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DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID: ED-2018-OESE-0017]

[Catalog of Federal Domestic Assistance (CFDA) Number 84.144F]

Proposed Waiver--Migrant Education Program Consortium Incentive Grant Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Proposed waiver and extension of the project period.

SUMMARY: The Secretary proposes to waive the requirement in the Education Department General Administrative Regulations that generally prohibits project period extensions involving the obligation of additional Federal funds. The proposed waiver and extension of the project period would enable the 34 grantees under the Migrant Education Program (MEP) Consortium Incentive Grant (CIG) Program that received awards in the fiscal year (FY) 2015 grant competition to continue to receive Federal funding for up to 24 additional months.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Are you new to the site?"

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about this proposed waiver and extension of the project period, address them to Jennifer Rodriguez, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E323, Washington, DC 20202.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking

Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Jennifer Rodriguez.

Telephone: (202) 453-6670 or by email:

Jennifer.Rodriguez@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this proposed waiver and extension of the project period.

During and after the comment period, you may inspect all public comments about this proposed waiver and extension by accessing Regulations.gov. You may also inspect the comments in person in room 3E323, 400 Maryland Avenue, SW., 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. Please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will provide an

appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed waiver and extension. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Background: The MEP CIG program is authorized in section 1308(d) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 6398(d)). Through the MEP CIG program, the U.S. Department of Education (Department) provides financial incentives to State educational agencies (SEAs) to participate in high-quality consortia that improve the interstate or intrastate coordination of migrant education programs by addressing key needs of migratory children who have their education interrupted.

The Department published a notice of final requirements for the MEP CIG program in the *Federal Register* on March 3, 2004 (69 FR 10109) (2004 Notice), and we have used these final requirements for CIG program competitions since FY 2004.

The 2004 Notice established a project period of up to two years for grants awarded under the MEP CIG program. We

subsequently published a notice of final requirement for the MEP CIG program in the *Federal Register* on December 31, 2013 (78 FR 79613) (2013 Notice), in which we increased the CIG project period to three years.

The Department last awarded CIG program grants in FY 2015. Currently, 34 SEAs (out of a total of 46 SEAs that receive MEP formula grant program funds) participate in CIG program-funded consortia.

We are proposing to waive the requirement in 34 CFR 75.261(c)(2), which limits the extension of a project period if the extension involves the obligation of additional Federal funds. If finalized, this waiver would allow the 34 current CIG program grantees to continue to receive Federal funding for up to two additional years through FY 2019.

We are proposing to provide up to two years of additional funding to current CIG grantees for several reasons. The additional project years proposed by this waiver would allow grantees' work to continue as the Secretary considers changes to the priorities, structure, and duration of the CIG program.

Providing up to two additional years of funding would permit grantees to continue coordinating with one another and achieving the goals and objectives of their consortium

applications. Based on the progress SEAs generally have made on consortium projects, we believe that current grantees could benefit from a fourth and fifth year in which to continue working on and implementing their CIG program projects.

Moreover, implementing this waiver and extension would ensure that the services provided by the current CIG program grantees continue uninterrupted as the Department supports States in their transition to implement requirements under the ESEA as amended by the Every Student Succeeds Act (ESSA). During this extension period, the activities of the current CIG program grantees would be modified through work plans, as necessary, to continue the implementation of consortium activities and to support States as they implement requirements under the ESSA.

For all of these reasons, we have concluded that it would be contrary to the public interest to have a lapse in the work of current CIG program grantees while the Secretary considers changes to the CIG program and while the Department implements the components of the ESSA as described above.

We intend to fund the extended project period for either one or two years by using the FY 2018 and, if necessary, FY 2019 funds that Congress appropriates under

the current statutory authority. Funding for the extended project period would follow the two-tiered funding formula established by the 2004 Notice.

If this proposed waiver and extension becomes final--

(1) Current grantees will be authorized to receive continuation awards annually for up to two years.

(2) We would not announce a new competition or make new awards under the MEP CIG program in FY 2018 (if the project period is extended for one year) or in FY 2019 (if the project period is extended for two years).

(3) During the extension period, any activities carried out must be consistent with, or be a logical extension of, the scope, goals, and objectives of the grantee's approved application from the FY 2015 CIG program competition.

(4) Each grantee who receives a continuation award must also continue to comply with the requirements established in the program regulations, the 2004 and 2013 Notices, and the 2015 notice inviting applications for the MEP CIG program (80 FR 6502).

The proposed waiver of 34 CFR 75.261(c)(2) would not affect the applicability of the requirements in 34 CFR 75.253 (continuation of a multi-year project after the first budget period) to any current CIG program grantee

that receives a continuation award as a result of the waiver.

We will announce the final waiver and extension, if any, in a document in the *Federal Register*. We will determine the final waiver and extension after considering responses to this proposed waiver and extension and other information available to the Department.

Proposed Waiver--CIG Program

For the 34 CIG program grantees that received awards in the FY 2015 competition, the Secretary proposes to waive the requirement in 34 CFR 75.261(c)(2) that prohibits extensions of project periods that involve the obligation of additional Federal funds.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed waiver and extension would not have a significant economic impact on a substantial number of small entities.

The entities that would be affected by this proposed waiver are:

(a) The FY 2015 grantees currently receiving Federal funds; and

(b) Entities not currently receiving Federal funds through the CIG program that would have been eligible to apply for an award in FY 2018 or in FY 2019 under the CIG

program if the Department were to hold a competition in either year.

The Secretary certifies that the proposed waiver and extension would not have a significant economic impact on these entities because the proposed waiver and extension and the activities required to support the additional years of funding would not impose excessive regulatory burdens or require unnecessary Federal supervision. The proposed waiver and extension would impose minimal requirements to ensure the proper expenditure of program funds, including requirements that are standard for continuation awards. In addition, none of those entities are small entities; this program makes awards to SEAs.

Paperwork Reduction Act of 1995

This proposed waiver and extension does not contain any 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 provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 17, 2018.

Jason Botel,
*Principal Deputy Assistant Secretary,
Delegated the authority to perform the
functions and duties of the Assistant
Secretary of Elementary and Secondary
Education.*

[FR Doc. 2018-08281 Filed: 4/19/2018 8:45 am; Publication Date: 4/20/2018]