

existing facilities, necessary to commence or continue the operation of a charter school.

Grantees must ensure that all costs incurred using funds from the reserve account are reasonable. The burden of proof is upon the grantee, as a fiduciary under its agreements with the Secretary, to establish that costs are reasonable. Each grantee must also clearly indicate with respect to each financial obligation it enters into pursuant to this grant program that the full faith and credit of the United States is not pledged to the payment of funds under such obligation.

Grantee Performance Agreements and Reporting Requirements

Applicants that are selected to receive an award must enter into a written Performance Agreement with the Department prior to drawing down funds, unless the grantee receives written permission from the Department in the interim to draw down a specific limited amount of funds. A key element of the Performance Agreement is the performance goals for the grant. These performance goals will include the program's two performance indicators: (1) The amount of funding grantees leverage for charter schools to acquire, construct, and renovate school facilities and (2) the number of charter schools served. In developing performance goals, Department staff and each applicant will rely on the applicant's annual projections submitted under the Business/Organizational Capacity section of the application and the objectives established in the approved application. The Performance Agreement will also describe the ways in which the Department and the grantee will work together to accomplish the purposes of the program.

The Secretary, in accordance with chapter 37 of title 31, United States Code, will collect all of the funds in the reserve account established with grant funds (including any earnings on those funds) if the Secretary determines that the grantee has permanently ceased to use all or a portion of the funds in such account to accomplish the purposes described in the authorizing statute and the Performance Agreement or, if not earlier than two years after the date on which the entity first received these funds, the entity has failed to make substantial progress in undertaking the grant project.

During each fiscal year that the grantee's obligation to the Federal Government remains in effect, grantees will submit reports (as detailed below) to the Department. The grantee's

commitment continues for the duration of the project period.

Applicants selected for funding will be required to submit the following reports to the Department:

1. An annual report that includes—
 - a. A copy of the most recent financial statements and any accompanying opinion on such statements prepared by the independent public accountant reviewing the financial records of the grantee;
 - b. A copy of any report made on an audit of the financial records of the grantee conducted during the reporting period;
 - c. An evaluation by the grantee of the effectiveness of its use of the Federal funds in leveraging private-sector and other non-Federal funds;
 - d. A description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the grantee during the reporting period;
 - e. A narrative description of the grantee's activities in support of the objectives of the program and its performance goals, including a listing and description of the charter schools served during the reporting period; and
 - f. Such other information as the Secretary may require.
2. Semiannual reports that include internal financial statements and other information as the Secretary may require in the Performance Agreement.

Grantees must also cooperate and assist the Department with any periodic financial and compliance audits of the grantee, as determined necessary by the Department. The specific Performance Agreement between the grantee and the Department may contain additional reporting requirements.

Grantees must maintain and enforce standards of conduct governing the performance of their employees, officers, directors, trustees, and agents engaged in the selection, award, and administration of contracts or agreements related to this grant. The standards of conduct must, at a minimum, require disclosure of direct and indirect financial or other interests, mandate disinterested decision-making, and indicate corrective actions to be taken in the event of violation.

Limitation on Administrative Costs

A grantee may use not more than 0.25 percent (one quarter of one percent) of the grant funds for the administrative costs of the grant.

Charter Schools Eligible to Benefit From This Program

The charter schools that a grantee selects to benefit from this program

must meet the definition of a charter school, as defined in the Public Charter Schools Program authorizing statute in section 5210(1) of the Elementary and Secondary Education Act of 1965 (ESEA). This definition is repeated as follows in this application notice for the convenience of the applicant.

(1) A charter school is a public school that—

(A) In accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph [paragraph (1) of ESEA section 5210];

(B) Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) Provides a program of elementary or secondary education, or both;

(E) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) Does not charge tuition;

(G) Complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

(H) Is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(I) Agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program [the Public Charter Schools Program];

(J) Meets all applicable Federal, State, and local health and safety requirements;

(K) Operates in accordance with State law; and

(L) Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments