

May 14, 2008

## Frequently Asked Questions Related to the Decrease in Fiscal Year 2008 Funding for the Reading First Program

### 1. *For what fiscal years (FYs) is Reading First authorized?*

The Reading First program was initially authorized for FYs 2002 through 2007. (See subpart 1 of Part B of Title I of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act (NCLB).) The authorization for the program was automatically extended for one additional fiscal year (through FY 2008) under section 422(a) of the General Education Provisions Act (GEPA) (20 U.S.C. § 1226a(a)). Congress may extend the current authorization beyond FY 2008 if it chooses. As with any Department program, if Congress chooses to continue to appropriate funds for the program, the program will continue to operate.

### 2. *What is the difference between an “authorization” and an “appropriation?”*

An authorizing statute is most common way in which Federal programs are established; the authorizing statute outlines the requirements and parameters by which those programs generally operate. Authorizations are generally for a specified period of time. For example, Reading First and other major NCLB programs (such as Title I) were authorized initially for a period of six years before the automatic one-year extension period under GEPA took effect.

Appropriation statutes provide the funding to carry out those programs and activities. Each year, Congress provides an appropriation for the Department’s programs. Some programs have been established or extended through an appropriations statute.

### 3. *When will Reading First be reauthorized?*

The Department is hopeful that NCLB will be reauthorized during 2008 and is working diligently with Congress to achieve this.

### 4. *Will Reading First continue if the program is not reauthorized this year?*

Even if the reauthorization of the ESEA is not completed prior to FY 2009, the Department is hopeful that Congress would continue to appropriate funds for Reading First. In FY 2009, in the President’s budget request, the Administration is requesting \$1 billion for Reading First.

### 5. *How much did Congress appropriate for the Reading First program for FY 2008?*

Congress appropriated \$393,012,000 for FY 2008.

### 6. *What is the amount of each State’s FY 2008 Reading First allocation?*

Each State’s estimated allocation, which is based on the statutory formula, is listed in the attached chart.

### 7. *When will the Department award FY 2008 Reading First funds to States?*

**May 14, 2008**

The Department will award FY 2008 funds beginning on July 1, 2008.

*8. How long are the funds available for State and local obligation?*

FY 2008 funds, which the Department will award to States beginning on July 1, 2008, will be available for State and local obligation through September 30, 2010. FY 2007 funds, which were awarded to States beginning on July 1, 2007, are available for obligation through September 30, 2009. FY 2006 funds, which were awarded to States beginning on July 1, 2006, are available for obligation through September 30, 2008.

*9. Under the reduced appropriation, will States still receive FY 2008 Reading First funds?*

Yes. States will continue to receive an allocation for FY 2008 based on the statutory formula.

*10. Will States have to submit new applications to receive FY 2008 funds?*

No. States will not be required to submit new applications to receive FY 2008 funds. We do not anticipate that States will have to submit a new application until Reading First is reauthorized. However, some States may want to or need to amend their current approved State plan to address changes necessitated by the reduction in the appropriation for Reading First, and other changes that they may want to implement.

*11. When must a State submit an amendment to its State plan to the Department?*

The Department understands that the significant reduction in the Reading First appropriation is likely to result in States reducing the scope of some activities below the levels proposed in their approved Reading First plans. For example, a State may no longer be able to provide the same level of technical assistance to local educational agencies (LEAs) or to support the number of Reading First staff as proposed in its plan. States must amend their plans to reflect such changes in the scope of activities or other significant changes. In particular, the Department anticipates that States would need to amend their plans regarding staffing, technical assistance, professional development, and the number of LEAs receiving funds. A State that develops new criteria or funding priorities to determine which LEAs will receive continuation funding will need to amend its State plan to reflect those criteria.

*12. May a State reserve more than 20 percent of its allocation to maintain its State-level activities?*

No. A State may reserve no more than 20 percent of its allocation for State-level activities. We recognize that States may have to reduce the scope of activities funded by Reading First as a result of the reduction in funds available for State-level activities.

**May 14, 2008**

*13. May a State use more than 10 percent of its State-level set-aside for planning, administration, and reporting?*

No. Of the amount reserved for State-level activities, a State must expend: (1) 65 percent for professional inservice and preservice development and review; (2) 25 percent for technical assistance to LEAs; and (3) 10 percent for planning, administration, and reporting.

*14. May a State reduce the scope of its evaluation if the amount reserved for planning, administration, and reporting is of insufficient size to carry out the planned evaluation?*

By statute, a State must assess and evaluate “on a regular basis” the effectiveness of participating LEAs in improving student achievement in reading. While each State must provide an annual report to the Department, States have some flexibility in the frequency with which they evaluate activities carried out under this program and the scope of the evaluations. States must continue to ensure the integrity of the program but are not required to carry out an annual evaluation of the program.

*15. Does a State have to contract with an external entity to assist in preparing annual reports or conducting evaluations?*

No. The Department recognizes that there will be less funding for contracts with external entities. As a result, it may no longer be practicable for some SEAs to contract with an external entity for assistance with annual reports and evaluations. Before terminating any existing contract, a State should consult with its legal counsel.

*16. May a State reserve less than 20 percent of its allocation for State-level activities?*

Yes. A State is not required to reserve 20 percent for State-level activities; it may choose instead to use a larger share of its Reading First allocation for subgrants to LEAs.

*17. Is a State required to use a portion of the State-level funds to provide professional development to teachers in non-Reading First schools?*

No. While a State may use Reading First funds to provide professional development to teachers in non-Reading First schools, it is not required to do so. A State must give priority to professional development that prepare the teachers in Reading First schools (including special education teachers) in kindergarten through grade 3, in all the essential components of reading instruction, before providing similar assistance to teachers in other schools.

*18. If there is a reduction in the amount of Reading First funds available to a school, must a school still carry out all of the activities required under the program?*

Yes. Even at a reduced funding level, every school that receives Reading First assistance must continue to comply with all of the requirements of the program.

**May 14, 2008**

*19. May a State make across-the-board reductions to all grants that will proportionately reduce the amount of funds available to all schools?*

States must ensure that across-the-board reductions do not result in grants of insufficient size to enable all schools receiving those funds to implement high-quality programs that include all of the requirements of the program. The Department strongly encourages States to consider the quality of implementation and the progress of schools in improving the reading achievement of students when determining how to distribute the reduced allocation.

*20. If a State does not have sufficient funds to continue all subgrants that are in the middle of a multi-year funding cycle (continuation awards) at the originally funded levels, what options are available?*

States have some flexibility in how they handle reduced Reading First funding. The Education Department General Administrative Regulations (EDGAR) at 34 C.F.R. § 80.37(a) provide that States follow State law and procedures in awarding and administering subgrants. The State's goal should be to continue to support strong programs that are complying with the terms of their award, meeting the program's objectives, and making sufficient progress under the State's criteria.

States may want to consider the following strategies:

- Rigorously reviewing each LEA's budget for cost efficiency and to ensure that the budget does not contain any unnecessary or excess cost items.
- Discontinuing a subgrant to any LEA that the State determines has failed to make sufficient progress. States may want to consider establishing a State policy that assists in this process, such as by defining what the State considers to be "sufficient progress."
- Discontinuing a subgrant to any LEA that fails to materially comply with the terms of its award. States may want to consider establishing a State policy that assists in this process, such as by defining for State purposes in administering the Reading First program, the meaning of the term "materially fails to comply with any term of an award" under section 80.43(a) of EDGAR (34 C.F.R. § 80.43(a)).
- Adopting a clear and reasonable State policy about how the State will choose which programs to continue funding in the case of insufficient funds for all LEAs in the middle of a multi-year funding cycle (for example, continuing funding the "most successful" programs first).

*21. Does a subgrantee have any hearing rights under EDGAR if the State reduces or discontinues its subgrant in the middle of a multi-year grant cycle?*

In general, if the grantee alleges that the State has failed to provide funds in amounts in accordance with the requirements of statutes or regulations governing the Reading First program

**May 14, 2008**

and complies with procedural requirements, the SEA must provide an opportunity for a hearing either before or after that State action. (See Section 432(a) of GEPA (20 U.S.C. § 1231b-2(a)); Section 76.401(c) and (d)(2) of EDGAR, 34 C.F.R. § 76.401(c) and (d)(2).)

*22. If a State has sufficient funds, may it hold a new grant competition but limit that new grant competition to existing Reading First grantees that wish to receive another grant?*

No. A new grant competition must be open to all eligible entities. However, a State may give competitive priority to LEAs that have previously received Reading First funds or had past success in implementing Reading First. Similarly, a State may also give a competitive priority to LEAs that never received Reading First funds. If a subgrant priority differs from the priorities identified in the approved State application, the State must submit an amendment to its plan.

*23. Must a State hold a new competition or may it extend current grants that are otherwise scheduled to end? If the State does not have enough funding to extend all grants, may it extend only some of them?*

Under Reading First, the length of a subgrant is a State, not Federal, determination. Depending upon State laws and regulations, the State may be bound by the terms of the current grant. A State does not need to extend all of its grants. If a State does not extend all of its grants, it needs to develop clear criteria for determining which grants to extend. The Department recommends that you consult with State legal counsel before making final determinations.

*24. What options does a State have for handling currently funded Reading First contracts, such as technical assistance or evaluation contracts, if the Reading First amount allowed and reserved for State-level activities under section 1202(d) of the ESEA (20 U.S.C. § 6362(d)) is no longer sufficient to fund those contracts?*

Contracts generally are subject to specific clauses contained in the agreement. A contract may have a clause making it subject to available Reading First funding, in which case the contract may automatically terminate to the extent that funding is not available. A State also may be able to substitute other sources of funds, if available, to continue a contract. We encourage States to consult with their legal counsel to determine what options may be available.

*25. Must a State or LEA consult with private school officials before making any decisions affecting the size or duration of Reading First subgrants?*

Yes. The Reading First program is subject to the equitable participation requirements in section 9501 of the ESEA (20 U.S.C. § 7881). The State and LEA must engage in timely and meaningful consultations with private school officials before they make any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in the program. (For example, before making any decisions to reduce the number or size of grant awards, an SEA would have to consult with relevant private school officials about the effects of the proposed change on private school students and teachers.)

**May 14, 2008**

*26. Are there any other Federal funds that an LEA may use to implement programs that are currently supported with Reading First funds?*

Yes. Subject to the specific rules or regulations of the program, funds that LEAs receive under Title I, Part A of the ESEA (Grants to Local Educational Agencies) may be used to support elements of a Reading First program. (See questions 27 and 28 for further information.) In addition, an LEA may use the funds that it receives under Title II, Part A (Improving Teacher Quality State Grants) to provide professional development activities focused on instructional strategies grounded in scientifically based reading research. Title III (Language Instruction for Limited English Proficient and Immigrant Students) funds may be used to provide reading interventions for English language learners. Where applicable, an LEA may consider using the flexibility available under the Transferability and REAP-Flex authorities to support the types of activities that would be allowable under Reading First.

(See <http://www.ed.gov/programs/transferability/finalsummary04.doc> for guidance for the Transferability authority and <http://www.ed.gov/policy/elsec/guid/reap03guidance.doc> for guidance on the REAP-Flex authority.)

*27. How may Title I funds support implementation of Reading First in a school that operates a schoolwide program?*

A Title I school that serves an attendance area in which at least 40 percent of the children are from low-income families may implement a schoolwide program after conducting a comprehensive needs assessment and developing a schoolwide plan to upgrade the total instructional program for the school. The plan must include schoolwide reform strategies that use effective methods and instructional strategies that are based on scientifically based research. These strategies must address the needs of all children, but particularly the needs of low-achieving children and those most at-risk of failing to meet state student academic achievement standards. The schoolwide plan must also describe how the school will use resources under Title I and other resources (State and local funds, Reading First funds, and other Federal resources to the extent the school has such funds) to implement the plan's components.

Reading First is a strategy to upgrade the reading curriculum for all students in kindergarten through grade 3 through the implementation of programs that are grounded in scientifically based reading research. Therefore, to the extent the data from the needs assessment indicate a need to improve reading instruction, Title I funds may be used in a schoolwide program to implement any of the components of a reading program based on scientifically based reading research such as those used in Reading First. For example, the funds might support costs associated with screening and diagnostic assessments or reading coaches and other professional development. Such strategies must be included in the schoolwide plan and must be based on data from the needs assessment.

A school operating a schoolwide program must receive the same amount of funds that it would have received from non-Federal sources in the absence of Title I funds, and must meet all of the requirements of section 1114 of the ESEA (20 U.S.C. § 6314).

**May 14, 2008**

For more information and guidance on schoolwide programs, please see the information at the following web addresses:

<http://www.ed.gov/legislation/FedRegister/other/2004-3/070204a.html>

<http://www.ed.gov/policy/elsec/guid/designingswpguid.doc>

<http://www.ed.gov/programs/titleiparta/fiscalguid.doc>

*28. May Title I funds support the implementation of Reading First services in a school that operates a Title I targeted assistance program?*

Yes, in part. In a school operating a targeted assistance program, Title I funds may only be used to provide supplemental activities to eligible students -- i.e., those who are failing or most at risk of failing to meet state academic achievement standards and who are in greatest need of services. Thus, Title I funds may be used to provide eligible students in grades K-3 Reading First services in addition to those provided through the core instructional program. However, the funds may not be used to provide services to ineligible students or to provide the core reading program in the school.

For example, a core instructional program might consist of a 90 or 120 minute reading block with whole group instruction, small group instruction, and "seat time" or "center time". In such a circumstance, Title I funds could be used to provide additional instruction for at-risk students outside the regular reading block or during the reading block at times when the student would otherwise not be receiving core reading instruction. (In other words, Title I funds could be used to provide additional reading instruction to at risk students at times when they would otherwise be assigned to seat or center time.) Title I funds may not be used to provide any component of the core instructional program provided to all students such as materials, assessments, or small group instruction that is part of the core instructional program.

*29. If, because of a reduction in its Reading First subgrant, an LEA uses other sources of funds to support activities previously supported with Reading First funds, is the LEA precluded in the future from supporting those activities with Reading First funds should additional Reading First funds become available?*

The Reading First supplanting prohibition in section 1202(g) of the ESEA (20 U.S.C. § 6362(g)) requires that SEAs and LEAs use Reading First funds to supplement the level of non-Federal funds that, in the absence of Reading First funds, would be expended for activities authorized under Reading First, and not to supplant those non-Federal funds. There generally is a presumption of a supplanting violation if an activity is funded from non-Federal sources in one year, but from a Federal program with a supplanting prohibition in the following year. However, the Department recognizes that because of the substantial reduction in the FY 2008 Reading First appropriation and a resultant reduction in the subgrants of some LEAs, and the uncertainty concerning future levels of funding for Reading First, some LEAs may choose, on a temporary

**May 14, 2008**

basis, to use other funds – including State and local funds and other Federal funds – to maintain activities previously funded with Reading First.

Subsequently, an LEA may use Reading First funds to pay for activities that, in the absence of Reading First, were supported temporarily with non-Federal funds if the LEA can demonstrate, with appropriate documentation, that it intended to use non-Federal funds to support such activities only for a limited period of time to keep its program functioning effectively during a period of reduced Reading First funding and uncertainty about future funding, and that it had no intention to fund these activities on a permanent basis in the absence of sufficient Reading First funding. Thus, the appropriate documentation would rebut the general presumption noted above. Furthermore, because the Reading First supplanting prohibition applies to non-Federal funds and not to other Federal funds, an LEA may use Reading First funds to support activities previously funded with other Federal funds without risk of violating the supplanting prohibition.