

**DEPARTMENT OF EDUCATION****Office of Elementary and Secondary Education; Overview Information; Impact Aid Discretionary Construction Program; Notice Inviting Applications for New Awards for Fiscal Years (FYs) 2003 and 2004**

*Catalogue of Federal Domestic Assistance (CFDA) Number:* 84.041C.

**Note:** This notice includes deadline dates and funding information for this program for competitions using FY 2003 and FY 2004 funds.

**Dates:** For key dates for the FY 2003 and FY 2004 competitions for this program, see the chart in the Award Information section of this notice.

**Applications Available:** See chart.

**Deadline for Transmittal of**

**Applications:** See chart.

**Deadline for Intergovernmental**

**Review:** See chart.

**Eligible Applicants:** (A) *Emergency Grants.* To be eligible for an emergency grant, a local educational agency (LEA) must enroll a high percentage (at least 40 percent) of federally connected children who reside on Indian lands or who have a parent on active duty in the U.S. uniformed services, have a school that enrolls a high percentage of one of these types of students, or be eligible for funding for heavily impacted LEAs under section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (the Act), as amended by the No Child Left Behind Act of 2001 (NCLB). In making emergency grant awards, the Secretary must also consider the LEA's total assessed value of real property that may be taxed for school purposes, its use of available bonding capacity, and the nature and severity of the school facility emergency.

(B) *Modernization Grants.* To be eligible for a modernization grant, an

LEA must be eligible for Impact Aid funding in general; be eligible for funding for heavily impacted LEAs under section 8003(b)(2) of the Act; enroll a high percentage (at least 40 percent) of federally connected children who reside on Indian lands or who have a parent on active duty in the U.S. uniformed services; have a school that enrolls a high percentage of one of these types of students; or be eligible for funding under section 8002 of the Act (payments for Federal property). In making awards, the Secretary must also consider an LEA's total assessed value of real property that may be taxed for school purposes, its use of its available bonding capacity, and the nature and severity of its need for modernization funds.

Applications are considered in four priority categories. Emergency grants are considered for the first and second priorities and Modernization grants are considered for the third and fourth priorities. Detailed information about the eligibility requirements for each priority can be found in 34 CFR 222.177 through 222.182.

**Estimated Available Funds:** See chart.

**Estimated Range of Awards:** See chart.

**Estimated Average Size of Awards:** See chart.

**Estimated Number of Awards:** See chart.

**Note:** The Department is not bound by any estimates in this notice.

**Project Period:** We will determine each project period based on the project proposed, and will specify this period in the grant award document.

**Full Text of Announcement****I. Funding Opportunity Description**

**Purpose of Program:** The Impact Aid Discretionary Construction Program provides grants to eligible Impact Aid

school districts to assist in addressing their school facility emergency and modernization needs. The eligible Impact Aid school districts have a limited ability to raise revenues for capital improvements because they have large areas of Federal land within their boundaries. As a result, these districts find it difficult to respond when their school facilities are in need of emergency repairs or modernization.

**Program Authority:** 20 U.S.C. 7707(b).

**Applicable Regulations:** (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (except for 34 CFR 75.600 through 75.617), 77, 79, 80, 82, 84, 85, 86, 97, 98, and 99. (b) The regulations for this program in 34 CFR part 222, as published elsewhere in this issue of the **Federal Register**. These program regulations will take effect prior to the deadline for transmittal of applications for the FY 2003 competition.

**II. Award Information**

**Type of Award:** Discretionary grants.

**Estimated Available Funds:** See chart.

**Estimated Range of Awards:** See chart.

**Estimated Average Size of Awards:** See chart.

**Estimated Number of Awards:** See chart.

**Note:** The Department is not bound by any estimates in this notice.

**Project Period:** We will determine each project period based on the project proposed, and will specify this period in the grant award document.

**IMPACT AID DISCRETIONARY CONSTRUCTION PROGRAM—CFDA 84.041C APPLICATION NOTICE FOR COMPETITIONS USING FISCAL YEARS 2003 AND 2004 FUNDS**

| Funds fiscal year | Applications available | Deadline for transmittal of applications | Deadline for intergovernmental review | Estimated award date | Estimated available funds | Estimated range of awards | Estimated number of awards | Estimated average award |
|-------------------|------------------------|------------------------------------------|---------------------------------------|----------------------|---------------------------|---------------------------|----------------------------|-------------------------|
| FY 2003 .....     | 3/12/2004              | 4/23/2004                                | 6/22/2004                             | 7/16/2004            | \$26,810,000              | \$50,000–5,000,000        | 20                         | \$1,300,000             |
| FY 2004 .....     | 5/24/2004              | 7/16/2004                                | 9/14/2004                             | 10/22/2004           | 26,666,534                | \$50,000–5,000,000        | 20                         | 1,300,000               |

**III. Eligibility Information**

1. *Eligible Applicants:* (A) *Emergency Grants.* To be eligible for an emergency grant, an LEA must enroll a high percentage (at least 40 percent) of federally connected children who reside on Indian lands or who have a parent

on active duty in the U.S. uniformed services, have a school that enrolls a high percentage of one of these types of students, or be eligible for funding for heavily impacted LEAs under section 8003(b)(2) of the Act, as amended by the NCLB. In making emergency grant

awards, the Secretary must also consider the LEA's total assessed value of real property that may be taxed for school purposes, its use of available bonding capacity, and the nature and severity of the school facility emergency.

(B) *Modernization Grants.* To be eligible for a modernization grant, an LEA must be eligible for Impact Aid funding in general; be eligible for funding for heavily impacted LEAs under section 8003(b)(2) of the Act; enroll a high percentage (at least 40 percent) of federally connected children who reside on Indian lands or who have a parent on active duty in the U.S. uniformed services; have a school that enrolls a high percentage of one of these types of students; or be eligible for funding under section 8002 of the Act (payments for Federal property). In making awards, the Secretary must also consider an LEA's total assessed value of real property that may be taxed for school purposes, its use of its available bonding capacity, and the nature and severity of its need for modernization funds.

Applications are considered in four priority categories. Emergency grants are considered for the first and second priorities and Modernization grants are considered for the third and fourth priorities. Detailed information about the eligibility requirements for each priority can be found in 34 CFR 222.177 through 222.182.

2. *Cost Sharing or Matching:* See 20 U.S.C. 7707(b) and 34 CFR 222.191 through 222.193.

#### IV. Application and Submission Information

1. *Address to Request Application Package:* Marilyn Hall, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E103, Washington, DC 20202-6244. Telephone: (202) 260-3858. You can also download the FY 2003 application forms at: [www.ed.gov/programs/8007b/applicant](http://www.ed.gov/programs/8007b/applicant). An electronic application will be available for the FY 2004 competition for these grants at: <http://e-grants.ed.gov>.

See the chart in the Award Information section of this notice for the date of availability for FY 2004 electronic and paper application.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application packages for this program.

*Page Limit:* We have found that reviewers are able to conduct the highest-quality review when applications are concise and easy to read. We strongly recommend that applicants limit their response in each applicable narrative section to two pages.

*Content Restrictions:* The application narrative may include information on the scale of the project in relation to the size of the school facility. Applications should not include drawings, designs, or other extraneous documents regarding proposed projects, because reviewers will not consider them.

3. *Submission Dates and Times:*

*Applications Available:* See chart.

*Deadline for Transmittal of Applications:* See chart.

The dates and times for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application packages for this program. The application packages also specify the hours of operation of the e-Application Web site.

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

*Deadline for Intergovernmental Review:* See chart.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application packages for this program.

5. *Funding Restrictions:* We specify unallowable costs in 34 CFR 222.173 and 222.174. Grant recipients must, in accordance with Federal, State and local laws, use emergency or modernization grants for permissible construction activities at public elementary and secondary school facilities. The scope of a selected facilities project will be identified as part of the final grant award conditions. A grantee must also ensure that its construction expenditures under this program meet the requirements of 34 CFR 222.172 (allowable program activities) and 34 CFR 222.173 through 222.174 (prohibited activities). We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Instructions and requirements for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application packages for this program.

#### Application Procedures

**Note:** Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

##### *Pilot Project for Electronic Submission of Applications:*

We are continuing to expand our pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Impact Aid Discretionary Construction Program—CFDA Number 84.041C—is one of the programs included in the pilot project. If you are an applicant under the FY 2004 Impact Aid Discretionary Construction Program, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-Application). If you use e-Application for the FY 2004 competition, you will be entering data online while completing your application. You may not e-mail an electronic copy of a grant application to us. If you participate in this voluntary pilot project by submitting an application electronically, the data you enter online will be saved into a database. We request your participation in e-Application. We shall continue to evaluate its success and solicit suggestions for its improvement.

If you participate in e-Application, please note the following:

- Your participation is voluntary.
- When you enter the e-Application system, you will find information about its hours of operation. We strongly recommend that you do not wait until the application deadline date to initiate an e-Application package.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including the Application for Discretionary Construction Program under Section 8007(b) and all necessary assurances and certifications.

- After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an

identifying number unique to your application).

- Within three working days after submitting your electronic application, mail a signed copy of the Application for Discretionary Construction Program under Section 8007(b) to the Impact Aid Program after following these steps:

1. Print the Application for Discretionary Construction Program under Section 8007(b) from e-Application.

2. The LEA's Authorized Representative must sign this form on the cover page and on all of the assurances pages. The local certifying official must sign the certification in an emergency application.

3. Place the PR/Award number in the upper right hand corner of the hard copy cover page of the Application for Discretionary Construction Program under Section 8007(b).

4. Mail the signed Application for Discretionary Construction Program under Section 8007(b) to the Impact Aid Program at the address listed in the For Further Information Contact section (see VII. Agency Contact). Application Deadline Date Extension in Case of System Unavailability: If you elect to participate in the e-Application pilot for the Impact Aid Discretionary Construction Program and you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

1. You are a registered user of e-Application, and you have initiated an e-Application for this program; and

2. (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

- (b) The e-Application system is unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time) on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under For Further Information Contact (see VII. Agency Contact) or (2) the e-GRANTS help desk at 1-888-336-8930.

You may access the electronic grant application for the Impact Aid Discretionary Construction Program at: <http://e-grants.ed.gov>.

## V. Application Review Information

1. *Selection Criteria:* Consistent with 34 CFR 75.209, the selection criteria for this program are based on the specific statutory program elements for each Impact Aid Discretionary Construction Application identified in 34 CFR 222.183 through 222.187 and the approved application (OMB No. 1810-0657).

The Secretary gives distinct weight to the listed selection criteria. The maximum score for each criterion is indicated in parentheses. Within each criterion, the Secretary evaluates each factor equally, unless otherwise specified. The maximum score that an application may receive is 100 points. In evaluating applications for grants under this program, the Secretary will use the following project selection criteria.

- (1) *Need for project/severity of the school facility problem to be addressed by the proposed project (up to 30 points).*

Factors for Emergency grants:

- (a) Justification that the proposed project will address a valid emergency; and consistency of the emergency description and the proposed project with the certifying local official's statement.

- (b) Impact of the emergency condition on the health and safety of the building occupants or on program delivery (examples: the systems or areas of the facility involved, e.g., HVAC, roof, floor, windows); the type of space affected, such as instructional, resource, food service, recreational, general support, or other areas; the percentage of building occupants affected by the emergency; and the importance of the facility or affected area to the instructional program.

Factors for Modernization grants:

- (a) Justification that the proposed project is a valid modernization need (example: building capacity is 300 students; current enrollment is 350; three additional classrooms are needed to meet State capacity standards and 20-to-1 student/teacher ratio).

- (b) Impact of the modernization challenges on building occupants or program delivery (examples: the percentage of building occupants adversely affected; the areas and extent of the facility affected (type of space affected, such as instructional, resource, food service, recreational, general support, or other areas); and the importance of the facility or affected

space to the required instructional program).

- (2) *Project Urgency (up to 28 points).*

Factors for Emergency grants:

- (a) Risk to occupants if the facility condition is not addressed; projected increased future costs; effect of the proposed project on the useful life of the facility or the need for major construction; or age and condition of the facility and date of last renovation of affected areas.

- (b) The justification for rebuilding, if proposed.

Factors for Modernization grants:

- (a) Project urgency in fiscal terms (examples: proposed project will extend useful life of current facility on a cost-effective basis, or district can improve program quality with updated facility and delay replacement of facility).

- (b) The justification for rebuilding, if proposed.

- (3) *Effects of Federal Presence (up to 30 points total).*

For section 8003 districts:

- (a) Amount of non-taxable Federal property in the applicant district (percentage of Federal property divided by 10) (up to 10 points);

- (b) The numbers of federally connected children identified in sections 8003(a)(1)(A), (B), (C), and (D) of the Act in the district (percentage of identified children in district divided by 10) (up to 10 points);

- (c) The numbers of federally connected children identified in sections 8003(a)(1)(A), (B), (C), and (D) of the Act in the school facility (percentage of identified children in school facility divided by 10) (up to 10 points); or

For section 8002 districts:

- (a) The amount of non-taxable Federal property in the applicant district (percentage of Federal property divided by 10 and multiplied by 3) (up to 30 points);

- (4) *Ability to respond or pay (up to 12 points total).*

- (a) The percentage an LEA has used of its bonding capacity. Four points to be distributed based on the LEA's quartile so that an LEA that has used 100 percent of its bonding capacity receives all four points and an LEA that has used less than 25 percent of its bond limit receives only one point. LEAs that do not have limits on bonded indebtedness established by their States will be evaluated by assuming that their bond limit is 10 percent of the assessed value of real property in the LEA. LEAs deemed to have no practical capacity to issue bonds will receive all four points (up to 4 points).

- (b) Assessed value of real property per student (applicant LEA's total assessed

valuation of real property per pupil as a percentile ranking of all LEAs in the State. Four points to be distributed by providing all four points to LEAs in the poorest quartile and only one point to LEAs in the wealthiest quartile) (up to 4 points).

(c) Total tax rate for capital or school purposes (applicant LEA's tax rate for capital or school purposes as a percentile ranking of all LEAs in the State. If the State authorizes a tax rate for capital expenditures, then these data must be used; otherwise, data on the total tax rate for school purposes are used. Four points to be distributed by providing all four points to LEAs in the highest taxing quartile and only one point to LEAs in the lowest quartile) (up to 4 points).

#### 2. Review and Selection Process:

Upon receipt, Impact Aid program staff will screen all applications to identify any that should not be included in the panel review process. Applications that do not meet the eligibility standards or are incomplete or late will be eliminated. Program staff will also calculate the objective scores for each application under criteria (3) and (4). Panel reviewers will assess the applications under criteria (1) and (2).

Except as provided in 34 CFR 222.190, all eligible applications in the "first priority" emergency category must be funded before applications in the next priority can be funded. The Secretary will not subject applications in the second, third, and fourth priorities to the panel review process if the need for funds in the first priority and the number of eligible applications received greatly exceeds the available appropriation. Likewise, if the numbers of applications and need for funds in the first and second priorities greatly exceed the available funds, the Secretary will not submit applications from the third and fourth priorities for a panel review. However, as prescribed in section 8007(b) of the Act and the implementing regulations, any

unfunded application in any of the four priorities will be retained and considered along with the next fiscal year's pool of applicants.

### VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118 and 34 CFR 222.195. In general, grantees must comply with applicable reporting requirements in 34 CFR parts 75 and 80. In addition, grantees will be required to provide periodic performance and financial reports, as specified in individual grant award conditions and 34 CFR 222.195.

4. *Performance Measures:* The Department has established the following performance measure for this program: an increasing percentage of LEAs receiving Impact Aid Construction funds will report that the overall

condition of their school buildings is adequate. Data for this measure will be reported to the Department on Table 10 of the application for Impact Aid Section 8003 Basic Support Payments.

### VII. Agency Contact

*For Further Information Contact:* Marilyn Hall, Impact Aid Program, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E103, Washington, DC 20202-6244. Telephone: (202) 260-3858 or by e-mail: [Impact.Aid@ed.gov](mailto:Impact.Aid@ed.gov).

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*Electronic Access to This Document:* You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: [www.ed.gov/news/fedregister](http://www.ed.gov/news/fedregister).

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: [www.gpoaccess.gov/nara/index.html](http://www.gpoaccess.gov/nara/index.html).

Dated: March 9, 2004.

**Raymond Simon,**

*Assistant Secretary for Elementary and Secondary Education.*

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