

226.3 What regulations apply to the State Charter School Facilities Incentive program?

226.4 What definitions apply to the State Charter School Facilities Incentive program?

#### Subpart B—How Does the Secretary Award a Grant?

226.11 How does the Secretary evaluate an application?

226.12 What selection criteria does the Secretary use in evaluating an application for a State Charter School Facilities Incentive program grant?

226.13 What statutory funding priority does the Secretary use in making a grant award?

226.14 What other funding priorities may the Secretary use in making a grant award?

#### Subpart C—What Conditions Must Be Met by a Grantee?

226.21 How may charter schools use these funds?

226.22 May grantees use grant funds for administrative costs?

226.23 May charter schools use grant funds for administrative costs?

AUTHORITY: 20 U.S.C. 1221e-3; 7221d(b), unless otherwise noted.

SOURCE: 70 FR 75909, Dec. 21, 2005, unless otherwise noted.

#### Subpart A—General

##### § 226.1 What is the State Charter School Facilities Incentive program?

(a) The State Charter School Facilities Incentive program provides grants to States to help charter schools pay for facilities.

(b) Grantees must use these grants to—

(1) Establish new per-pupil facilities aid programs for charter schools;

(2) Enhance existing per-pupil facilities aid programs for charter schools; or

(3) Administer programs described under paragraphs (b)(1) and (2) of this section.

(Authority: 20 U.S.C. 7221d(b))

##### § 226.2 Who is eligible to receive a grant?

States are eligible to receive grants under this program.

(Authority: 20 U.S.C. 7221(b))

##### § 226.3 What regulations apply to the State Charter School Facilities Incentive program?

The following regulations apply to the State Charter School Facilities Incentive program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 84 (Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)).

(9) 34 CFR part 85 (Governmentwide Debarment and Suspension (Non-procurement)).

(10) 34 CFR part 97 (Protection of Human Subjects).

(11) 34 CFR part 98 (Student Rights in Research, Experimental Programs, and Testing).

(12) 34 CFR part 99 (Family Educational Rights and Privacy).

(b) The regulations in this part 226.

(Authority: 20 U.S.C. 1221e-3; 7221d(b))

##### § 226.4 What definitions apply to the State Charter School Facilities Incentive program?

(a) *Definitions in the statute.* The following term used in this part is defined in section 5210 of the Elementary and Secondary Education Act of 1965, as amended (ESEA):

§ 226.11

34 CFR Ch. II (7-1-06 Edition)

Charter school

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

- Applicant
- Application
- Award
- Department
- EDGAR
- Facilities
- Grant
- Grantee
- Project
- Public
- Secretary

(c) *Other definition.* The following definition also applies to this part:

*Construction means—*

- (1) Preparing drawings and specifications for school facilities projects;
- (2) Repairing, renovating, or altering school facilities;
- (3) Extending school facilities;
- (4) Erecting or building school facilities; and
- (5) Inspections or supervision related to school facilities.

(Authority: 20 U.S.C. 7221d(b); 7221i(1))

**Subpart B—How Does the Secretary Award a Grant?**

**§ 226.11 How does the Secretary evaluate an application?**

(a) The Secretary evaluates an application on the basis of the criteria in § 226.12 and the competitive preference priorities in § 226.13 and § 226.14.

(b) The Secretary informs applicants of the maximum possible score for each criterion and competitive preference priority in the application package or in a notice published in the FEDERAL REGISTER.

(Authority: 20 U.S.C. 7221d(b))

**§ 226.12 What selection criteria does the Secretary use in evaluating an application for a State Charter School Facilities Incentive program grant?**

The selection criteria for this program are as follows:

(a) *Need for facility funding.* (1) The need for per-pupil charter school facility funding in the State.

(2) The extent to which the proposal meets the need to fund charter school facilities on a per-pupil basis.

(b) *Quality of plan.* (1) The likelihood that the proposed grant project will result in the State either retaining a new per-pupil facilities aid program or continuing to enhance such a program without the total amount of assistance (State and Federal) declining over a five-year period.

(2) The flexibility charter schools have in their use of facility funds for the various authorized purposes.

(3) The quality of the plan for identifying charter schools and determining their eligibility to receive funds.

(4) The per-pupil facilities aid formula’s ability to target resources to charter schools with the greatest need and the highest proportions of students in poverty.

(5) For projects that plan to reserve funds for evaluation, the quality of the applicant’s plan to use grant funds for this purpose.

(6) For projects that plan to reserve funds for technical assistance, dissemination, or personnel, the quality of the applicant’s plan to use grant funds for these purposes.

(c) *The grant project team.* (1) The qualifications, including relevant training and experience, of the project manager and other members of the grant project team, including employees not paid with grant funds, consultants, and subcontractors.

(2) The adequacy and appropriateness of the applicant’s staffing plan for the grant project.

(d) *The budget.* (1) 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 extent to which the costs are reasonable in relation to the number of students served and to the anticipated results and benefits.

(3) The extent to which the non-Federal share exceeds the minimum percentages (which are based on the percentages under section 5205(b)(2)(C) of the ESEA), particularly in the initial years of the program.

(e) *State experience.* The experience of the State in addressing the facility