

advantages and disadvantages of affiliated lending practices?

4. *State and Local Experience.* State and local consumer and enforcement agencies, through their investigatory and prosecutorial experiences, may be able to contribute valuable information regarding practices that steer consumers to overpriced settlement service providers, as well as provide information about successful and unsuccessful means of preventing such abuse. To these agencies especially, HUD asks:

(a) What has been and continues to be the impact of state and local regulatory enforcement in this area?

(b) What rules and forms of enforcement have proven most effective?

(c) Is there evidence available regarding specific anticompetitive or anticonsumer practices that can be provided by state law enforcement?

(d) Can state laws regulating builder-affiliated business arrangements provide an approach for evaluating options?

5. *One-Stop Shopping.* In the process of withdrawing the revised definition of "required use" in the November 17, 2008, RESPA final rule, HUD received comments indicating that limiting referrals to affiliates adversely affects one-stop shopping options that could benefit consumers. Accordingly, HUD asks whether there is any way to quantify the benefit to homebuyers of one-stop shopping. Additionally, is there any evidence that homebuyers derive greater benefit from one-stop shopping than from comparison shopping for the best loan terms and settlement costs?

6. *Incentives vs. Disincentives or Penalties.* HUD requests comments on the relationship between incentives to use an affiliated settlement service provider and disincentives or penalties for using a nonaffiliated settlement service provider, and how incentives and disincentives might be treated in the new regulation. To assist in the development of distinctions or equivalencies between incentives and disincentives, HUD asks for information concerning cases where an incentive to use a certain provider would not have the same effect as a disincentive for failure to use another provider.

While HUD specifically seeks comments on the foregoing questions, HUD welcomes additional information that will help inform HUD's views on this issue.

Dated: May 27, 2010.

David H. Stevens,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2010-13350 Filed 6-2-10; 8:45 am]

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DEPARTMENT OF EDUCATION

34 CFR Chapter VI

Promoting Postbaccalaureate Opportunities for Hispanic Americans (PPOHA) Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Proposed requirements.

SUMMARY: The Assistant Secretary for Postsecondary Education proposes requirements under the PPOHA Program. The Assistant Secretary may use one or more of these requirements for competitions in fiscal year (FY) 2010 and later years. We take this action to establish appropriate requirements for the PPOHA Program. We have based these requirements on existing rules for the Hispanic-Serving Institutions (HSI) Program, authorized by Title V of the Higher Education Act of 1965, as amended (HEA), because the PPOHA Program and the HSI Program are governed by some common provisions and support similar institutions. We are proposing to limit the number of applications an eligible institution can submit under the PPOHA to ensure that more HSIs have an opportunity for assistance under the PPOHA Program. We are also proposing a limitation on the use of PPOHA Program funds for direct student assistance to ensure that institutions use the grant funds to best meet the broad purposes of the statute.

DATES: We must receive your comments on or before July 6, 2010.

ADDRESSES: Address all comments about this notice to Dr. Maria E. Carrington, U.S. Department of Education, 1990 K Street, NW., Room 6036, Washington, DC 20006-8513.

If you prefer to send your comments by e-mail, use the following address: maria.carrington@ed.gov. You must include the term "PPOHA Program Notice of Proposed Requirements" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Dr. Maria E. Carrington: (202) 502-7548, or by e-mail: maria.carrington@ed.gov.

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

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final requirements, we urge you to identify clearly the specific proposed requirement that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed requirements. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in Room 6036, 1990 K Street, NW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purposes of the PPOHA Program are to: (1) Expand postbaccalaureate educational opportunities for, and improve the academic attainment of, Hispanic students; and (2) expand the postbaccalaureate academic offerings as well as enhance the program quality in the institutions of higher education that are educating the majority of Hispanic college students and helping large numbers of Hispanic and low-income students complete postsecondary degrees.

Program Authority: 20 U.S.C. 1102-1102c, 20 U.S.C. 1161aa-1.

Proposed Requirements

Background

The PPOHA Program is authorized by Title V, part B, sections 511 through 514 of the HEA. It was added to the HEA by the Higher Education Opportunity Act of 2008, Public Law 110-315. The PPOHA Program supports HSIs that offer a postbaccalaureate certificate or degree granting program.

There are overlapping statutory provisions that govern both the PPOHA Program and the HSI Program, which is authorized by sections 501 to 504 of the HEA. For example, in defining the term “Hispanic-serving institution” for purposes of the PPOHA Program, Congress adopted the definition of that term from the program authority for the HSI Program. In addition, the PPOHA Program provides development grants like the HSI Program. Congress also applied the general provisions of the HSI Program (see sections 521 through 528 of the HEA) to the PPOHA Program.

In FY 2009, the Department conducted its first grant competition under the PPOHA Program. Under the General Education Provisions Act (GEPA), the Department can establish requirements for the first competition it holds under a new or substantially revised program authority without subjecting those requirements to the Administrative Procedure Act’s rulemaking requirements. (See section 437(d)(1) of GEPA). The Department established requirements for the FY 2009 PPOHA Program grant competition in a notice inviting applications that it published in the **Federal Register** on June 18, 2009 (74 FR 28913). The requirements established for the FY 2009 grant competition included (1) using the HSI Program regulations in 34 CFR 606.2(a) and (b) and 34 CFR 606.3 through 606.5 for purposes of determining eligibility for the PPOHA Program and (2) using the “tie-breaker for development grants” provisions from the HSI Program regulations in 34 CFR 606.23(b)(1) and (b)(2). Given the overlap between the PPOHA Program and the HSI Program, the Department determined that it was appropriate to use these regulations from the HSI program for the PPOHA Program.

Congress has appropriated \$22 million for the PPOHA Program for FY 2010. To conduct an effective competition using these funds, the Department has determined that it is necessary to establish requirements for the FY 2010 competition and for future competitions under the PPOHA Program. Specifically, we propose again to use the HSI Program regulations in 34 CFR 606.2(a) and (b) and 34 CFR 606.3 through 606.5 for purposes of determining eligibility, and the regulations in 34 CFR 606.23(b)(1) and (b)(2) for breaking ties for development grants in this competition.

As we explained in the notice inviting applications for the FY 2009 competition, we believe these requirements are appropriate for the following reasons:

Eligibility Criteria (Use of 34 CFR 606.2(a) and (b), 606.3 through 606.5). The regulations for the HSI Program (34 CFR part 606) include eligibility criteria for a “Hispanic-serving institution” as used in section 502 of the HEA (20 U.S.C. 1101a). The definition of a “Hispanic-serving institution” in section 502 of the HEA also applies to the PPOHA Program. Accordingly, we are using the eligibility criteria from the HSI Program (34 CFR 606.2(a) and (b) and 606.3, 606.4, and 606.5) for the PPOHA Program. The use of these regulations will enable applicants under the PPOHA Program to determine whether they meet the definitional requirements of an HSI.

Tie-breaker for Development Grants (Use of 34 CFR 606.23(b)(1) and (b)(2)). Through the PPOHA Program, the Department provides development grants like those currently awarded under the HSI Program. In light of the similar eligibility criteria for these two programs, the Assistant Secretary has decided to adopt for the PPOHA Program the regulations for tie-breakers used in the HSI Program.

In addition to the eligibility and tie breaker requirements, we also propose to establish the following two additional requirements:

- (1) A limitation on the number of applications an eligible institution can submit under the PPOHA Program.
- (2) A limitation on the use of PPOHA Program funds for direct student assistance.

We propose to limit the number of applications an eligible institution can submit under the PPOHA Program to one per fiscal year. This proposed limitation would ensure that more HSIs have an opportunity for assistance under the PPOHA Program.

We also propose to limit the amount of PPOHA Program funds a grantee can use to provide direct student assistance to no more than 20 percent. While section 513(a)(4) of the HEA allows grant funds to be used to support low-income, postbaccalaureate students with scholarships, fellowships, and other financial assistance to permit the enrollment of these students in postbaccalaureate certificate or degree-granting programs, the primary emphasis of the PPOHA Program is to expand postbaccalaureate academic offerings and enhance program quality rather than to provide direct student financial assistance.

Proposed Requirements

The Assistant Secretary proposes the following requirements for this program. We may apply one or more of these

requirements in any year in which this program is in effect.

Proposed Requirement 1—Eligibility Criteria (Use of 34 CFR 606.2(a) and (b), 606.3 Through 606.5)

Hispanic-Serving Institution (HSI): To qualify as an eligible HSI for the Promoting Postbaccalaureate Opportunities for Hispanic Americans (PPOHA) Program under sections 502 and 512(b) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1101a and 1102a), an institution of higher education (IHE) must—

- (a) Have an enrollment of needy students, as defined in section 502(b) of the HEA (section 502(a)(2)(A)(i) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(i));
- (b) Have, except as provided in section 522(b) of the HEA, average educational and general expenditures that are low, per full-time equivalent (FTE) undergraduate student, in comparison with the average educational and general expenditures per FTE undergraduate student of institutions that offer similar instruction (section 502(a)(2)(A)(ii) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(ii));

Note: To demonstrate an enrollment of needy students and low average educational and general expenditures per FTE undergraduate student, an IHE must be designated as an “eligible institution” in accordance with 34 CFR 606.3 through 606.5 and the notice inviting applications for designation as an eligible institution for the fiscal year for which the grant competition is being conducted.

(c) Be accredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered, or making reasonable progress toward accreditation, according to such an agency or association (section 502(a)(2)(A)(iv) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(iv));

(d) Be legally authorized to provide, and provide within the State, an educational program for which the institution awards a bachelor’s degree (section 502(a)(2)(A)(iii) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(iii)); and

(e) Have an enrollment of undergraduate FTE students that is at least 25 percent Hispanic students at the end of the award year immediately preceding the date of application (section 502(a)(5)(B) of the HEA; 20 U.S.C. 1101a(a)(5)(B)).

Note 1: Funds for the PPOHA Program will be awarded each fiscal year; thus, for this program, the “end of the award year immediately preceding the date of application” refers to the end of the fiscal year prior to the application due date. The

end of the fiscal year occurs on September 30 for any given year.

Note 2: In considering applications for grants under this program, the Department will compare the data and documentation the institution relied on in its application with data reported to the Department's Integrated Postsecondary Education Data System (IPEDS), the IHE's State-reported enrollment data, and the institutional annual report. If different percentages or data are reported in these various sources, the institution must, as part of the eligibility process, explain the reason for the differences. If the IPEDS data show that less than 25 percent of the institution's undergraduate FTE students are Hispanic, the burden is on the institution to show that the IPEDS data are inaccurate. If the IPEDS data indicate that the institution has an undergraduate FTE less than 25 percent, and the institution fails to demonstrate that the IPEDS data are inaccurate, the institution will be considered ineligible.

Proposed Requirement 2—Use of Tie-Breaking Factors

To resolve ties in the reader scores of applications for development grants, the Department will award one additional point to an application from an institution of higher education (IHE) that has an endowment fund for which the market value per full-time equivalent (FTE) student is less than the comparable average current market value of the endowment funds per FTE student at similar type IHEs. In addition, to resolve ties in the reader scores of applications for PPHOA development grants, the Department will award one additional point to an application from an IHE that has expenditures for library materials per FTE student that are less than the comparable average expenditures for library materials per FTE student at similar type IHEs. (34 CFR 606.23(a)(1) and (2)).

For the purpose of these funding considerations, we will use 2008–2009 data.

If a tie remains after applying the tie-breaker mechanism above, priority will be given for Individual Development Grants to applicants that have the lowest endowment values per FTE student. (34 CFR § 606.23(b)(1))

Proposed Requirement 3—Limit on Applications From an Eligible Institution

In any fiscal year, an eligible institution may submit only one application for a grant under the PPOHA Program. This restriction is intended to ensure that more Hispanic-serving institutions have an opportunity for assistance under Title V of the

Higher Education Act of 1965, as amended.

Proposed Requirement 4—Limit on Use of Funds for Direct Student Assistance

A PPOHA Program grantee may use no more than 20 percent of its total PPOHA Program grant award to provide financial support—in the form of scholarships, fellowships, and other student financial assistance—to low-income students.

Final Requirements: We will announce the final requirements in a notice in the **Federal Register**. We will determine the final requirements after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional requirements subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use one or more of these requirements, we invite applications through a notice in the **Federal Register**.

Executive Order 12866: This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed requirements justify the costs.

We have determined, also, that this proposed regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large

print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: You can 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: <http://www.ed.gov/news/fedregister>. To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

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: <http://www.gpoaccess.gov/nara/index.html>.

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzellan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.031M.

Dated: May 25, 2010.

Daniel T. Madzellan,

Director, Forecasting and Policy Analysis.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0158; FRL–9158–2]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone and the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve submittals from the State of Delaware pursuant to the Clean Air Act (CAA) sections 110(k)(2) and (3). These submittals address the infrastructure elements specified in the CAA section 110(a)(2) necessary to implement, maintain, and enforce the 1997 8-hour ozone and fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS), and the 2006 PM_{2.5} NAAQS. This proposed action is limited to the