Dear School Board President:

This letter is an invitation for a proposal to support the development of Alternate Definition of Adequately Yearly Progress (AYP) by tribally controlled schools, in accordance with 25 CFR 30 (see attached).

As background, the Bureau of Indian Education invites proposals for awards, as authorized under Section 6111 funds of the Elementary and Secondary Education Act (ESEA). Section 6111 of the Elementary and Secondary Education Act (ESEA) provide funds for States – and BIE as an SEA — to develop required standards and assessments required by Section 1111(b) of the ESEA. Additional guidance provided by the U.S. Department of Education also allows activities to support the development of an Alternate Definition of Adequately Yearly Progress (AYP) by tribally controlled schools.

The attached Invitation for Proposals provides detailed information on the solicitation.

The closing date for receipt of applications is Monday, April 2, 2012, at 4 p.m. (Mountain Time).

We look forward to working with you. For further information, please contact Stanley Holder at the Division of Performance & Accountability. Mr. Holder can be reached at (505) 563-5251 or Stanley HOLDER@bie.edu.

Sincerely,

Stanley Holder
Acting Associate Deputy Director
Division of Performance and Accountability

CC: Tribal School Administrator

Attachments
Invitation for Proposals

Bureau of Indian Education
U.S Department of the Interior

Alternative Definition of Adequately Yearly Progress (AYP) Solicitation

SUMMARY: This notice contains all of the necessary information and forms needed to apply for grant funding. The Bureau of Indian Education invites proposals for awards, as authorized under Section 6111 funds of the Elementary and Secondary Education Act (ESEA). Section 6111 is for States to develop required standards and assessments required by Section 1111(b) of the ESEA, and other purposes. This award will be used to support the development of an Alternative Definition of Adequately Yearly Progress (AYP) by tribally controlled schools. The intent is to provide a grant to tribally controlled schools or Indian Tribes with governing authority over tribal schools that have the demonstrated capability to undertake these activities.

DATES: The closing date for receipt of applications is April 2, 2012, at 4 p.m. (Mountain Time).

DELIVERY METHOD: The application may be submitted by mail, email transmission, facsimile transmission, or hand-delivery.

Mail:          ATTN: Stanley Holder
              Division of Performance & Accountability
              Bureau of Indian Education
              1011 Indian School Road, NW, Ste. 332
              Albuquerque, NM 87104

Email:        Stanley.Holder@bie.edu

FAX:          (505) 563-5281

Hand Delivery ATTN: Stanley Holder
              Division of Performance & Accountability
              Bureau of Indian Education
              1011 Indian School Road, NW, Ste. 332
              Albuquerque, NM 87104

FOR FURTHER INFORMATION CONTACT: Stanley Holder, Division of Performance & Accountability; telephone: (505) 563-5251.
Alternate Definition of Adequately Yearly Progress (AYP) Solicitation

I. Purpose

The purpose of this solicitation is to invite proposals to support the development of an Alternative Definition of Adequately Yearly Progress (AYP) by tribally controlled schools.

II. Background

The primary purpose of Section 6111 funds of the Elementary and Secondary Education Act (ESEA) is for States to develop required standards and assessments required by Section 1111(b) of the ESEA. According to the Catalog of Federal Domestic Assistance (CFDA):

State educational agencies must use these funds to carry out the responsibilities described in Section 6111 of the ESEA. Funds may be used to support the development of the additional State assessments and standards required by Section 1111(b) of the Elementary and Secondary Education Act, as amended (ESEA); or if a State has developed the assessments and standards required by Section 1111(b), then to support the administration of those assessments or to carry out other activities related to ensuring that the State's schools and local education agencies are held accountable for results.¹

However, the Bureau of Indian Education represents a special case as a State Education Agency. As outlined in a policy guidance letter to the Bureau of Indian Education from the U.S Department of Education and dated September 21, 2009,

In the case of 6111 funding provided to BIE, BIE requires each school to use the assessments of the State in which the school is located. Because BIE bears no costs of developing these assessments, it may use 6111 funds for the other activities identified above [in letter], but not in place of distributing those funds to tribally controlled schools that want 6111 funds to develop alternative assessments as permitted by section 1116(g) of the ESEA.²

The September 21, 2009, policy guidance letter to BIE indicates that BIE may use 6111 funds for other specified activities, but only to the extent that tribes do not claim the funds to develop alternative AYP assessments, in accordance with 1116(g) of the ESEA. The guidance letter also stated that after standards and assessments have been developed and approved, 6111 funds may be used to support other assessment-related activities and to

¹ See Uses and Use Restrictions guidance in the Catalog of Federal Domestic Assistance at: https://www.cfda.gov/?s=program&mode=form&tab=step1&id=ff522c5232e8045a040d1576e13528bf.
² Letter from Zollie Stevenson, Jr., Director, Student Achievement and School Accountability Programs, U.S Department of Education, to Jeffrey Hamley, Associate Deputy Director, Division of Performance and Accountability, Bureau of Indian Education, dated September 21, 2009, p. 2.
support the dissemination of information on student and school performance to parent and communities.

*Alternative definition of AYP for Bureau-funded schools.* The Code of Federal regulations at 25 CFR 30 provides guidance about the development of an alternative definition of AYP for Bureau-funded schools. An alternative definition of AYP must meet the requirements of 20 U.S.C. 6311(b)(2) of ESEA and 34 CFR 200.13–200.20, taking into account the unique circumstances and needs of the school or schools and the students served. In accordance with 20 U.S.C. 6311(b) of ESEA and 34 CFR 200.13–200.20, an alternative definition of AYP must:

1) Apply the same high standards of academic achievement to all students;
2) Be statistically valid and reliable;
3) Result in continuous and substantial academic improvement for all students;
4) Measure the progress of all students based on a high-quality assessment system that includes, at a minimum, academic assessments in mathematics and reading or language arts;
5) Measure progress separately for reading or language arts and for mathematics;
6) Unless disaggregation of data cannot yield statistically reliable information or reveals personally identifiable information, apply the same annual measurable objectives to each of the following:
   a. The achievement of all students; and
   b. The achievement of economically disadvantaged students, students from major racial or ethnic groups, students with disabilities, and students with limited English proficiency;
7) Establish a starting point;
8) Create a timeline to ensure that all students are proficient by the 2013–2014 school year;
9) Establish annual measurable objectives;
10) Establish intermediate goals;
11) Include at least one other academic indicator which, for any school with a 12th grade, must be graduation rate; and
12) Ensure that at least 95 percent of the students enrolled in each group under §30.107(b)(6) are assessed. (See attached 25 CFR 30.)

If a Bureau-funded school’s alternative definition of AYP does not use a State’s academic content and student achievement standards and academic assessments, the school must include with its alternative definition the academic standards and assessment it proposes to use. These standards and assessments must meet the requirements in 20 U.S.C. 6311(b) and 34 CFR 200.1–200.9.

**III. Eligible Applicants**

*Eligible Applicants.* Eligible applicants include the tribal governing body or school board of a tribally controlled school (i.e., grant or contract school) in accordance with 25 CFR 30.
IV. Application Submittal Instructions

Applicants must submit a proposal by one of the methods listed above in DELIVERY METHOD. The application shall be comprised of the following documents:

- Application Cover Sheet*
- Project Narrative
- Budget Information Summary*
- Budget Narrative
- Special Terms*
- Assurances – SF 424B (6111 Funds)*

The items above with an asterisk are attached. These items will need to be completed with the appropriate information, except for the Special Terms which is informational.

The following two documents will need to be created by the applicant and included with the application:

- Project narrative
- Budget Narrative

The Project Narrative comprises a key element of the submitted proposal. In preparing the proposal, please use the following headings and respond to the information requested in each of the following categories.

i. Project Title. Identify the title of the proposed Alternative definition of Adequate Yearly Progress (AYP) project.

ii. Project Description. Provide a description of the proposed project. This description should include the following information:

a. Explain why the tribally governing body or school board wishes to pursue an Alternative Definition of AYP.

b. What are the challenges to the current AYP system?

c. How would an alternative definition of AYP resolve those challenges?

d. What specific indicators would comprise the alternative definition of AYP?

iii. Management Plan. Describe the management plan to achieve the goals of the project on time and within budget including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

a. Describe the project goals.
b. Describe the project activities, with accompanying timelines.

c. Describe the key staff responsible for the project.

d. Describe the capability to undertake this project, including prior experience and current capability.

e. Describe the approach and methodologies to be employed to develop an Alternative Definition of Adequate Yearly Progress (AYP) project.

f. If products will be developed, describe them in detail and explain how these products will be disseminated.

iv. Staff Qualifications. Provide information about the qualifications of the staff proposed for this project, including their background and relevant training and experience, as well as the percentage of time committed to the project.

Applicants must limit the Project Narrative section to no more than 25 double-spaced pages, on one side only. This page limitation includes any attachments. Applications that fail to meet the page limitation requirements will not be considered.

In addition to the Budget Information Summary, provide a Budget narrative. The Budget Narrative sections should correspond to the Budget Categories on the budget Information Summary (i.e., Personnel, Fringe Benefits, etc.).

V. Application Deadline and Late Applications

The closing date for receipt of applications is April 2, 2012, at 4 p.m. (Mountain Time).

Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made.

VI. Funding Availability and Period of Performance

The Bureau is expected to make multiple awards dependent upon the number of applications received, but not to exceed $1,200,000.

The period of performance will be for 12 months from the date the grant is awarded. The Bureau may, at its option, provide additional funds for a third year, depending upon availability of funds, the performance of the awardee, and receipt of an application for continuing funding.

VII. Review Process

A careful evaluation of applications will be made by a technical review panel, who will evaluate the applications against the criteria listed below. The Bureau may elect to award the grant without discussions with the applicant. In such situations, as award based on the applicant’s signature on the Applicant Cover Sheet constitutes a binding offer.
Evaluation Criteria

1. The innovation and soundness of the project description. (30 Points)

Guidance questions

a. Is an adequate explanation provided about why the tribally governing body or school board wishes to pursue an alternative definition of AYP?
b. Are the challenges to the current AYP system described?
c. Is an explanation provided about how an alternative definition of AYP would resolve the stated challenges?
d. Are the specific indicators that would comprise the alternative definition of AYP succinctly and clearly described?

2. The quality of the management plan. (25 Points)

Guidance questions

a. Are the project goals delineated?
b. Are the project activities outlined, with accompanying timelines? Are the timelines realistic?
c. Is the key staff responsible for the project identified, at least by position?
d. Is the capability to undertake this project, including prior experience and current capability, addressed?
e. Are the approach and methodologies to be employed to develop an Alternative Definition of AYP project described?
f. Are products to be developed, if applicable, described in detail and included in a dissemination plan?

3. The Qualifications of Staff (20 Points)

Guidance questions

a. Is information provided about the qualifications of the staff proposed for this project, including:
   • relevant training and experience, and
   • percentage of time committed to the project?

4. Budget Summary and Narrative (25 Points)

Guidance questions

• Are the costs related to the overall project goals?
• Do the costs support the project activities?
• Are the costs reasonable?
The grant will be awarded based on applicant response to the abovementioned criteria and what is otherwise most advantageous to the Bureau. The panel results are advisory in nature and not binding on the Grant Officer.

VIII. Appendices

- Applicant Cover Sheet
- Budget Information Sheet
- Special Terms
- Assurances – SF 424B (6111 Funds)
- 25 CFR 30
Appendices

- Applicant Cover Sheet
- Budget Information Summary
- Special Terms
- Assurances – SF 424B (6111 Funds)
- 25 CFR 30
Bureau of Indian Education  
U.S. Department of the Interior  

Alternative Definition of Adequate Yearly Progress (AYP) Solicitation  

APPLICATION COVER SHEET  

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<th>Legal Name of Applicant:</th>
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<tr>
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<td>Position and Office:</td>
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To the best of my knowledge and belief, all the information and data in this application are true and correct.

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<th>Name and Title of Authorized Representative (Printed Name):</th>
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Bureau of Indian Education
Budget Information Summary

Name of Organization

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<tbody>
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<td>1 Personnel</td>
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<td>8 Indirect Costs</td>
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<td>9 Total Costs</td>
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Note: Please provide a Budget Narrative corresponding to the above Budget Categories.
Special Terms

12.80 Monitoring and reporting program performance.

(a) Monitoring by grantees. Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

(b) Performance reports. Performance reports are required and will be due on the 15th day following the end of the quarter. The Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency this report will be due on the same date as the final Financial Status Report.

(1) Grantees shall submit annual performance reports unless the awarding agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year. Quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a grantee, the Federal agency may extend the due date for any performance report. Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.

(2) Performance reports will contain, for each grant, brief information on the following:

(i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.

(ii) The reasons for slippage if established objectives were not met.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(3) Grantees will not be required to submit more than the original and two copies of performance reports.

(4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.

(c) Construction performance reports. For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress under construction grants and subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.

(d) Significant developments. Events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(e) Federal agencies may make site visits as warranted by program needs.

(f) Waivers, extensions. (1) Federal agencies may waive any performance report required by this part if not needed.

(2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.
§ 12.81 Financial reporting.

(a) General. (1) Except as provided in paragraphs (a)(2) and (5) of this section, grantees will use only the forms specified in paragraphs (a) through (e) of this section, and such supplementary or other forms as may from time to time be authorized by OMB. For

(i) Submitting financial reports to Federal agencies, or

(ii) Requesting advances or reimbursements when letters of credit are not used

(2) Grantees need not apply the forms prescribed in this section in dealing with their subgrantees. However, grantees shall not impose more burdensome requirements on subgrantees.

(3) Grantees shall follow all applicable standard and supplemental Federal agency instructions approved by OMB to the extent required under the Paperwork Reduction Act of 1980 for use in connection with forms specified in paragraphs (b) through (e) of this section. Federal agencies may issue substantive supplementary instructions only with the approval of OMB. Federal agencies may shade out or instruct the grantee to disregard any line item that the Federal agency finds unnecessary for its decisionmaking purposes.

(4) Grantees will not be required to submit more than the original and two copies of forms required under this part.

(5) Federal agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Federal agencies may accept the required information from grantees in machine usable format or computer printouts instead of prescribed forms.

(6) Federal agencies may waive any report required by this section if not needed.

(7) Federal agencies may extend the due date of any financial report upon receiving a justified request from a grantee.

(b) Financial Status Report. (1) Form. Grantees will use Standard Form 269 or 269A. Financial Status Report, to report the status of funds for all nonconstruction grants and for construction grants when required in accordance with §12.81(e)(2)(ii).

(2) Accounting basis. Each grantee will report program outlays and program income on a cash or accrual basis as prescribed by the awarding agency. If the Federal agency requires accrual information and the grantee’s accounting records are not normally kept on the accrual basis, the grantee shall not be required to convert its accounting system but shall develop such accrual information through and analysis of the documentation on hand.

(3) Frequency. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.

(4) Due date. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.

(c) Federal Cash Transactions Report. (1) Form. (i) For grants paid by letter or credit. Treasury check advances or electronic transfer of funds, the grantee will submit the Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement.

(ii) These reports will be used by the Federal agency to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment provided that the information to be submitted is not changed in substance.

(2) Forecasts of Federal cash requirements. Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.

(3) Cash in hands of subgrantees. When considered necessary and feasible by the Federal agency, grantees may be required to report the amount of cash advances in excess of three days' needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.

(4) Frequency and due date. Grantees must submit the report no later than 15 working days following the end of each quarter. However, where an advance either by letter of credit or electronic transfer of funds is authorized at an annualized rate of one million dollars or more, the Federal agency may require the report to be submitted within 15 working days following the end of each month.

(d) Request for advance or reimbursement. (1) Advance payments. Requests for Treasury check advance payments will be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form will not be used for drawdowns under a letter of credit, electronic funds transfer or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)

(2) Reimbursements. Requests for reimbursement under nonconstruction grants will also be submitted on Standard Form 270. (For reimbursement requests under construction grants, see paragraph (b)(1) of this section.)
(3) The frequency for submitting payment requests is treated in §12.81(b)(3).

(e) Outlay report and request for reimbursement for construction programs—(1) Grants that support construction activities paid by reimbursement method. (i) Requests for reimbursement under construction grants will be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Federal agencies may, however, prescribe the Request for Advance or Reimbursement form, specified in §12.81(d), instead of this form.

(ii) The frequency for submitting reimbursement requests is treated in §12.81(b)(3).

(ii) Grants that support construction activities paid by letter of credit, electronic funds transfer or Treasury check advance. (i) When a construction grant is paid by letter of credit, electronic funds transfer or Treasury check advances, the grantee will report its outlays to the Federal agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The Federal agency will provide any necessary special instruction. However, frequency and due date shall be governed by §12.81(b)(3) and (4).

(ii) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances will be requested on the form specified in §12.81(d).

(ii) The Federal agency may substitute the Financial Status Report specified in §12.81(b) for the Outlay Report and Request for Reimbursement for Construction Programs.

(3) Accounting basis: The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by §12.81(b)(2).
ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award, and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

6. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

7. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

8. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

9. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

* SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

Completed on submission to Grants.gov

* TITLE

* APPLICANT ORGANIZATION

Completed on submission to Grants.gov

* DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back
SUBCHAPTER E—EDUCATION

PART 30—ADEQUATE YEARLY PROGRESS

30.010 What definitions apply to terms in this part?

30.101 What definitions apply to terms in this part?

30.102 Does the Act require the Secretary of the Interior to develop a definition of AYP for Bureau-funded schools?

30.103 Did the Committee consider a separate Bureau definition of AYP?

30.104 What is the Secretary's definition of AYP?

30.105 What definitions apply to terms in this part?

Act means the No Child Left Behind Act, Public Law 107-110, enacted January 8, 2002. The No Child Left Behind Act reauthorizes and amends the Elementary and Secondary Education Act (ESEA) and amends the Education Amendments of 1978.

Bureau means the Bureau of Indian Affairs in the Department of the Interior.

OER means the Office of Indian Education Programs in the Bureau of Indian Affairs.

School means a school funded by the Bureau of Indian Affairs.

Secretary means the Secretary of the Interior or a designated representative.

Subpart A—Defining Adequate Yearly Progress

30.109 What is the Secretary's definition of AYP?

30.110 What does the Secretary propose to do to develop an alternative AYP definition?

30.111 Should the Secretary evaluate the school board's proposed technical assistance?

30.112 How does the Secretary approve an alternative definition of AYP?

Subpart B—Assessing Adequate Yearly Progress

30.113 Which students must be assessed?

30.114 Which students' performance data must be included for purposes of AYP?

30.115 If a school fails to achieve its annual measurable objective, what other methods may it use to determine whether it made AYP?

30.116 If a school fails to make AYP, what is the purpose of the progress?

30.117 What happens if a Bureau-funded school fails to make AYP?

30.118 May a Bureau-funded school present evidence of errors in identification before it is identified for school improvement, corrective action, or restructuring?

30.119 Who is responsible for implementing corrective actions at a Bureau-funded school identified for school improvement, corrective action or restructuring?

30.120 Are Bureau-funded schools exempt from school choice and supplemental services when identified for school improvement, corrective action, and restructuring?

30.121 What funds are available to assist schools identified for school improvement, corrective action, or restructuring?

30.122 Must the Bureau assist a school that is identified for school improvement, corrective action, or restructuring?

30.123 What is the Bureau's role in assisting Bureau-funded schools to make AYP?

30.124 Will the Department of Education provide funds for schools that fail to meet AYP?

30.125 What happens if a State refuses to allow a school access to the State assessment?

Subpart D—Responsibilities and Accountability

30.126 What is required for the Bureau to meet its reporting responsibilities?

30.127 Information Collection

30.128 How does the Secretary review and approve an alternative definition of AYP?

30.129 What is the purpose of the progress?

This part establishes for schools receiving Bureau funding a definition of "Adequate Yearly Progress (AYP)." Nothing in this part:

(a) Diminishes the Secretary's trust responsibility for Indian education or any statutory rights in law;

(b) Affects in any way the sovereign rights of tribes; or

(c) Terminates or changes the trust responsibility of the United States to Indian tribes or individual Indians.

United States' trust responsibility for Indian education nor is it intended to give States authority over Bureau-funded schools.

30.130 Did the Committee consider a separate Bureau definition of AYP?

Yes, the Committee considered having the Bureau of Indian Affairs develop a separate Bureau definition of AYP. For a variety of reasons, the Committee reached consensus on the definition in §30.104. This definition is in no way intended to diminish the

30.131 What definitions apply to terms in this part?

$30.105

30.132 May a tribal governing body or school board use another definition of AYP?

Yes. A tribal governing body or school board may waive all or part of the Secretary's definition of academic content and achievement standards, assessments, and the definition of AYP are those of the State where the school is located, unless an alternative definition of AYP is proposed by the tribal governing body or school board and approved by the Secretary.

(1) If the geographic boundaries of the school include more than one State, the tribal governing body or school board may choose the State definition it desires. Such decision shall be communicated to the Secretary in writing.

(2) This section does not mean that the school is under the jurisdiction of the State for any purpose, rather a reference to the State is solely for the purpose of using the State's assessment, academic content and student achievement standards, and definition of AYP.

(3) The use of the State's definition of AYP does not diminish or alter the Federal Government's trust responsibility for Indian education.

(a) School boards or tribal governing bodies may seek a waiver that may include developing their own definition of AYP, or adopting or modifying an existing definition of AYP that has been accepted by the Department of Education. The Secretary is committed to providing technical assistance to a school, or a group of schools, to develop an alternative definition of AYP.

(4) The use of the State's definition of AYP does not diminish or alter the Federal Government's trust responsibility for Indian education.

(5) School boards or tribal governing bodies may seek a waiver that may include developing their own definition of AYP, or adopting or modifying an existing definition of AYP that has been accepted by the Department of Education. The Secretary is committed to providing technical assistance to a school, or a group of schools, to develop an alternative definition of AYP.
under §30.113, the school must use the Secretary’s definition of academic content and achievement standards, assessments, and AYP.

§30.106 How does a tribal governing body or school board propose an alternative definition of AYP?

If a tribal governing body or school board decides that the definition of AYP in §30.104 is inappropriate, it may decide to waive all or part of the definition. Within 60 days of the decision to waive, the tribal governing body or school board must submit to the Secretary a proposal for an alternative definition of AYP. The proposal must meet the requirements of 20 U.S.C. 6311(b) and 34 CFR 200.13 200.20, taking into account the unique circumstances and needs of the school or schools and the students served.

§30.107 What must a tribal governing body or school board include in its alternative definition of AYP?

(a) An alternative definition of AYP must meet the requirements of 20 U.S.C. 6311(b)(2) of the Act and 34 CFR 200.13 200.20. An alternative definition of AYP must:

(1) Include at least one alternative measure of educational progress or improvement for each student;

(2) Be statistically valid and reliable;

(3) Be based on indicators of student achievement in reading, writing, and language arts;

(4) Measure the progress of all students and all groups of students on a high-quality assessment system that includes, at a minimum, academic assessments in math and reading language arts;

(5) Measure progress separately for reading or language arts and for mathematics;

(6) Unless disaggregation of data cannot yield statistically reliable information or reveals personally identifiable information, apply the same annual measurable objectives to each of the following:

The achievement of all students; and

(ii) The achievement of economically disadvantaged students, students from major racial or ethnic groups, students with disabilities, and students with limited English proficiency.

(7) Establish a starting point;

(8) Create a timeline to ensure that all students are proficient by the 2013-2014 school year;

(9) Establish annual measurable objectives.

(10) Establish intermediate goals;

(11) Include at least one other academic indicator which, for any school with a 12th grade, must be graduation rate;

(12) Ensure that at least 95 percent of the students enrolled in each group under §30.107(b)(6) are assessed.

(c) If a Bureau-funded school’s alternative definition of AYP does not use the State’s academic content and student achievement standards and academic assessments, the school must include with its alternative definition the academic standards and assessment it proposes to use. These standards and assessments must meet the requirements in 20 U.S.C. 6311(b) and 34 CFR 200.1 200.9.

§30.108 May an alternative definition of AYP use parts of the Secretary’s definition?

Yes, a tribal governing body or school board may take part of the Secretary’s definition and propose to waive the remainder. The proposed alternative definition of AYP must, however, includeme all the parts of the Secretary’s AYP definition the tribal governing body or school board is adopting and those parts the tribal governing body or school board is proposing to change.

§30.109 Will the Secretary provide assistance in developing an alternative AYP definition?

Yes, the Secretary through the Bureau, shall provide technical assistance either directly or through contract to the tribal governing body or the school board in developing an alternative AYP definition. A tribal governing body or school board needing assistance must submit a request to the Director of Technical Assistance.

§30.110 What is the process for requesting technical assistance to develop an alternative definition of AYP?

(a) The tribal governing body or school board requesting technical assistance to develop an alternative definition of AYP must submit a written request to the Director of OEIP, specifying the form of assistance it requires.

(b) The Director of OEIP must acknowledge receipt of the request for technical assistance within 10 days of receiving the request.

(c) No later than 30 days after receiving the original request, the Director of OEIP will identify a point of contact. This contact will then begin working with the tribal governing body or school board to jointly develop the specifics of the technical assistance, including identifying the form, substance, and timeline for the assistance.

§30.111 When should the tribal governing body or school board request technical assistance?

In order to maximize the time the tribal governing body or school board has to develop an alternative definition of AYP and to provide full opportunity for technical assistance, the tribal governing body or school board should request technical assistance before formally notifying the Secretary of its intention to waive the Secretary’s definition of AYP.

§30.112 What is the approval of alternative definition?

§30.113 How does the Secretary review and approve an alternative definition of AYP?

(a) The tribal governing body or school board submits a proposed alternative definition of AYP to the Director, OEIP within 60 days of its decision to waive the Secretary’s definition.

(b) Within 60 days of receiving a proposed alternative definition of AYP, OEIP will notify the tribal governing body or the school board of

§30.114 Which students must be assessed?

All students in grades three through eight and at least once in grades ten
§ 30.115 Which students’ performance data must be included for purposes of AYP?

The performance data of all students assessed pursuant to §30.114 must be included for purposes of AYP if the student is enrolled in a Bureau-funded school for a full academic year as defined by the Secretary or by an approved alternative definition of AYP.

§ 30.116 If a school fails to achieve its annual measurable objectives, what other methods may it use to determine whether it made AYP?

A school makes AYP if each of the following is met or exceeds the annual measurable objective set forth in §§30.107(b)(6) and 30.107(b)(12), respectively, and the school meets the other academic indicators set forth in §30.107(b)(11). If a school fails to achieve its annual measurable objective for any group identified in §30.107(b)(6), there are two other methods it may use to determine whether it made AYP:

(a) **Method A—Safe Harbor.** Under “safe harbor,” the following requirements must be met for each group referenced under §30.107(b)(6) that does not achieve the school’s annual measurable objective:

1. In each group that does not achieve the school’s annual measurable objectives, the percentage of students who were below the “proficient” level of academic achievement decreased by at least 10 percent from the preceding school year.

2. The students in that group made progress on one or more of the other academic indicators.

(b) **Method B—Uniform Average Procedural.** A school may use uniform averaging. Under this procedure, the school will average data from the school year with data from one or two school years immediately preceding that school year and determine if the resulting average makes AYP.

### Subpart C—Failure To Make Adequate Yearly Progress

§ 30.117 What happens if a Bureau-funded school fails to make AYP?

<table>
<thead>
<tr>
<th>Number of yrs of failing to make AYP in same academic subject</th>
<th>Status</th>
<th>Action required by entity operating school for the following school year</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st year of failing AYP</td>
<td>No status change</td>
<td>Analyzes AYP data and considers consultation with outside experts</td>
</tr>
<tr>
<td>2nd year of failing AYP</td>
<td>School Improvement, year one</td>
<td>Develop a plan or revise an existing plan for school improvement in consultation with parents, school staff and outside experts</td>
</tr>
<tr>
<td>3rd year of failing AYP</td>
<td>School Improvement, year two</td>
<td>Continue revising or modifying the plan for school improvement in consultation with parents, school staff and outside experts</td>
</tr>
<tr>
<td>4th year of failing AYP</td>
<td>Corrective Action</td>
<td>Implement at least one of the six corrective actions steps found in 20 U.S.C. 6316(b)(7)</td>
</tr>
<tr>
<td>5th year of failing AYP</td>
<td>Planning to Restructure</td>
<td>Prepare a restructuring plan and make arrangements to implement the plan</td>
</tr>
<tr>
<td>6th year of failing AYP</td>
<td>Restructuring</td>
<td>Implement the restructuring plan no later than the beginning of the school year following the year in which it developed the plan</td>
</tr>
<tr>
<td>7th year (and beyond) of failing AYP</td>
<td>Restructuring</td>
<td>Continue implementation of the restructuring plan until AYP is met for two consecutive years</td>
</tr>
</tbody>
</table>

§ 30.118 May a Bureau-funded school present evidence of errors in identification before it is identified for school improvement, corrective action, or restructuring?

Yes. The Bureau must give such a school the opportunity to review the data on which the Bureau would identify the school for improvement, and present evidence as set out in 20 U.S.C. 6316(b)(2).

§ 30.119 Who is responsible for implementing remedial actions at a Bureau-funded school identified for school improvement, corrective action or restructuring?

(a) For a Bureau-funded school, implementation of remedial actions is the responsibility of the Bureau.

(b) For a tribally operated contract school or grant school, implementation of remedial actions is the responsibility of the school board of the school.

§ 30.120 Are Bureau-funded schools exempt from offering school choice and supplemental educational services when identified for school improvement, corrective action, and restructuring?

Yes, Bureau-funded schools are exempt from offering public school choice and supplemental educational services when identified for school improvement, corrective action, and restructuring.

§ 30.121 What funds are available to assist schools identified for school improvement, corrective action, or restructuring?

From fiscal year 2004 to fiscal year 2007, the Bureau will reserve 4 percent of its Title I allocation to assist Bureau-funded schools identified for school improvement, corrective action, and restructuring.

§ 30.122 Must the Bureau assist a school it identified for school improvement, corrective action, or restructuring?

Yes, if a Bureau-funded school is identified for school improvement, corrective action, or restructuring, the Bureau must provide technical assistance described in 20 U.S.C. 6316(b)(4) and 30 U.S.C. 1093(e)(3).

§ 30.123 What is the Bureau’s role in assisting Bureau-funded schools to make AYP?

The Bureau will provide technical assistance to all Bureau-funded schools to assist them in achieving AYP. This includes technical assistance and other forms of support.

§ 30.124 Will the Bureau apply for funds that are available to help schools that fail to meet AYP?

Yes, to the extent that Congress appropriates other funds to assist schools not meeting AYP, the Bureau will apply to the Department of Education for these funds.
§ 30.125  What happens if a State refuses to allow a school access to the State assessment?

(a) The Department will work directly with State officials to assist schools in obtaining access to the State's assessment. This can include direct communication with the Governor of the State. A Bureau-funded school may, if necessary, pay a State for access to its assessment tools and scoring services.

(b) If a State does not provide access to its assessment, the Bureau-funded school may submit a waiver for an alternative definition of AYP.

Subpart D—Responsibilities and Accountability

§ 30.126  What is required for the Bureau to meet its reporting responsibilities?

The Bureau has the following reporting responsibilities to the Department of Education, appropriate Committees of Congress, and the public:

(a) In order to provide information about annual progress, the Bureau must obtain from all Bureau-funded schools the results of assessments administered for all tested students, special education students, students with limited English proficiency, and disseminate such results in an annual report.

(b) The Bureau must identify each school that did not meet AYP in accordance with the school's AYP definition.

(c) Within its annual report to Congress, the Secretary shall include all of the reporting requirements of 20 U.S.C. 6316(g)(5).

§ 30.150  Information collection.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to, a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid OMB Control Number. This part involves collections of information subject to the PRA in §§ 30.194(a)(1).

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facilities available, tuition fees may be charged for such enrollment at the discretion of the superintendent or other officer in charge provided such fees shall not exceed the tuition fees allowed or charged by the State or county in which such school is located for the children admitted in the public schools of such State or county.


[29 FR 5878, May 2, 1964]

§ 31.4  Compulsory attendance.

Compulsory school attendance of Indian children is provided for by law.


Cross Reference: For penalties for the failure of Indians to send children to school and for contributing to the delinquency of minors, see § 31.126 of this chapter.

§ 31.6  Coercion prohibited.

There shall be no coercion of children in the matter of transfers from one school to another, but voluntary enrollment should be effected through agreement between the State and Indian schools or programs which suit the needs and interests of the areas in which they are located.

(Sec. 1, 29 Stat. 348; 25 U.S.C. 280)

[33 FR 6672, Apr. 27, 1968]

§ 31.7  Handling of student funds in Federal school facilities.

Federal Indian school facilities may be used for community activities and for adult education activities upon approval by the superintendent or officer in charge.

§ 31.3  Non-Indian pupils in Indian schools.

Indian and non-Indian children who are not eligible for enrollment in Bureau-operated schools under § 31.1 may be enrolled in such schools under the following conditions:

(a) In boarding schools upon payment of tuition fees, which shall not exceed the per capita cost of maintenance in the school attended, when their presence will not exclude Indian pupils eligible under § 31.1.

(b) In day schools in areas where there are no other adequate free school

§ 32.2  Purpose and scope.

The purpose of this part is to state the policies to be followed by all schools and education programs under the jurisdiction of the Bureau of Indian Affairs. Contracts and grants for education programs carried out by Indian tribes or Alaska Native groups, or any other body that receives federal assistance from the Bureau, or any other body that receives federal assistance from the Bureau, shall be based on this part.