

August 19, 2009

Submitted at: <http://www.regulations.gov>

The Honorable Arne Duncan
Attention: Race to the Top Fund Comments
U.S. Department of Education,
400 Maryland Avenue, SW., Room 3W329
Washington, DC 20202

RE: Docket ID ED-2009-OESE-0006

Dear Secretary Duncan:

On behalf of the Software & Information Industry Association (SIIA) and our more than 500 high-tech companies, I write in response to the U.S. Department of Education's notice of proposed priorities, requirements, definitions and selection criteria for the Race to the Top (RTT) State Incentive Grant Fund (DOCKET ID ED-2009-OESE-0006). SIIA appreciates this opportunity to comment on this important program.

In general, SIIA is very supportive of the proposed RTT priorities, requirements, definitions and selection criteria. High quality standards, assessments and longitudinal data systems are necessary elements of a successful education system, and we support the RTT effort to help ensure all states implement this core infrastructure. Similarly, support and improvement of the lowest-performing schools is a most appropriate federal role and perhaps the highest priority. And the high-tech industry recognizes that quality teaching is the most important ingredient to student success, and applauds the emphasis on ensuring the neediest students have access to effective educators.

Yet, SIIA encourages changes to the RTT proposed priorities that would go further to encourage transformational innovation through the reengineering of education delivery models. SIIA proposes that the RTT be leveraged to further incentivize a shift from a seat-time, assembly-line education model to a more flexible, student-centered model built around individual learning needs and pace, anytime-anywhere learning, and differentiated instruction. These transformative innovations are occurring, but usually only at the margins of education, with larger scale initiatives too often limited by inflexible regulations and budget silos. While the RTT proposal takes important steps, we recommend it go further to leverage policy reforms needed to create the systemic conditions for innovative educational practices.

SIIA's comments focus on five areas:

- Change to the requirement that a state "must make freely available all of the outputs . . . produced related to its grant" to exclude cases "where such products are proprietary" so as not to violate or interfere with participant intellectual property rights or exclude, by default, certain resources and solutions.
- Further emphasis on the creation of vertically integrated systemic innovation zones that reform, leverage and align federal-state-local policy, practice and budgets to create the conditions needed for innovation success, including the participation of struggling and other schools and

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local agencies, and a coordinated research and evaluation strategy focused on capturing the pathways to success as a model for others.

- A more ambitious innovation agenda that goes beyond the education reform infrastructure of the four assurances and emphasizes further the transformative reengineering of education service delivery models needed for our students to compete in this digital age and global knowledge economy.
- More explicit attention to the critical role of technology and e-learning as necessary to bring innovation to teaching and learning, personalize learning and differentiate instruction, and best address RTT goals and requirements.
- Focus of limited federal (and state) resources to only the most appropriate and necessary state roles, where they can be best leveraged and where they are most needed.

SIIA is the principal trade group of the software and digital content industry, representing more than 500 high-tech companies. All SIIA member companies look to the nation's schools to provide a skilled high-tech workforce, while many SIIA members partner with schools to provide educational software, digital curriculum, online services and related technologies. SIIA views technology as both a critical engine of school innovation and improvement, and necessary to meet the ARRA's four assurances as well as other educational goals and requirements.

Please see below/attached a number of recommendations translating the issues outlined above (as well as several other issues) into specific suggested changes to the Race to the Top proposed priorities. We appreciate the opportunity to comment on this important initiative. Please do not hesitate to contact me with any questions at marks@siia.net or 202-789-4444.

Sincerely,

A handwritten signature in black ink that reads "Mark Schneiderman". The signature is fluid and cursive, with the first name "Mark" being more prominent than the last name "Schneiderman".

Mark Schneiderman
Senior Director, Education Policy

Software & Information Industry Association

Detailed Recommendations On Proposed Priorities

Race to the Top State Incentive Grant Fund (DOCKET ID ED-2009-OESE-0006)

1. [I] Proposed Priority 2: Competitive Preference Priority – Emphasis on Science, Technology, Engineering, and Mathematics (STEM)

SIIA supports the proposed competitive preference priority around STEM. SIIA member companies are reliant on our nation’s education system to provide a skilled, high-tech workforce. This need is not being adequately met, and further emphasis and investment is needed to improve curriculum and instruction in these subject areas.

While SIIA supports this priority, SIIA recommends changes to the state application requirement to add a more explicit requirement that states describe their plan to improve curriculum, instruction, and learning opportunities, including to more effectively use technology as a necessary component to meet STEM education needs. Technology is integral to postsecondary study and workforce skills in the STEM fields, but yet is too often absent from STEM curriculum and instruction. Success requires that we not leave out the “T” in STEM as too often happens.

Recommendations:

- SIIA recommends changing the state application requirement by adding that states describe plans to address the need to:

“bring innovation to STEM curriculum, instruction, and learning opportunities, including to more effectively use technology and online learning as a necessary component to meet STEM education needs”
- SIIA recommends elaborating on the proposed Priority 2 for STEM education by adding the following examples of innovative models states could address:
 - *Preparation of all students with the technology literacy, communication, problem solving, information literacy, and critical-thinking skills needed for success in the STEM fields.*
 - *Online access to high-quality STEM courses and instructors often otherwise not available, especially in rural and high-poverty schools.*
 - *Remediation for low-performing students through engaging, interactive instructional STEM software that adapts to support the learning needs and pace of each student.*
 - *Increased student interest and achievement in STEM subjects by exciting students about the real-world applications of their classroom learning through simulations, virtual fieldtrips, and online connection to scientist and engineers.*

2. [I] Proposed Priority 5 - Invitational Priority -- School-Level Conditions for Reform and Innovation

SIIA strongly supports the proposed priority 5 around school-level conditions for reform and innovation. SIIA especially supports the reforms around “(ii) Implementing new structures and formats for the school day or year that expand learning time” and “(iv) Awarding credit to students based on student performance instead of instructional time.”

However, SIIA believes this priority does not go nearly as far as needed in scale and scope toward directly driving, or creating the systemic conditions necessary to enable, transformational innovation in our education delivery models, and suggests enhancement of these RTT priorities as follows:

- SIIA believes Priority 5 is of critical importance and should be further prioritized to drive educational innovation and improvement.

Recommendation: Change Priority 5 to an Absolute or, at least, a Competitive Preference priority.

- SIIA recommends that the implied target for Priority 5 be expanded in scale and scope to:
 - reach beyond just LEA-School governance to also include State flexibility and autonomy to LEAs; and
 - not simply provide such flexibilities and autonomies, but to also achieve commitment to and demonstration of how those governance and rules changes achieve school reform and instructional innovation.

Recommendation – SIIA recommends changing Priority 5 to read:

“The Secretary is particularly interested in applications in which the State provides to LEAs, where appropriate, and State’s participating LEAs provide schools, where appropriate, with flexibilities and autonomies conducive to reform and innovation, and whereby LEAs and schools demonstrate commitment to act on this flexibility to enact such reform and innovation, such as-- . . .”

- SIIA recommends the examples of “flexibilities and autonomies conducive to reform and innovation” be edited.

Recommendation – SIIA recommends adding the following examples to Priority 5:

- *“Coordinated planning between categorical programs and budgets as necessary to best meet teaching and learning goals, such as through joint, cross-program capital investment in technology infrastructure to ensure the baseline technology access needed to meet the operational needs of each program; and*
- *Reengineering of education delivery models, such as through the use of technology and online learning to provide flexibility in space/place and time, to increase educational productivity and more efficiently use existing learning time and*

educational resources, and to better personalize learning and differentiate instruction to meet the unique needs of each student.”

- Federal Funding and Regulatory Flexibility. RTT would make a significant federal investment in state and local educational improvement, with funds competitively awarded in return for states meeting a number of key requirements. But SIIA challenges the U.S. Department of Education to go further in its offer, by also providing the possibility of additional regulatory waivers and flexibilities needed to improve coordination of funds and create the conditions for systemic and instructional innovation vertically throughout the federal-state-local government partnership.

Recommendations:

- Include or reference existing federal regulatory waivers and other flexibilities, and remind state applicants of these options.
 - Encourage states in their application to identify other federal regulatory barriers, their requested waiver, how they would use that potential additional flexibility to meet the RTT goals and requirements, and how they would – if granted the waiver – still meet the intent of the waived programmatic purpose or regulatory requirement.
3. [II-B] Proposed Application Requirement (g)(4) – Parties Responsible for Implementing

Proposed application requirement (g)(4) requires that the state must provide a plan that identifies “the party or parties responsible for implementing the activities.” SIIA is concerned that such reporting may be premature in many cases where state procurement laws and other factors prevent then moving forward to make such selections until after their grant application is approved and the grant size determined.

Recommendation: SIIA recommends changing (g)(4) to instead read:

“a description of the procurement or other process(es) to be used to select the party or parties responsible for implementing the activities”

4. [II-D] Other Program Requirements (c) – Freely Available Outputs

SIIA is concerned about Program Requirement II-D(c) that “The State must make freely available all of the outputs (e.g., materials, tools, processes, systems) that it or its designated partners produce related to its grant, including by posting the outputs on any Web site identified or sponsored by the Department.”

SIIA appreciates the intent of this requirement, but is concerned with the unintended consequences of a one-size-fits-all model. We encourage clarification so that this requirement: (1) does not violate or interfere with the intellectual property rights of third party providers as allowed for under federal copyright and related laws; and (2) does not preclude states from entering into contracts or licensing agreements with third party providers whereby the outputs remain proprietary, if the state determines an open model would *not* best meet its needs.

SIIA recommends that this requirement be modified to explicitly exclude cases “where such outputs are proprietary” so as not to violate participant intellectual property rights or exclude, by default, certain resources and solutions.

Recommendation – SIIA recommends adding the underlined text and changing II-D(c) to read:

“The State must make freely available all of the outputs (e.g., materials, tools, processes, systems) that it or its designated partners produce related to its grant, except in such cases where such outputs are proprietary, including by posting the outputs on any Web site identified or sponsored by the Department.”

A similar exception was included in a similar requirement under the ARRA Request for Applications for Grants for Statewide Longitudinal Data Systems, released on July 24, 2009. It reads: “In order to leverage the value of work supported through these grants, resulting products and lessons learned shall be made available for dissemination, *except where such products are proprietary* [emphasis added].” Because this exception is included in the Data Systems grants, we assume it was an inadvertent exclusion under the proposed priorities for RTT, which is intended to fund data systems, and SIIA again encourages modification as suggested above.

5. [III-B] Data Systems to Support Instruction – Proposed Selection Criteria (B)(2) and (B)(3)

SIIA supports the RTT emphasis on data systems and their application to inform instruction and drive decision-making, including both the Proposed Priority 3 Expansion and Adaptation of Statewide Longitudinal Data Systems as well as Data Systems Proposed Selection Criteria (B)(2) and (B)(3). SIIA is especially supportive of the goal to “increase the use of instructional improvement systems.”

SIIA supports enhancement of these RTT priorities as follows:

- Increase the explicit emphasis on professional development as the key to improving the use of data by educators. If we build these systems, they will not necessarily be used; but if we teach educators how to use the data effectively, they will drive demand for such systems. Any effective state plan must place an emphasis on professional development for teachers and other instructional leaders and school administrators.

Recommendations – SIIA recommends that the proposed selection criteria (B)(2) and (B)(3) be edited as follows:

- For (B)(2), add at the end: *“and that educators receive appropriate training and ongoing professional development in how to access data and information to inform instruction and other decision-making.”*
- For (B)(3), add at the end of (i): *“including especially through supporting the appropriate training and ongoing professional development in how to access data and information to inform instruction and other decision-making.”*
- Increase the explicit emphasis on adoption and implementation of local data and instructional improvement systems. Even with the RTT priority to expand state data

systems beyond reporting and accountability purposes to answer “important questions related to policy or practice,” these state systems are generally not appropriate for informing daily teaching and learning decisions. Instead, it is local systems designed specifically for classroom use that would include formative and interim assessment data and other curricular and instructional school/classroom-level data needed to enable a cycle of continuous instructional improvement and enable differentiated instruction.

Recommendation – SIIA therefore recommends that the proposed state plan selection criteria for (B)(3) be changed by editing (i) to read:

“ . . . (i) Increase the LEA acquisition, adoption and use of local instructional improvement systems (as defined in this notice) and state and local data systems that provide teachers, principals, and administrators with the information they need to inform and improve their instructional practices, decision-making, and overall effectiveness; . . .”

- Add the goals of personalized learning and differentiated instruction to the RTT priorities around use of data to improve instruction. While perhaps intended, the RTT proposed selection criteria does not explicitly call out the use of data to identify and address the unique learning needs of each student. Instead, state applicants could interpret the goal at the system level (e.g., teacher/classroom or school) rather than the individual student level.

Recommendation – SIIA therefore recommends that the proposed state plan selection criteria for (B)(3) be changed by further editing (i) to read:

“ . . . (i) Increase the LEA acquisition, adoption and use of local instructional improvement systems (as defined in this notice) and state and local data systems that provide teachers, principals, and administrators with the information they need to inform and improve their instructional practices, decision-making, and overall effectiveness, including especially to differentiate instruction to meet the unique needs of each student . . .”

6. [III-A] Supporting Transition to Enhanced Standards and High-Quality Assessments (3) – Proposed Selection Criteria

SIIA supports this proposed priority to encourage the transition to internationally benchmarked K-12 college and career-readiness standards and aligned high-quality assessments. SIIA makes recommendations to ensure limited federal (and state) resources are targeted to the most appropriate and necessary state roles, where they can be best leveraged and where they are most needed. For example, it is uncertain that states can and should use limited RTT funds to develop instructional materials such as digital content and courseware.

Recommendation – SIIA therefore recommends changes in proposed selection criteria (A)(3) to the second of the examples of state or LEA activities as follows:

“ . . . developing, disseminating, and implementing curricular frameworks and supporting adoption and implementation of curricular materials, formative and interim assessments (as defined in this notice), and professional development materials; and engaging in other

strategies that translate the standards and information from assessments into classroom practice”

7. [III-D] Turning Around Struggling Schools (3) – Proposed Selection Criteria

SIIA supports improvement of the lowest-performing schools as a most appropriate federal role and perhaps the highest federal priority, and makes the following recommendations:

Recommendations:

- SIIA recommends further encouraging innovative models as an option for turning around these schools by adding the following to the end of the proposed selection criteria under (D)(3)(ii):

“or implementing innovative policies and practices to reengineer education delivery models, structures and formats, including through the use of technology and e-learning, to provide a more flexible, student-centered model built around each student’s unique personalized learning needs and pace, anytime-anywhere learning, and differentiated instruction.”

- SIIA recommends combining the first and fourth bulleted options under (D)(3)(ii) as they are largely similar and duplicative, and it would appear too restrictive to relegate the fourth option as one only to be undertaken *“to the extent that these [other three] strategies are not possible.”*
- SIIA recommends making clear that the strategies used to turn around the lowest-achieving schools, including selection of instructional programs, are best determined at the local level, by changing (ii) to read:

“... (ii) support its LEAs in turning around these schools through LEA decisions for carrying out one or more of the following ~~by~~ – ...”

- SIIA recommends that the implementation of an “instructional improvement system” should be an important element of turning around struggling schools, by changing the first and fourth bullets under (D)(3)(ii) to read:
 - *“Putting in place new leadership and a majority of new staff, new governance, an enhanced instructional improvement system (as defined in this notice), and improved instructional programs, ...”*
 - *“... implementing an enhanced instructional improvement system (as defined in this notice) and resulting comprehensive instructional reform, including an improved instructional program and differentiated instruction ...”*
- SIIA recommends making clear that “comprehensive instructional reform” does not mean only a single instructional program or material, as such a limit could be a barrier to the explicit goal of differentiated instruction, by further changing that portion of the fourth bullet under (D)(3)(ii) to read:

“ . . . implementing an enhanced instructional improvement system (as defined in this notice) and resulting comprehensive instructional reform, including an improved instructional program of one or more locally determined and coordinated interventions and resources as needed to provide ~~and~~ differentiated instruction”

8. [II-B] Proposed Application Requirement (e) – State Budget Detail

Proposed application requirement (e) requires that the state “include a budget that details how it will use grant funds and other resources to meet targets and perform related functions. . .”

Recognizing that funding restrictions and budget silos can be a major barrier to innovation, SIIA recommends additional encouragement around federal and state funding flexibility needed to leverage all education dollars toward the RTT goals.

Recommendation: SIIA recommends editing requirement (e) to read:

“The State must include a budget that details how it will use grant funds and other resources to meet targets and perform related functions, including how it will coordinate federal, state and local funds, provide funding and regulatory flexibility to enable that coordination, and use funds awarded under this program to—”

9. [IV] Definitions

- Instructional Improvement Systems – SIIA recommends this definition better recognize the critical goal of personalizing learning and differentiating instruction.

Recommendation – SIIA therefore recommends this definition be amended to read:

“means technology-based and other tools that provide teachers, principals, and administrators with meaningful support for a cycle of continuous instructional improvement, including activities such as: instructional planning; gathering information (e.g., through formative assessments (as defined in this notice), interim assessments (as defined in this notice), and looking at student work and other student data); analyzing information with the support of rapid-time (as defined in this notice) reporting; using this information to differentiate instruction and inform decisions on appropriate next steps; and evaluating the effectiveness of the actions taken.

- Rapid-Time – Widely available technologies enable data to be returned and translated into useful information immediately in real time.

Recommendation – SIIA therefore recommends this definition be amended to read:

“ . . . means that data is available quickly enough to inform current lessons, instruction, and related supports; in most cases, this will be, or should strive to be, immediately such as with computer-based and online assessment, but at least within 72 hours of an assessment or data gathering in classrooms, schools, and LEAs.”