

knowledge alliance

Kelly Terpak
U.S. Department of Education
400 Maryland Avenue, SW, Room 4C212
Washington, DC 20202

Re: Docket ID ED-2023-OPEPD-0110

Dear Ms. Terpak:

I am writing to provide the views of Knowledge Alliance on the proposal of the U.S. Department of Education (ED or the Department) to revise the Education Department General Administrative Regulations (EDGAR). Knowledge Alliance, a non-partisan, non-profit organization, is composed of leading education organizations committed since 1971 to the greater use of high-quality and relevant data, research, evaluation, and innovation in education policy and practice at all levels. Collectively, KA and its members have spent the last 50 years supporting a set of education programs focused on building and disseminating evidence to improve teaching and learning in the nation's classrooms.

Knowledge Alliance supports the Department's effort to update and improve EDGAR in order to make the regulations more consistent with current legislative provisions and ED operational practices, provide for a stronger focus on evaluation, and improve the selection criteria for competitive grants. We do have concerns with some of the proposed revisions, however, which we describe in the paragraphs that follow.

§75.210(b) – General selection criteria: Significance

The Department proposes a number of revisions to §75.210, which sets forth the criteria that ED uses in selecting applicants to receive competitive grants. Among the changes proposed is the addition of new criteria focusing on whether the project proposed in a grant application would be innovative. Specifically: (1) §75.210(b)(2)(ix) would create as a criterion that a project involve the development or demonstration of innovative or effective strategies that build on or are alternatives to existing strategies; (2) under §75.210(b)(2)(x) the criterion would be that a proposal is innovative; (3), and under §75.210(b)(2)(xvii) the criterion would be the extent to which the proposed project introduces an innovative approach. Our concern is that what is innovative will differ from one person to another (and, in this context, specifically from one peer-reviewed to another) and, without further clarification, claims of innovation in a grant application will be difficult to consider and rate fairly and reliably. We thus urge the Department to add clarifying language to these new criteria.

§75.210(c) – General selection criteria: Quality of the project design

In §75.210 (c) ED proposes additional selection criteria. We realize that not all competitions would include all of the selection criteria, and while we think all of the criteria make sense, the more the Department asks for in any given grant competition in terms of describing significance, project design, etc., the more they may unintentionally disadvantage lower-capacity applicants of the very type that they might hope to serve.

§75.210(e) – General selection criteria: Quality of project personnel

The Department also proposes a new criterion (e)(3)(iv), under “Quality of project personnel,” that would authorize the Secretary to consider “The extent to which the proposed project team reflects the demographics of project participants to maximize inclusion of diverse perspectives.”

KA members agree that a diversity of perspectives is very important, and all our member organizations have diverse staff. However, we find the proposed language overly vague, as it does not specify which demographic characteristics would be considered. Our concern about this lack of clarity is enhanced by the inclusion, in §75.210(e)(2), of a very long list of demographic characteristics that the Department proposes to require all grantees to focus on in their hiring. We ask the Department to consider whether all members of a project team would be comfortable disclosing their demographic characteristics, especially in cases where their employer is not aware of them. We also recognize that it is often not feasible to assemble a project team that closely, or even approximately, reflects the demographics of the community in which a grantee will be providing services. Additionally, determining which community characteristics to represent can be difficult. For example, must members of the team live in poverty in order to work with low-income communities? Most communities which are the object of grants represent complex combinations of characteristics and most project teams (because of funding constraints) are very small. One consideration is that a project team may superficially reflect community without depth of experience with the community. It is possible that a project team could employ techniques that elevate the voices of the community in project design, implementation and evaluation without necessarily reflecting community demographics—arguably the goal of this criterion.

KA also cautions the Department that the proposed language could create unanticipated and undesirable consequences. For example, we would not want researchers prioritizing study samples that reflect their own demographics. While we understand the intent is to diversify investigative teams, some will take this as a signal to continue their research in expressly homogeneous populations.

In addition, we note that the Department also intends to add, within subsection (e), a new criterion that would assess the qualifications of a project director or principal investigator in designing, managing, or implementing projects that are similar to the proposed project and that served the same target population. While we agree that that type of experience would be

helpful, it could be difficult for applicants to line up key staff who have experience delivering the same type of services to the same target population. For example, if the grant is to expand an intervention to a new grade level, demonstrating specific experience on that grade level may be difficult and could unintentionally limit innovation. Criterion (g) might be better stated as how the management plan reflects the population the project is intended to serve rather than simply reflecting an underserved population. This requirement could thus make it more difficult for potential grantees to recruit staff who can carry out a project most effectively.

We thus request that, at a minimum, the Department include much more specific language in this criterion.

§75.210(i) – Strategies to scale

Under the criterion that ED proposes to add under §75.210(2)(viii), applicants would be judged based on the quality of their plan to deliver project services more efficiently at scale and maintain effectiveness. We seek clarification on how efficiency would be defined and measured in this context and on the baseline against which the efficiency of an applicant’s proposal would be measured. For example, what would be the baseline comparison for peer reviewers to evaluate if a plan would provide services more efficiently?

§75.226 -- What procedures does the Secretary use if the Secretary decides to give special consideration to an application supported by strong evidence, moderate evidence, or promising evidence, or an application that demonstrates a rationale?

The Department proposes to add language that would enable the Secretary to give special consideration to an application that “demonstrates a rationale.” Knowledge Alliance supports this inclusion because projects to test and refine educational programs and strategies that meet a “demonstrates a rationale” test should be supported. However, we have concerns about the proposed “demonstrates a rationale” definition, as described below.

§75.227 –Reserved

In this section, ED proposes a new section that would allow the Secretary to establish a separate competition for, or provide competitive preference to, applicants that propose to serve rural locations. While this section may make sense in some competitions, for example, if the intended recipients are rural entities, it does not necessarily make sense to give preference to bidders by reason of locale. For example, an entity located in a non-rural area may have staff with extensive rural experience and backgrounds. This is especially true in today’s remote-work environment. In some competitions, bidders are required to serve large regions and/or multiple states which will have a combination of urban, suburban and rural areas. Moreover, in a time period when many services are delivered virtually, geographic location of the bidder may not make a difference in quality and responsiveness of services.

§75.590 – Grantee evaluations and reports

ED proposes to add a new §95.590(c)(3) that would authorize the Department to include, in a competitive grant application notice, a requirement that entities receiving grants through the competition “Ensure that the data from the independent evaluation [conducted as part of the grant] are made available to third-party researchers consistent with applicable privacy requirements.” KA believes in research being publicly available and usable to broader communities. However, this requirement would likely make the task of lining up local educational agencies (LEAs) that are willing to participate in projects that will undergo a rigorous independent evaluation (a task that can already be very time-consuming and difficult) even more difficult because, in our experience, LEAs will likely be uncomfortable about data on their students, teachers, and other staff, even if de-identified, falling into the hands of unknown third parties.

For example, the data-sharing agreements KA members negotiate with States and districts to access extant data for evaluation usually prohibits any uses of the data for any purpose other than the proposed study. KA member’s experience is that most districts and States have policies in place that would prohibit sharing the data with third-party researchers. KA will lift up this comment to ED to note that very few evaluators will be able to comply with this provision.

For any primary data collection, IRBs require researchers to specify in the consent form whether the data will be used beyond the current study. Thus, including this requirement will make recruitment more difficult, not just among LEAs but among individual study participants as well.

KA agrees that it is a good idea to enable other researchers to replicate results, so we recommend that the What Works Clearinghouse (WWC) or other entity be set up for this purpose so that evaluators can explain to study participants that their data will also go to this entity for the purpose of checking results. Such a narrowly defined purpose would be more palatable to study participants than a vague reference to “third-party researchers.”

It would be helpful to have additional clarity to ensure that independence can include project evaluations (especially formative) conducted by the same parent entity as long as the staff conducting evaluations are not the same as those developing/implementing the component to be evaluated.

§75.591 – Federal evaluations; Cooperation by a grantee

The Department proposes to add a new §75.591(b) stating that, if required by the Secretary, a grantee must “pilot its Department-funded activities with a subset of subgrantees, potential project beneficiaries, or eligible participants and allow the Department or its agent to randomly select the subset for the purpose of providing a basis for an experimental evaluation that could meet What Works Clearinghouse standards.” We question the inclusion of this provision because of the burden it would place on grantees and evaluators. Moreover, it is another provision that would increase the difficulty of recruiting LEAs and other entities to participate in

federally funded projects that include rigorous independent evaluation. Additionally, we are concerned how smaller-scale pilot studies would provide enough reliable feedback to gauge the plausibility of generating evidence that meets WWC standards. We imagine smaller-scale studies being easier to control because of their scale but also providing limited information about implementing the same experiment at the intended scale.

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§75.720 – Financial and performance reports

ED proposes the addition of a new §75.720(d) that would require a grantee, at the request of the Secretary, to post, on a public-facing website maintained by the grantee, the performance and financial expenditure that they submit to the Department. We oppose this new language because these reports include proprietary information. At a minimum, the language should clarify that proprietary information may be redacted before the performance and financial reports are made public.

§75.708 – Subgrants

The Department proposed to revise paragraph (b) to state that this authorization may take place “through an announcement in the Federal Register or other reasonable means of notice.” We would appreciate clarification that grantees or cooperative grant holders do not need to hold open competitions to select subgrantees. Specifically clarify that a prospective grantee could prepare a bid with a subgrant or subcontractor they have chosen at the time of the bid and they do not need to hold a separate competition after award.

§77.1 – Definitions that apply to all Department programs

As noted above, we support the Department’s proposal to authorize the Secretary to give special consideration to projects that “demonstrate a rationale.” Under §77.1, “demonstrates a rationale” would mean that “there is a key project component included in the project’s logic model that is supported by citations of high-quality research or evaluation findings that suggest that the project component is likely to significantly improve relevant outcomes.” We note that this language omits the second half of the “demonstrates a rationale” definition found in the Elementary and Secondary Education Act (ESEA), namely that there be some ongoing effort

¹ As a more technical matter, we note that the language in the NPRM is verbose and confusing. The new requirement would read, “If requested by the Secretary, a grantee must—,,,(b) If required by the Secretary, pilot its Department-funded activities with a subset of subgrantees, potential project beneficiaries, or eligible participants and allow the Department or its agent to randomly select the subset for the purpose of providing a basis for an experimental evaluation that could meet What Works Clearinghouse standards, with or without reservations.” The implication would seem to be that piloting grant activities would at the same time be voluntary (“If requested”) and mandatory (“If required”). If the Department goes forward with this provision, it should be simplified and clarified.

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underway to examine the effects of the activity, strategy, or intervention. We think this element of the ESEA definition is important, in that it specifies that when Federal resources are made available for a program or practice for which there is only a very limited level of evidence, there at least be some effort underway to evaluate the effectiveness and efficacy of that program or practice. We thus recommend inclusion of the full ESEA definition.

Use of State Formula Grant Funds for Evaluation

Current EDGAR Part 76, Subpart G includes two sections under the heading “Use of Funds by States and Subgrantees.” (Specifically, §76.760 describes how more than one program may assist a single activity and §76.761 describes the circumstances under which Federal funds may pay 100 percent of the cost of an activity.) We recommend that ED add a new §76.762 reading as follows:

§76.762 State-administered formula grant funds may be used for evaluation

A State or subgrantee may use funds from a program to pay for evaluation of the program unless:

- (a) The authorizing statute specifically prohibits the use of program funds for evaluation; or
- (b) The authorizing statute includes an exhaustive listing of allowable uses of funds that does not include program evaluation.

We make this request because our member organizations have found that States and their subgrantees sometimes are not aware, or do not believe, that the formula funds they receive may be used for evaluation purposes, even though evaluation is a key mechanism for ensuring program accountability, identifying best practices, and maintaining a focus on continuous improvement. We suggest that the inclusion of this new language would clarify the law and lead to a greater emphasis on evaluation in the States. In addition to highlighting the availability of formula funds for evaluation, our proposed language would identify the (likely very few) circumstances in which the funds could not be used for that purpose.

Thank you for the opportunity to provide the comments of Knowledge Alliance on this important set of proposals. If I can be of any additional assistance, please do not hesitate to contact me.

Sincerely,



Rachel Dinkes
President and CEO