

records transfer activities through MSRTS.

#### Use of Funds Under This Priority

Funds awarded under this absolute priority must be used only for activities that clearly support an SEA's responsibilities to promote educational continuity of migratory children through the timely transfer of their pertinent educational records, including health information, on an interstate and intrastate basis. Such activities may include, but are not limited to: Development and implementation of procedures that an SEA or its operating agencies will use to maintain and transfer records for migratory children; the purchase of related equipment (e.g., computers, fax machines) and material (e.g., "red bags" to be used by migratory children and their parents to hand carry records from site to site); and the training of State and local educational personnel, as well as parents of migratory children, in the use of these procedures, equipment, and material. Given that greater difficulties may be associated with the timely transfer of records on an interstate basis, the Department encourages SEAs to consider how the funds awarded under this priority can be used to address the particular problems of interstate records transfer.

#### Amount of the Grant

After carefully considering all the comments received on the initial proposal to award equal grant amounts to SEAs, and because of the availability of additional funds that can be used for this priority, the Department will award a total of \$2.7 million under this priority to SEAs receiving an FY 1995 MEP formula grant on the basis of the following two-tiered formula:

- \$2.2 million in equal amounts to each SEA; and
- \$0.5 million based on each State's calendar year 1994

full-time-equivalent (FTEs) count of migratory children ages 3–21 who are within three years of a qualifying move, as provided in section 1309(2) of the ESEA.

No SEA will receive an award that exceeds 20 percent of its FY 1995 MEP formula grant award. Six SEAs, those of the District of Columbia, New Hampshire, Rhode Island, Tennessee, West Virginia and Wyoming, are affected by this 20 percent limitation on the size of awards.

The Appendix to this notice contains a chart reflecting the size of each SEA's award under this priority assuming that all eligible SEAs apply. If an SEA does

not apply for these funds, its share of grant funds under this priority will be distributed to the requesting SEAs, subject to the 20 percent limitation, on the basis of the number of those States' migratory children.

The Department believes that this two-tiered formula for awarding the \$2.7 million available under this priority distributes these limited funds effectively to help promote long term benefits for the Nation's migratory children by helping all SEAs focus on the interstate and intrastate transfer of records of migratory children.

Under the first tier of the formula, the \$2.2 million originally available for this priority will continue to be distributed in equal amounts to the SEAs (subject to the 20 percent limitation). This distribution method provides like amounts to each State, irrespective of the size of its MEP or its technological sophistication, since each State is likely to encounter threshold costs related to improving its own capacity and that of its operating agencies to maintain and transfer information on eligible migratory children. Indeed, for many States, the one-time grants available under this priority represent only "seed money" for their records transfer efforts. All SEAs may reserve funds from their basic MEP formula allocations to carry out their responsibilities to ensure the transfer of records for eligible migratory children. Yet, for those SEAs with relatively small basic MEP grant allocations, and therefore less flexibility than larger allocation States to use those funds to meet records-transfer needs, the small threshold amount that would be available under the Department's initial proposal will help address some basic development and implementation issues (including staff time). In comments received on this initial proposal, only one State MEP Director suggested that the proposed threshold amount would exceed the amount that some States need to implement the records transfer activities required under the MEP statute. At the same time, other State MEP Directors from large, basic MEP allocation States supported the proposed equal allocation of funds to each State under this priority. As one such State MEP Director noted, while his large, basic MEP allocation State would benefit to a greater degree from a distribution based wholly on numbers of migratory children, the proposed distribution of equal amounts seemed reasonable "since each State has an equal responsibility [under the MEP] to develop and implement a method for transferring information on migrant children as they move." Similarly,

another State director from a large, basic MEP allocation State noted that, unless those SEAs with smaller basic MEP allocations are able to develop an adequate records transfer capacity, the larger basic MEP allocation States from which migratory children move will be unable to send to, or receive records from, these States where the children migrate.

While all SEAs that receive MEP funds could use additional funds to meet their statutory responsibilities to ensure the timely transfer of education records of migratory children within and across States, as a practical matter, SEAs with larger basic MEP grant allocations can, as one State Director commented, draw upon those funds to the degree necessary for records transfer, consistent with their other MEP responsibilities, in ways that small-allocation States cannot. For example, with the end of the MSRTS, the larger amounts of funds that these States previously spent on MSRTS terminal operations now are available to meet existing records-transfer needs.

Under the second tier of the formula, the Department will distribute an additional \$0.5 million, in excess of the \$2.2 million originally identified by the Department. Given that States with larger numbers of migratory children have more student records to transfer, the Department has decided to distribute these additional funds on the basis of the number of migratory children in each State, using the same calendar year 1994 FTE count of migratory children that the Department is using to calculate MEP allocations under the MEP State formula grant formula in section 1303 of the ESEA.

Finally, the Department will limit the amount of an award under this priority to no more than 20 percent of an SEAs' basic MEP grant award.

The Department believes that this two-tiered formula for awarding the \$2.7 million, with its 20 percent limitation, represents the most appropriate means of distributing these funds to support the development and implementation of appropriate records transfer procedures so that staff at new schools to which migratory children move, in whatever States they are located, can have the information needed to make sound educational decisions about these children.

**Note:** The \$2.7 million available for award under this priority was originally reserved from the FY 1994 MEP appropriation. Therefore, the Department must obligate these funds by September 30, 1995, and SEAs (and their subrecipients) must do so by September 30, 1996.