is being determined under section 8003(f).

(b) For the first step of the computations described in paragraph (a) of this section, the Secretary calculates a maximum payment under section 8003(f)(2)(A) for an eligible LEA described in §222.62 (b) or (c) by multiplying the national APPE by .70, except that the resulting amount may not exceed 125 percent of the State APPE.

(c) For the fourth step of the computations described in paragraph (a) of this section, generally comparable LEAs for reasonable tax effort purposes are the LEAs whose APPE is identified in §222.72(a)(1) except that for applicant LEAs for whom the national APPE is identified, all LEAs in the applicant's State will be used as generally comparable LEAs for reasonable tax effort purposes.

(Authority: 20 U.S.C. 7703(f))

**§ 222.73 How does the Secretary determine a maximum payment for local educational agencies that are eligible for financial assistance under section 8003(f)(2)(B) and § 222.64?**

Except as otherwise provided in paragraphs (b) and (c) of this section and §222.76, the Secretary determines a maximum payment under section 8003(f)(2)(B) for an eligible LEA as follows:

(a) The Secretary increases the eligible LEA's local contribution rate (LCR) for section 8003(b) payment purposes up to the amount the Secretary determines will compensate the applicant for the increase in its current expenditures necessitated by the unusual geographical factors identified under §222.64(b)(2), but no more than is necessary to allow the applicant to provide a level of education equivalent to that provided by its generally comparable LEAs.

(b) The increase in the LCR referred to in paragraph (a) of this section may not exceed the per pupil share (computed with regard to all children in ADA), as determined by the Secretary, of the increased current expenditures necessitated by the unusual geographical factors identified under §222.64(b)(2).

**34 CFR Ch. II (7-1-03 Edition)**

(c) In the case of an LEA whose tax rate is at least 95 percent but less than 100 percent of the average tax rate of its generally comparable LEAs, reducing the amount calculated in paragraph (a) of this section by the percentage that the average tax rate of its generally comparable LEAs exceeds the tax rate of the LEA.

(Authority: 20 U.S.C. 7703(f))

**§ 222.74 How does the Secretary identify generally comparable local educational agencies for purposes of section 8003(f)?**

(a) Except as otherwise provided in paragraph (b) of this section, the Secretary identifies generally comparable LEAs for purposes of this subpart in accordance with the LCR procedures described in §§ 222.39-222.41.

(b) For applicant LEAs described in §222.62(a), to identify the three generally comparable LEAs referred to in §222.72(a)(1)(iii), the Secretary uses the following procedures:

(1) The Secretary asks the SEA of the applicant LEA to identify generally comparable LEAs in the State by first following the directions in §222.39(a)(4), using data from the preceding fiscal year. The SEA then removes from the resulting list any LEAs that are significantly impacted, as described in §222.39(b)(1), except the applicant LEA.

(2) If the remaining LEAs are not in rank order by total ADA, the SEA shall list them in that order.

(3) The LEA may then select as its generally comparable LEAs, for purposes of section 8003(f) only, three LEAs from the list that are closest to it in size as determined by total ADA (e.g., the next three larger LEAs, the next three smaller, the next two larger and the next one smaller, or the next one larger and the next two smaller).

(Authority: 20 U.S.C. 7703(f))

**§ 222.75 How does the Secretary compute the average per pupil expenditure of generally comparable local educational agencies under this subpart?**

The Secretary computes APPE under this subpart by—

(a) Dividing the sum of the total current expenditures for the preceding fiscal year for the identified generally