



4000-01-U

DEPARTMENT OF EDUCATION

Applications for New Authorities; Innovative Assessment

Demonstration Authority

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

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new authorities for fiscal year (FY) 2020 under the Innovative Assessment Demonstration Authority.

DATES:

Applications Available: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Deadline for Notice of Intent to Apply: **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Deadline for Transmittal of Applications: **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Donald Peasley, U.S.

Department of Education, 400 Maryland Avenue, SW, room 3W106, Washington, DC 20202-6132. Telephone: (202) 453-7982. Email: Donald.Peasley@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:

Full Text of Announcement

I. Opportunity Description

Purpose of Program: The Secretary provides State educational agencies (SEAs), including consortia of SEAs, with the authority to establish and operate an innovative assessment system in their public schools under the Innovative Assessment Demonstration Authority in section 1204 of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA or the Act). During the initial demonstration period--i.e., the first three years that the Secretary provides innovative assessment demonstration authority--no more than seven SEAs may participate, including those participating in consortia, which may include no more than four SEAs. The Department held its first competition for this authority in 2018, and a second competition in 2019. We have awarded four States the authority. Up to three additional States may be approved for this authority during this competition.

Requirements: The following requirements are from 34 CFR 200.105.

An eligible application must include the following:

(a) Consultation. Evidence that the SEA or a consortium has developed an innovative assessment system in collaboration with--

(1) Experts in the planning, development, implementation, and evaluation of innovative assessment systems, which may include external partners; and

(2) Affected stakeholders in the State, or in each State in the consortium, including--

(i) Those representing the interests of children with disabilities, English learners, and other subgroups of students described in section 1111(c)(2) of the Act;

(ii) Teachers, principals, and other school leaders;

(iii) Local educational agencies (LEAs);

(iv) Representatives of Indian Tribes located in the State;

(v) Students and parents, including parents of children described in paragraph (a)(2)(i) of this section; and

(vi) Civil rights organizations.

(b) Innovative assessment system. A demonstration that the innovative assessment system does or will--

(1) Meet the requirements of section 1111(b)(2)(B) of the Act, except that an innovative assessment--

(i) Need not be the same assessment administered to all public elementary and secondary school students in the State during the demonstration authority period described in 34 CFR 200.104(b) (2) or extension period described in 34 CFR 200.108 and prior to statewide use consistent with 34 CFR 200.107, if the innovative assessment system will be administered initially to all students in participating schools within a participating LEA, provided that the statewide academic assessments under 34 CFR 200.2(a) (1) and section 1111(b) (2) of the Act are administered to all students in any non-participating LEA or any non-participating school within a participating LEA; and

(ii) Need not be administered annually in each of grades 3-8 and at least once in grades 9-12 in the case of reading/language arts and mathematics assessments, and at least once in grades 3-5, 6-9, and 10-12 in the case of science assessments, so long as the statewide academic assessments under 34 CFR 200.2(a) (1) and section 1111(b) (2) of the Act are administered in any required grade and subject under 34 CFR 200.5(a) (1) in which the SEA does not choose to implement an innovative assessment;

(2)(i) Align with the challenging State academic content standards under section 1111(b) (1) of the Act, including the depth and breadth of such standards, for the

grade in which a student is enrolled; and

(ii) May measure a student's academic proficiency and growth using items above or below the student's grade level so long as, for purposes of meeting the requirements for reporting and school accountability under sections 1111(c) and 1111(h) of the Act and paragraphs (b)(3) and (b)(7)-(9) of this section, the State measures each student's academic proficiency based on the challenging State academic standards for the grade in which the student is enrolled;

(3) Express student results or competencies consistent with the challenging State academic achievement standards under section 1111(b)(1) of the Act and identify which students are not making sufficient progress toward, and attaining, grade-level proficiency on such standards;

(4)(i) Generate results, including annual summative determinations as defined in paragraph (b)(7) of this section, that are valid, reliable, and comparable for all students and for each subgroup of students described in 34 CFR 200.2(b)(11)(i)(A)-(I) and sections 1111(b)(2)(B)(xi) and 1111(h)(1)(C)(ii) of the Act, to the results generated by the State academic assessments described in 34 CFR 200.2(a)(1) and section 1111(b)(2) of the Act for such students. Consistent with the SEA's or consortium's evaluation plan under 34 CFR 200.106(e), the SEA must plan

to annually determine comparability during each year of its demonstration authority period in one of the following ways:

(A) Administer full assessments from both the innovative and statewide assessment systems to all students enrolled in participating schools, such that at least once in any grade span (i.e., 3-5, 6-8, or 9-12) and subject for which there is an innovative assessment, a statewide assessment in the same subject would also be administered to all such students. As part of this determination, the innovative assessment and statewide assessment need not be administered to an individual student in the same school year.

(B) Administer full assessments from both the innovative and statewide assessment systems to a demographically representative sample of all students and subgroups of students described in section 1111(c)(2) of the Act, from among those students enrolled in participating schools, such that at least once in any grade span (i.e., 3-5, 6-8, or 9-12) and subject for which there is an innovative assessment, a statewide assessment in the same subject would also be administered in the same school year to all students included in the sample.

(C) Include, as a significant portion of the

innovative assessment system in each required grade and subject in which both an innovative and statewide assessment are administered, items or performance tasks from the statewide assessment system that, at a minimum, have been previously pilot-tested or field-tested for use in the statewide assessment system.

(D) Include, as a significant portion of the statewide assessment system in each required grade and subject in which both an innovative and statewide assessment are administered, items or performance tasks from the innovative assessment system that, at a minimum, have been previously pilot tested or field tested for use in the innovative assessment system.

(E) Use an alternative method for demonstrating comparability that an SEA can demonstrate will provide for an equally rigorous and statistically valid comparison between student performance on the innovative assessment and the statewide assessment, including for each subgroup of students described in 34 CFR 200.2(b)(11)(i)(A)-(I) and sections 1111(b)(2)(B)(xi) and 1111(h)(1)(C)(ii) of the Act; and

(ii) Generate results, including annual summative determinations as defined in paragraph (b)(7) of this section, that are valid, reliable, and comparable, for all

students and for each subgroup of students described in 34 CFR 200.2(b)(11)(i)(A)-(I) and sections 1111(b)(2)(B)(xi) and 1111(h)(1)(C)(ii) of the Act, among participating schools and LEAs in the innovative assessment demonstration authority. Consistent with the SEA's or consortium's evaluation plan under 34 CFR 200.106(e), the SEA must plan to annually determine comparability during each year of its demonstration authority period;

(5)(i) Provide for the participation of all students, including children with disabilities and English learners;

(ii) Be accessible to all students by incorporating the principles of universal design for learning, to the extent practicable, consistent with 34 CFR 200.2(b)(2)(ii); and

(iii) Provide appropriate accommodations consistent with 34 CFR 200.6(b) and (f)(1)(i) and section 1111(b)(2)(B)(vii) of the Act;

(6) For purposes of the State accountability system consistent with section 1111(c)(4)(E) of the Act, annually measure in each participating school progress on the Academic Achievement indicator under section 1111(c)(4)(B) of the Act of at least 95 percent of all students, and 95 percent of students in each subgroup of students described in section 1111(c)(2) of the Act, who are required to take

such assessments consistent with paragraph (b) (1) (ii) of this section;

(7) Generate an annual summative determination of achievement, using the annual data from the innovative assessment, for each student in a participating school in the demonstration authority that describes--

(i) The student's mastery of the challenging State academic standards under section 1111(b) (1) of the Act for the grade in which the student is enrolled; or

(ii) In the case of a student with the most significant cognitive disabilities assessed with an alternate assessment aligned with alternate academic achievement standards under section 1111(b) (1) (E) of the Act, the student's mastery of those standards;

(8) Provide disaggregated results by each subgroup of students described in 34 CFR 200.2(b) (11) (i) (A)-(I) and sections 1111(b) (2) (B) (xi) and 1111(h) (1) (C) (ii) of the Act, including timely data for teachers, principals and other school leaders, students, and parents consistent with 34 CFR 200.8 and section 1111(b) (2) (B) (x) and (xii) and section 1111(h) of the Act, and provide results to parents in a manner consistent with paragraph (b) (4) (i) of this section and part 200.2(e); and

(9) Provide an unbiased, rational, and consistent

determination of progress toward the State's long-term goals for academic achievement under section 1111(c)(4)(A) of the Act for all students and each subgroup of students described in section 1111(c)(2) of the Act and a comparable measure of student performance on the Academic Achievement indicator under section 1111(c)(4)(B) of the Act for participating schools relative to non-participating schools so that the SEA may validly and reliably aggregate data from the system for purposes of meeting requirements for--

(i) Accountability under sections 1003 and 1111(c) and (d) of the Act, including how the SEA will identify participating and non-participating schools in a consistent manner for comprehensive and targeted support and improvement under section 1111(c)(4)(D) of the Act; and

(ii) Reporting on State and LEA report cards under section 1111(h) of the Act.

(c) Selection Criteria. Information that addresses each of the selection criteria under 34 CFR 200.106.

(d) Assurances. Assurances that the SEA, or each SEA in a consortium, will--

(1) Continue use of the statewide academic assessments in reading/language arts, mathematics, and science required under 34 CFR 200.2(a)(1) and section 1111(b)(2) of the Act--

(i) In all non-participating schools; and

(ii) In all participating schools for which such assessments will be used in addition to innovative assessments for accountability purposes under section 1111(c) of the Act consistent with paragraph (b)(1)(ii) of this section or for evaluation purposes consistent with 34 CFR 200.106(e) during the demonstration authority period;

(2) Ensure that all students and each subgroup of students described in section 1111(c)(2) of the Act in participating schools are held to the same challenging State academic standards under section 1111(b)(1) of the Act as all other students, except that students with the most significant cognitive disabilities may be assessed with alternate assessments aligned with alternate academic achievement standards consistent with 34 CFR 200.6 and section 1111(b)(1)(E) and (b)(2)(D) of the Act, and receive the instructional support needed to meet such standards;

(3) Report the following annually to the Secretary, at such time and in such manner as the Secretary may reasonably require:

(i) An update on implementation of the innovative assessment demonstration authority, including--

(A) The SEA's progress against its timeline under 34 CFR 200.106(c) and any outcomes or results from its

evaluation and continuous improvement process under 34 CFR 200.106(e); and

(B) If the innovative assessment system is not yet implemented statewide consistent with 34 CFR 200.104(a)(2), a description of the SEA's progress in scaling up the system to additional LEAs or schools consistent with its strategies under 34 CFR 200.106(a)(3)(i), including updated assurances from participating LEAs consistent with paragraph (e)(2) of this section.

(ii) The performance of students in participating schools at the State, LEA, and school level, for all students and disaggregated for each subgroup of students described in section 1111(c)(2) of the Act, on the innovative assessment, including academic achievement and participation data required to be reported consistent with section 1111(h) of the Act, except that such data may not reveal any personally identifiable information.

(iii) If the innovative assessment system is not yet implemented statewide, school demographic information, including enrollment and student achievement information, for the subgroups of students described in section 1111(c)(2) of the Act, among participating schools and LEAs and for any schools or LEAs that will participate for the first time in the following year, and a description of how

the participation of any additional schools or LEAs in that year contributed to progress toward achieving high-quality and consistent implementation across demographically diverse LEAs in the State consistent with the SEA's benchmarks described in 34 CFR 200.106(a)(3)(iii).

(iv) Feedback from teachers, principals and other school leaders, and other stakeholders consulted under paragraph (a)(2) of this section, including parents and students, from participating schools and LEAs about their satisfaction with the innovative assessment system.

(4) Ensure that each participating LEA informs parents of all students in participating schools about the innovative assessment, including the grades and subjects in which the innovative assessment will be administered, and, consistent with section 1112(e)(2)(B) of the Act, at the beginning of each school year during which an innovative assessment will be implemented. Such information must be--

(i) In an understandable and uniform format;

(ii) To the extent practicable, written in a language that parents can understand or, if it is not practicable to provide written translations to a parent with limited English proficiency, be orally translated for such parent; and

(iii) Upon request by a parent who is an individual

with a disability as defined by the Americans with Disabilities Act, provided in an alternative format accessible to that parent; and

(5) Coordinate with and provide information to, as applicable, the Institute of Education Sciences for purposes of the progress report described in section 1204(c) of the Act and ongoing dissemination of information under section 1204(m) of the Act.

(e) Initial implementation in a subset of LEAs or schools. If the innovative assessment system will initially be administered in a subset of LEAs or schools in a State--

(1) A description of each LEA, and each of its participating schools, that will initially participate, including demographic information and its most recent LEA report card under section 1111(h)(2) of the Act; and

(2) An assurance from each participating LEA, for each year that the LEA is participating, that the LEA will comply with all requirements of this section.

(f) Application from a consortium of SEAs. If an application for the innovative assessment demonstration authority is submitted by a consortium of SEAs--

(1) A description of the governance structure of the consortium, including--

(i) The roles and responsibilities of each member SEA, which may include a description of affiliate members, if applicable, and must include a description of financial responsibilities of member SEAs;

(ii) How the member SEAs will manage and, at their discretion, share intellectual property developed by the consortium as a group; and

(iii) How the member SEAs will consider requests from SEAs to join or leave the consortium and ensure that changes in membership do not affect the consortium's ability to implement the innovative assessment demonstration authority consistent with the requirements and selection criteria in this section and 34 CFR 200.106.

(2) While the terms of the association with affiliate members are defined by each consortium, consistent with 34 CFR 200.104(b)(1) and paragraph (f)(1)(i) of this section, for an affiliate member to become a full member of the consortium and to use the consortium's innovative assessment system under the demonstration authority, the consortium must submit a revised application to the Secretary for approval, consistent with the requirements of this section and 34 CFR 200.106 and subject to the limitation under 34 CFR 200.104(d).

Definitions: The following definitions are from 34 CFR 200.104(b) .

(1) Affiliate member of a consortium means an SEA that is formally associated with a consortium of SEAs that is implementing the innovative assessment demonstration authority, but is not yet a full member of the consortium because it is not proposing to use the consortium's innovative assessment system under the demonstration authority, instead of, or in addition to, its statewide assessment under section 1111(b)(2) of the Act for purposes of accountability and reporting under sections 1111(c) and 1111(h) of the Act.

(2) Demonstration authority period refers to the period of time over which an SEA, or consortium of SEAs, is authorized to implement the innovative assessment demonstration authority, which may not exceed five years and does not include the extension or waiver period under 34 CFR 200.108. An SEA must use its innovative assessment system in all participating schools instead of, or in addition to, the statewide assessment under section 1111(b)(2) of the Act for purposes of accountability and reporting under section 1111(c) and 1111(h) of the Act in each year of the demonstration authority period.

(3) Innovative assessment system means a system of

assessments, which may include any combination of general assessments or alternate assessments aligned with alternate academic achievement standards, in reading/language arts, mathematics, or science administered in at least one required grade under 34 CFR 200.5(a)(1) and section 1111(b)(2)(B)(v) of the Act that--

(i) Produces--

(A) An annual summative determination of each student's mastery of grade-level content standards aligned to the challenging State academic standards under section 1111(b)(1) of the Act; or

(B) In the case of a student with the most significant cognitive disabilities assessed with an alternate assessment aligned with alternate academic achievement standards under section 1111(b)(1)(E) of the Act and aligned with the State's academic content standards for the grade in which the student is enrolled, an annual summative determination relative to such alternate academic achievement standards for each such student; and

(ii) May, in any required grade or subject, include one or more of the following types of assessments:

(A) Cumulative year-end assessments.

(B) Competency-based assessments.

(C) Instructionally embedded assessments.

(D) Interim assessments.

(E) Performance-based assessments.

(F) Another innovative assessment design that meets the requirements under 34 CFR 200.105(b).

(4) Participating LEA means an LEA in the State with at least one school participating in the innovative assessment demonstration authority.

(5) Participating school means a public school in the State in which the innovative assessment system is administered under the innovative assessment demonstration authority instead of, or in addition to, the statewide assessment under section 1111(b)(2) of the Act and where the results of the school's students on the innovative assessment system are used by its State and LEA for purposes of accountability and reporting under section 1111(c) and 1111(h) of the Act.

Program Authority: Section 1204 of the ESEA (20 U.S.C. 6364); 34 CFR 200.104 through 200.108.

II. Award Information

Type of Award: Innovation authority.

Estimated Available Funds: No funds are authorized to be appropriated for the Innovative Assessment Demonstration Authority. However, an SEA may use funds it receives under Grants for State Assessments and Related Activities (see

section 1201 of the ESEA (20 U.S.C. 6361)) to implement its innovative assessment system.

Estimated Number of Awards: As noted earlier, up to three States may be approved for this authority in this competition because four States have received the authority in 2018 and 2019. For the initial demonstration period, no more than seven States, including States that are part of a consortium (which may include no more than four States), may participate.

Project Period: Up to 60 months.

III. Eligibility Information

1. Eligible Applicants: SEAs (as defined in section 8101(49) of the ESEA) and consortia of SEAs that include no more than four SEAs.

2. Cost Sharing or Matching: This program does not require cost sharing or matching.

3. Other: An application from a consortium of SEAs must designate one SEA as the lead State for project management.

IV. Application and Submission Information

1. Address to Request Application Package: Donald Peasley, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, room

3W106, Washington, DC 20202-6132. Telephone: (202) 453-7982. Email: Donald.Peasley@ed.gov.

To obtain a copy via the internet, use the following address:

www2.ed.gov/admins/lead/account/saa.html#Related_Programs_and_Initiatives.

If you use a TDD or a TTY, call the FRS, toll free, at 1-800-877-8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. a. Content and Form of Application Submission:

Requirements concerning the content and form of an application, together with the forms you must submit, are in the application package for this program, which can be found at

www2.ed.gov/admins/lead/account/saa.html#Related_Programs_and_Initiatives.

Notice of Intent to Apply: We will be able to develop a more efficient process for reviewing applications if we have a better understanding of the number of applicants that intend to apply for selection under this program. Therefore, we strongly encourage each potential applicant

to notify us of their intent to submit an application. This notification should be brief, and identify the SEA applicant and, if part of a consortium, the SEA that is the fiscal agent for the consortium. Submit this notification by email to Donald.Peasley@ed.gov with "Intent to Apply" in the email subject line or by mail to Donald Peasley, U.S. Department of Education, 400 Maryland Avenue, SW, room 3W106, Washington, DC 20202-6132. Applicants that do not provide this notification may still apply for the authority.

b. Submission of Proprietary Information: Given the types of projects that may be proposed in applications for the Innovative Assessment Demonstration Authority, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define "business information" and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended). Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you

believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under "Other Attachments Form," please list the page number or numbers on which we can find this information. For additional information, please see 34 CFR 5.11(c).

3. Intergovernmental Review: This competition is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

4. Application Submission Instructions:

Applications under this program must be submitted electronically using the Department's application portal at www.Max.gov. For directions on how to access and use the application portal, please contact Donald Peasley at Donald.Peasley@ed.gov. For information (including dates and times) about how to submit your application electronically, please refer to Other Submission Requirements in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under FOR FURTHER INFORMATION CONTACT. If the Department provides an accommodation or auxiliary aid to an individual

with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

5. Other Submission Requirements:

a. Electronic Submission of Applications.

Applications under this program must be submitted electronically using the Department's application portal at www.Max.gov by 5:00:00 p.m. Eastern Time on [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For directions on how to access and use the application portal, please contact Donald Peasley at Donald.Peasley@ed.gov.

You may access the electronic application for this program at www2.ed.gov/admins/lead/account/saa.html#Related_Programs_and_Initiatives. You must submit all documents electronically.

- You must upload any narrative sections and all other attachments to your application as files in a read-only, flattened Portable Document Format (PDF), meaning any fillable PDF documents must be saved as flattened non-fillable files. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, flattened PDF (e.g., Word, Excel, WordPerfect, etc.)

or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered because the material in question--for example, the project narrative--is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.

- Your application must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, flattened PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

b. Submission of Application in Case of Technical Issues.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Max.gov system, you may

email your application to the person listed under FOR FURTHER INFORMATION CONTACT and provide an explanation of the technical problem you experienced. We will contact you after we determine whether your application will be accepted.

V. Application Review Information

1. Selection Criteria: The selection criteria for this program are from 34 CFR 200.106. We will award up to 120 points to an application under the selection criteria; the total possible points for addressing each selection criterion are noted in parentheses.

(a) Project narrative. (Up to 40 points)

The quality of the SEA's or consortium's plan for implementing the innovative assessment demonstration authority. In determining the quality of the plan, the Secretary considers--

(1) The rationale for developing or selecting the particular innovative assessment system to be implemented under the demonstration authority, including--

(i) The distinct purpose of each assessment that is part of the innovative assessment system and how the system will advance the design and delivery of large-scale, statewide academic assessments in innovative ways; and

(ii) The extent to which the innovative assessment system as a whole will promote high-quality instruction, mastery of challenging State academic standards, and improved student outcomes, including for each subgroup of students described in section 1111(c)(2) of the Act; (5 points if factor (3) is applicable; 10 points if factor (3) is inapplicable)

(2) The plan the SEA or consortium, in consultation with any external partners, if applicable, has to--

(i) Develop and use standardized and calibrated tools, rubrics, methods, or other strategies for scoring innovative assessments throughout the demonstration authority period, consistent with relevant nationally recognized professional and technical standards, to ensure inter-rater reliability and comparability of innovative assessment results consistent with 34 CFR 200.105(b)(4)(ii), which may include evidence of inter-rater reliability; and

(ii) Train evaluators to use such strategies, if applicable; (25 points if factor (3) is applicable; 30 points if factor (3) is inapplicable) and

(3) If the system will initially be administered in a subset of schools or LEAs in a State--

(i) The strategies the SEA, including each SEA in a consortium, will use to scale the innovative assessment to all schools statewide, with a rationale for selecting those strategies;

(ii) The strength of the SEA's or consortium's criteria that will be used to determine LEAs and schools that will initially participate and when to approve additional LEAs and schools, if applicable, to participate during the requested demonstration authority period; and

(iii) The SEA's plan, including each SEA in a consortium, for how it will ensure that, during the demonstration authority period, the inclusion of additional LEAs and schools continues to reflect high-quality and consistent implementation across demographically diverse LEAs and schools, or contributes to progress toward achieving such implementation across demographically diverse LEAs and schools, including diversity based on enrollment of subgroups of students described in section 1111(c)(2) of the Act and student achievement. The plan must also include annual benchmarks toward achieving high-quality and consistent implementation across participating schools that are, as a group, demographically similar to the State as a whole during the demonstration authority

period, using the demographics of initially participating schools as a baseline. (10 points, if applicable)

(b) Prior experience, capacity, and stakeholder support. (Up to 20 points)

(1) The extent and depth of prior experience that the SEA, including each SEA in a consortium, and its LEAs have in developing and implementing the components of the innovative assessment system. An SEA may also describe the prior experience of any external partners that will be participating in or supporting its demonstration authority in implementing those components. In evaluating the extent and depth of prior experience, the Secretary considers--

(i) The success and track record of efforts to implement innovative assessments or innovative assessment items aligned to the challenging State academic standards under section 1111(b)(1) of the Act in LEAs planning to participate; and

(ii) The SEA's or LEA's development or use of--

(A) Effective supports and appropriate accommodations consistent with 34 CFR 200.6(b) and (f)(1)(i) and section 1111(b)(2)(B)(vii) of the Act for administering innovative assessments to all students, including English learners and children with disabilities, which must include professional

development for school staff on providing such accommodations;

(B) Effective and high-quality supports for school staff to implement innovative assessments and innovative assessment items, including professional development; and

(C) Standardized and calibrated tools, rubrics, methods, or other strategies for scoring innovative assessments, with documented evidence of the validity, reliability, and comparability of annual summative determinations of achievement, consistent with 34 CFR 200.105(b)(4) and (7). (5 points)

(2) The extent and depth of the SEA, including each SEA in a consortium, and LEA capacity to implement the innovative assessment system considering the availability of technological infrastructure; State and local laws; dedicated and sufficient staff, expertise, and resources; and other relevant factors. An SEA or consortium may also describe how it plans to enhance its capacity by collaborating with external partners that will be participating in or supporting its demonstration authority. In evaluating the extent and depth of capacity, the Secretary considers--

(i) The SEA's analysis of how capacity influenced the success of prior efforts to develop and implement

innovative assessments or innovative assessment items; and

(ii) The strategies the SEA is using, or will use, to mitigate risks, including those identified in its analysis, and support successful implementation of the innovative assessment. (5 points)

(3) The extent and depth of State and local support for the application for demonstration authority in each SEA, including each SEA in a consortium, as demonstrated by signatures from the following:

(i) Superintendents (or equivalent) of LEAs, including participating LEAs in the first year of the demonstration authority period.

(ii) Presidents of local school boards (or equivalent, where applicable), including within participating LEAs in the first year of the demonstration authority.

(iii) Local teacher organizations (including labor organizations, where applicable), including within participating LEAs in the first year of the demonstration authority.

(iv) Other affected stakeholders, such as parent organizations, civil rights organizations, and business organizations. (10 points)

(c) Timeline and budget. (Up to 15 points)

The quality of the SEA's or consortium's timeline and budget for implementing the innovative assessment demonstration authority. In determining the quality of the timeline and budget, the Secretary considers--

(1) The extent to which the timeline reasonably demonstrates that each SEA will implement the system statewide by the end of the requested demonstration authority period, including a description of--

(i) The activities to occur in each year of the requested demonstration authority period;

(ii) The parties responsible for each activity; and

(iii) If applicable, how a consortium's member SEAs will implement activities at different paces and how the consortium will implement interdependent activities, so long as each non-affiliate member SEA begins using the innovative assessment in the same school year consistent with 34 CFR part 200.104(b)(2); (5 points) and

(2) The adequacy of the project budget for the duration of the requested demonstration authority period, including Federal, State, local, and non-public sources of

funds to support and sustain, as applicable, the activities in the timeline under paragraph (c)(1) of this section, including--

(i) How the budget will be sufficient to meet the expected costs at each phase of the SEA's planned expansion of its innovative assessment system; and

(ii) The degree to which funding in the project budget is contingent upon future appropriations at the State or local level or additional commitments from non-public sources of funds. (10 points)

(d) Supports for educators, students, and parents.
(Up to 25 points)

The quality of the SEA or consortium's plan to provide supports that can be delivered consistently at scale to educators, students, and parents to enable successful implementation of the innovative assessment system and improve instruction and student outcomes. In determining the quality of supports, the Secretary considers--

(1) The extent to which the SEA or consortium has developed, provided, and will continue to provide training to LEA and school staff, including teachers, principals, and other school leaders, that will familiarize them with the innovative assessment system and develop teacher capacity to implement instruction that is informed by the

innovative assessment system and its results; (5 points if factor (4) is applicable; 9 points if factor (4) is inapplicable)

(2) The strategies the SEA or consortium has developed and will use to familiarize students and parents with the innovative assessment system; (5 points if factor (4) is applicable; 8 points if factor (4) is inapplicable)

(3) The strategies the SEA will use to ensure that all students and each subgroup of students under section 1111(c)(2) of the Act in participating schools receive the support, including appropriate accommodations consistent with 34 CFR 200.6(b) and (f)(1)(i) and section 1111(b)(2)(B)(vii) of the Act, needed to meet the challenging State academic standards under section 1111(b)(1) of the Act; (5 points if factor (4) is applicable; 8 points if factor (4) is inapplicable) and

(4) If the system includes assessment items that are locally developed or locally scored, the strategies and safeguards (e.g., test blueprints, item and task specifications, rubrics, scoring tools, documentation of quality control procedures, inter-rater reliability checks, audit plans) the SEA or consortium has developed, or plans to develop, to validly and reliably score such items, including how the strategies engage and support teachers

and other staff in designing, developing, implementing, and validly and reliably scoring high-quality assessments; how the safeguards are sufficient to ensure unbiased, objective scoring of assessment items; and how the SEA will use effective professional development to aid in these efforts. (10 points if applicable)

(e) Evaluation and continuous improvement. (Up to 20 points)

The quality of the SEA's or consortium's plan to annually evaluate its implementation of innovative assessment demonstration authority. In determining the quality of the evaluation, the Secretary considers—

(1) The strength of the proposed evaluation of the innovative assessment system included in the application, including whether the evaluation will be conducted by an independent, experienced third party, and the likelihood that the evaluation will sufficiently determine the system's validity, reliability, and comparability to the statewide assessment system consistent with the requirements of 34 CFR 200.105(b)(4) and (9); (12 points) and

(2) The SEA's or consortium's plan for continuous improvement of the innovative assessment system, including its process for--

(i) Using data, feedback, evaluation results, and other information from participating LEAs and schools to make changes to improve the quality of the innovative assessment; and

(ii) Evaluating and monitoring implementation of the innovative assessment system in participating LEAs and schools annually. (8 points)

2. Risk Assessment and Specific Conditions:

Consistent with 2 CFR 200.205(c) and 200.207, before approving a project under this authority, the Department may conduct a review of the risks posed by the applicant and impose specific conditions as needed.

VI. Administration Information

1. Approval Notices: If your application is approved, we notify your U.S. Representative and U.S. Senators and send you a letter or email approving your project.

If your application is not selected, we notify you.

2. Programmatic Requirements: Your application must address the programmatic requirements in section 1204 of the ESEA and 34 CFR 200.104 through 200.108.

3. Reporting: (a) If you apply under this program, you must ensure that you have in place the necessary

processes and systems to comply with the reporting requirements should your application be approved.

(b) You must submit, at the end of each year of your project period, an annual update on program activity according to the requirements of 34 CFR 200.105(d)(3).

4. Transition to Statewide Use: Pursuant to 34 CFR 200.107--

(a)(1) After an SEA has scaled its innovative assessment system to operate statewide in all schools and LEAs in the State, the SEA must submit evidence for peer review under section 1111(a)(4) of the Act and 34 CFR 200.2(d) to determine whether the system may be used for purposes of both academic assessments and the State accountability system under sections 1111(b)(2), (c), and (d) and 1003 of the Act.

(2) An SEA may only use the innovative assessment system for the purposes described in paragraph (a)(1) of this section if the Secretary determines that the system is of high quality consistent with paragraph (b) of this section.

(b) Through the peer review process of State assessments and accountability systems under section 1111(a)(4) of the Act and 34 CFR 200.2(d), the Secretary determines that the innovative assessment system is of high

quality if--

(1) An innovative assessment developed in any grade or subject under 34 CFR 200.5(a)(1) and section 1111(b)(2)(B)(v) of the Act--

(i) Meets all of the requirements under section 1111(b)(2) of the Act and 34 CFR 200.105(b) and (c);

(ii) Provides coherent and timely information about student achievement based on the challenging State academic standards under section 1111(b)(1) of the Act;

(iii) Includes objective measurements of academic achievement, knowledge, and skills; and

(iv) Is valid, reliable, and consistent with relevant, nationally recognized professional and technical standards;

(2) The SEA provides satisfactory evidence that it has examined the statistical relationship between student performance on the innovative assessment in each subject area and student performance on other measures of success, including the measures used for each relevant grade-span within the remaining indicators (i.e., indicators besides Academic Achievement) in the statewide accountability system under section 1111(c)(4)(B)(ii)-(v) of the Act, and how the inclusion of the innovative assessment in its Academic Achievement indicator under section

1111(c)(4)(B)(i) of the Act affects the annual meaningful differentiation of schools under section 1111(c)(4)(C) of the Act;

(3) The SEA has solicited information, consistent with the requirements under 34 CFR 200.105(d)(3)(iv), and taken into account feedback from teachers, principals, other school leaders, parents, and other stakeholders under 34 CFR 200.105(a)(2) about their satisfaction with the innovative assessment system; and

(4) The SEA has demonstrated that the same innovative assessment system was used to measure--

(i) The achievement of all students and each subgroup of students described in section 1111(c)(2) of the Act, and that appropriate accommodations were provided consistent with 34 CFR 200.6(b) and (f)(1)(i) under section 1111(b)(2)(B)(vii) of the Act; and

(ii) For purposes of the State accountability system consistent with section 1111(c)(4)(E) of the Act, progress on the Academic Achievement indicator under section 1111(c)(4)(B)(i) of the Act of at least 95 percent of all students, and 95 percent of students in each subgroup of students described in section 1111(c)(2) of the Act.

(c) With respect to the evidence submitted to the Secretary to make the determination described in paragraph

(b) (2) of this section, the baseline year for any evaluation is the first year that a participating LEA in the State administered the innovative assessment system under the demonstration authority.

(d) In the case of a consortium of SEAs, evidence may be submitted for the consortium as a whole so long as the evidence demonstrates how each member SEA meets each requirement of paragraph (b) of this section applicable to an SEA.

5. Continuation of Authority: Pursuant to 34 CFR 200.108--

(a) The Secretary may extend an SEA's demonstration authority period for no more than two years if the SEA submits to the Secretary--

(1) Evidence that its innovative assessment system continues to meet the requirements under 34 CFR 200.105 and the SEA continues to implement the plan described in its application in response to the selection criteria in 34 CFR 200.106 in all participating schools and LEAs;

(2) A high-quality plan, including input from stakeholders under 34 CFR 200.105(a) (2), for transitioning to statewide use of the innovative assessment system by the end of the extension period; and

(3) A demonstration that the SEA and all LEAs that are not yet fully implementing the innovative assessment system have sufficient capacity to support use of the system statewide by the end of the extension period.

(b) In the case of a consortium of SEAs, the Secretary may extend the demonstration authority period for the consortium as a whole or for an individual member SEA.

6. Withdrawal of Demonstration Authority. (a) The Secretary may withdraw the innovative assessment demonstration authority provided to an SEA, including an individual SEA member of a consortium, if at any time during the approved demonstration authority period or extension period, the Secretary requests, and the SEA does not present in a timely manner--

(1) A high-quality plan, including input from stakeholders under 34 CFR 200.105(a)(2), to transition to full statewide use of the innovative assessment system by the end of its approved demonstration authority period or extension period, as applicable; or

(2) Evidence that--

(i) The innovative assessment system meets all requirements under 34 CFR 200.105, including a demonstration that the innovative assessment system has met the requirements under 34 CFR 200.105(b);

(ii) The SEA continues to implement the plan described in its application in response to the selection criteria in 34 CFR 200.106;

(iii) The innovative assessment system includes and is used to assess all students attending participating schools in the demonstration authority, consistent with the requirements under section 1111(b)(2) of the Act to provide for participation in State assessments, including among each subgroup of students described in section 1111(c)(2) of the Act, and for appropriate accommodations consistent with 34 CFR 200.6(b) and (f)(1)(i) and section 1111(b)(2)(B)(vii) of the Act;

(iv) The innovative assessment system provides an unbiased, rational, and consistent determination of progress toward the State's long-term goals and measurements of interim progress for academic achievement under section 1111(c)(4)(A) of the Act for all students and subgroups of students described in section 1111(c)(2) of the Act and a comparable measure of student performance on the Academic Achievement indicator under section 1111(c)(4)(B)(i) of the Act for participating schools relative to non-participating schools; or

(v) The innovative assessment system demonstrates comparability to the statewide assessments under section

1111(b)(2) of the Act in content coverage, difficulty, and quality.

(b)(1) In the case of a consortium of SEAs, the Secretary may withdraw innovative assessment demonstration authority for the consortium as a whole at any time during its demonstration authority period or extension period if the Secretary requests, and no member of the consortium provides, the information under paragraph (a)(1) or (2) of this section.

(2) If innovative assessment demonstration authority for one or more SEAs in a consortium is withdrawn, the consortium may continue to implement the authority if it can demonstrate, in an amended application to the Secretary that, as a group, the remaining SEAs continue to meet all requirements and selection criteria in 34 CFR 200.105 and 200.106.

7. Waiver authority. (a) At the end of the extension period, an SEA that is not yet approved consistent with 34 CFR 200.107 to implement its innovative assessment system statewide may request a waiver from the Secretary consistent with section 8401 of the Act to delay the withdrawal of authority under paragraph (6) of this section for the purpose of providing the SEA with the time necessary to receive approval to transition to use of the

innovative assessment system statewide under 34 CFR 200.107(b) .

(b) The Secretary may grant an SEA a one-year waiver to continue the innovative assessment demonstration authority, if the SEA submits, in its request under paragraph (7)(a) of this section, evidence satisfactory to the Secretary that it--

(1) Has met all of the requirements under paragraph (6)(a) of this section and of 34 CFR 200.105 and 200.106; and

(2) Has a high-quality plan, including input from stakeholders under 34 CFR 200.105(a)(2), for transition to statewide use of the innovative assessment system, including peer review consistent with 34 CFR 200.107, in a reasonable period of time.

(c) In the case of a consortium of SEAs, the Secretary may grant a one-year waiver consistent with paragraph (7)(a) of this section for the consortium as a whole or for individual member SEAs, as necessary.

8. Return to the Statewide Assessment System. If the Secretary withdraws innovative assessment demonstration authority consistent with paragraph (6) of this section, or if an SEA voluntarily terminates use of its innovative assessment system prior to the end of its demonstration

authority, extension, or waiver period under paragraph (7) of this section, as applicable, the SEA must--

(a) Return to using, in all LEAs and schools in the State, a statewide assessment that meets the requirements of section 1111(b)(2) of the Act; and

(b) Provide timely notice to all participating LEAs and schools of the withdrawal of authority and the SEA's plan for transition back to use of a statewide assessment.

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact 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 at www.govinfo.gov. 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 PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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Dated: October 23, 2019.

Frank T. Brogan,

*Assistant Secretary for Elementary
and Secondary Education.*

[FR Doc. 2019-23477 Filed: 10/25/2019 8:45 am; Publication Date: 10/28/2019]