



# RACE TO THE TOP (RTTT) MEMORANDUM OF UNDERSTANDING (MOU) ANSWERS TO FREQUENTLY ASKED QUESTIONS

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## OVERVIEW

The Race to the Top is an unprecedented \$3.4 billion competitive federal grant program, the largest ever offered by the U.S. Department of Education. New York State is one of only four states eligible for the largest grants – up to \$700 million. It presents a unique opportunity for the State to build on the unrivalled experience and talents of educators across New York to accomplish the work necessary to fulfill the Regents' vision. The Race to the Top (RTTT) is designed to reward states that are creating conditions for education innovation and reform and are achieving significant improvement in student outcomes. New York is on the right path.

If you are a superintendent (or chief school officer of a charter school), school board president, charter school governing board president, or local teachers union leader, please sign your district's *Memorandum of Understanding* (MOU) and the preliminary *Scope of Work* and return it. Winning the grant depends in part on the amount of support from education leaders across the state and their commitment to implementing the State's plan. Please help New York not only get these vitally needed funds but also carry out major education reforms described in our Phase 2 RTTT application that will benefit children across the state.

If New York wins a RTTT grant, 50% of the State's award must be allocated to school districts that receive Title I funds and meet the State's requirements to qualify as "participating" districts. The other 50% is available to the State for state-level activities, distribution to schools, and other purposes.

For more information, please see New York State Education Department (NYSED)'s RTTT webpage at <http://usny.nysed.gov/rttt/> or log on to U. S. Education Department (USED)'s site: <http://www.ed.gov/programs/racetothetop/index.html>

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## MEMORANDUM OF UNDERSTANDING

### 1. What is the purpose of the MOU and preliminary Scope of Work that is part of the State's RTTT application?

To be successful in their applications, states must be able to demonstrate strong statewide commitment to implement the State's plans regarding the four assurance areas established by USED:

- Adopting standards and assessments that prepare students to succeed in college and the workplace and to compete in the global economy;
- Building data systems that measure student growth and success, and inform teachers and principals about how they can improve instruction;
- Recruiting, developing, rewarding, and retaining effective teachers and principals, especially where they are needed most; and
- Turning around our lowest achieving schools.

The MOU and preliminary Scope of Work is the method states have been asked to use by the USED to demonstrate the breadth and strength of participating LEAs' support for, and commitment to, implementing the initiatives outlined in the State's application.

**2. The language and format of the MOU and Scope of Work appear to be different than in Phase I. What has changed and why?**

As you can see, we have decided to use the federal MOU template with no substantive changes. The preliminary Scope of Work includes descriptive bullets summarizing the elements of the State Plan in the four reform areas, with no "yes" or "no" boxes. We made these changes in light of USED guidance and Phase 1 reviewer feedback, and to address issues that arose during the MOU processing in Phase 1. By signing the attached MOU and preliminary Scope of Work, we are simply asking LEAs to agree to follow applicable State law and Commissioner's regulations, including any applicable laws relating to collective bargaining, as they relate to the work described in the Preliminary Scope of Work and the State Plan (as described in the State's Phase 2 application).

**3. Our MOU was accepted for the State's Phase 1 RTTT application. Do we have to submit the MOU and preliminary Scope of Work again?**

Yes. All LEAs interested in participating in our Phase 2 application must file new MOUs and preliminary Scope of Work statements (Exhibit I). According to guidance provided by USED, if a state makes changes to its Phase 2 application that affects its MOU terms and conditions or the scope of work, the state must update the MOU and re-execute the agreement. While our Phase 2 application is based on the same four assurance areas, New York has made substantial changes to its State Plan in this second application based on the USED reviewers' comments as well as our analysis of the applications of other states. Since New York State's Phase 2 application will be materially different from its first application, participating LEAs under Phase 2 will be implementing different activities if we are successful in winning an award. A new completed MOU will demonstrate the LEA's support for this revised plan.

**4. Can we use the same MOU form for Phase 2 as we used for the first RTTT application?**

No. LEAs must use the RTTT Phase 2 MOU template provided on the State Education Department's website (<http://usny.nysed.gov/rttt/>) to reflect their agreement to implement Phase 2 initiatives. The Department will not approve any MOUs that are submitted using the Phase 1 form.

The Department **will not accept** MOUs that contain any language insertions, addenda (including any conditions on participation and/or implementation), comments, strikeouts or deletions. Also, please do not reprint the MOU and submit it on district letterhead as this may delay the review and subsequent acceptance of the MOU.

**5. Who must sign the MOU? How many signatures are needed?**

School Districts:

In order to receive funding under RTTT, a school district's MOU and preliminary Scope of Work (Exhibit I) **must** be signed and dated by the superintendent.. The additional signatures of the board of education president and the leader of the local teachers union will demonstrate the strength of the LEA's commitment and support. The more districts that submit MOUs signed by all three local leaders, the greater New York's chances are of winning a Phase 2 grant.

Please be sure to sign the MOU on **page 4**. Additionally, the participating school district superintendent school must also sign the preliminary Scope of Work on **page 5**.

### Charter Schools:

In order to receive funding under RTTT, a charter school's MOU and preliminary Scope of Work (Exhibit I) **must** be signed and dated by the chief school officer of the school and should be signed by the President of the school's Board of Trustees. The more charter schools that submit MOUs signed by both parties, the more the State's chances of winning a Phase 2 grant will be enhanced.

Please be sure to sign the MOU on **page 4**. Additionally, the public charter school governing board chair for a participating public charter school must also sign the preliminary Scope of Work on **page 5**.

#### **6. Is the approval of the board of education required before the superintendent or school board president can sign the MOU?**

The approval of the school board is not required where the superintendent and board president, consistent with their authority to act on behalf of the board of education and school district, sign the MOU.

#### **7. Will a LEA receive the funds without signing the MOU?**

No. Only LEAs that sign the MOU and the preliminary Scope of Work will be eligible to receive funding under the 50% of the State's grant that is to be suballocated to "participating LEAs."

#### **8. Under Section II-D of the MOU (State Recourse for LEA Non-Performance), what is the interpretation of "temporarily withholding funds or disallowing costs?"**

Withholding funds or disallowing costs refers only to prospective RTTT funds and other funds the State earmarks specifically to support RTTT initiatives. It does not refer to any other funds a district may receive from the State, including State Aid.

#### **9. What is the anticipated level of commitment for district personnel required under Section II-A(2) to "actively participate in all relevant convenings, communities of practice, or other practice-sharing events"?**

It is not possible now to project with certainty what this commitment will be for all districts. Determining how this commitment will be met will be part of the *Final Scope of Work* that LEAs will write and submit within 90 days of New York receiving its award. By signing the MOU and the preliminary Scope of Work now, LEAs are demonstrating their commitment to actively participate in New York State's education reform plan.

#### **10. When is the MOU due to the State Education Department?**

Signed Memorandum of Understanding and preliminary Scope of Work statements are due by 5:00pm on Friday, May 28, 2010, to ensure inclusion in the State's Phase 2 Race to the Top application.

#### **11. Where should I send the signed MOU?**

The signed and dated MOU and preliminary Scope of Work should be scanned and emailed to [RTTT@mail.nysed.gov](mailto:RTTT@mail.nysed.gov). Include in the subject line of the email "*Signed MOU*" and the name of your school district/public charter school. If you are unable to submit the document electronically, you can

fax the signed MOU and preliminary Scope of Work to the State Education Department at 518-486-9070.

**AND**

Send the hard copy with original signatures to:

Rebecca Kennard, Attention RTTT  
Room 152 Education Building  
New York State Education Department  
89 Washington Avenue  
Albany, N.Y. 12234

**12. When will we know whether our MOU has been accepted?**

According to USED's RTTT guidance, MOUs and preliminary Scope of Work statements must be reviewed and signed by an authorized State Education Department official before an LEA can be designated as a "participating LEA." The Department will review submitted MOUs on an on-going basis, beginning on the date the MOU form is first posted on NYSED's RTTT website (<http://usny.nysed.gov/rttt/>). LEAs will be notified by e-mail when their MOUs have been accepted. To assist us with timely notification, please be sure to include the name of a LEA contact person and e-mail address on page 1.

**13. What is my district's legal obligation if we submit the MOU and New York does not receive a Phase 2 RTTT award?**

If the State does not receive an RTTT award, the district is not obligated to participate in the State's plan pursuant to the MOU. However, LEAs will need to comply with all applicable State laws and regulations even in the absence of an RTTT grant. Moreover, it is important to note that in order to participate in other federal funding opportunities, such as a School Improvement Grant, districts will also have to engage in activities similar to those outlined in New York State's RTTT application.

## **SCOPE OF WORK STATEMENTS**

**14. The preliminary Scope of Work (Exhibit I) included in the MOU lists the Elements of State Reform starting with B and goes to (B)(3) to C(3) to D(2). Is it complete?**

The version of the Phase 2 MOU posted online at <http://usny.nysed.gov/rttt/> is correct and must be used by LEAs interested in participating. Some of the required elements of the State's application do not pertain to local school level goals and activities, and as such are not included in the MOU and the preliminary Scope of Work.

**15. Must an LEA agree to participate in all the proposed *Elements of the State Reform Plan* included in the preliminary Scope of Work (Exhibit I)? There is no opportunity to check "Yes" or "No" or to submit comments. Why?**

USED's RTTT reform elements are designed to work together to create a comprehensive systemic approach to improving teaching and learning. Accordingly, New York State's Phase 2 application sets forth a broad agenda for reform intended to have statewide impact. New York State has therefore determined that participation in every element of the State plan is vital to its statewide success and is strongly aligned with the goals and purpose of USED's RTTT competition.

**16. Some of the activities listed under Section D (Great Teachers and Leaders) seem that they require collective bargaining. Is this the case?**

The evaluation bill, which, if enacted into law, will require that all collective bargaining agreements for teachers and building principals entered into after July 1, 2010 be consistent with its provisions. It further provides that any conflicting provisions of collective bargaining agreements in effect on July 1, 2010 are not abrogated and remain in effect until there is a successor agreement. It also preserves the right of local collective bargaining representatives to negotiate evaluation procedures with a school district or BOCES per the Civil Service Law at any time.

**17. Does the pending legislation regarding teacher and principal evaluation supersede local contracts?**

See the response to the question above.

**18. As New York State does not currently have a growth model, how will growth be measured for teacher evaluations under the bill?**

In accordance with the legislation, the Department will consult with a newly formed Teacher and Principal Effectiveness Advisory Committee (TPEAC) comprised of practitioners and other stakeholders, and develop a growth model to be approved by the Board of Regents.

**19. How will student growth be defined?**

In the legislation, growth is defined as the change in student achievement for an individual student between two or more points in time. The Teacher and Principal Effectiveness Advisory Committee (TPEAC) will assist the Department in the development of an appropriate growth model.

**20. How will growth be measured for students with disabilities and English language learners?**

In accordance with the Commissioner's regulations adopted in April 2010, the growth measures must take into account the unique abilities or disabilities of each student including English language learners.

**21. How will students of teachers in non-tested grades and subjects show growth?**

The legislation provides for a phase-in which would provide for an orderly process under which the new evaluation system will first apply to teachers in grades 4-8 in common branch subjects and English Language Arts (ELA) or mathematics, and their principals, and then be expanded out to all teachers and principals in all grades and subjects. The Teacher and Principal Effectiveness Advisory Committee (TPEAC) will provide input into the development of standards and measures for subjects and/or grades for which there are no State assessments.

**22. How will the effectiveness ratings be arrived at?**

The evaluation will result in a composite score based on multiple measures of effectiveness including evidence of student growth. Following consultation with the Teacher and Principal Effectiveness Advisory Committee (TPEAC), the Commissioner's regulations will set scoring bands or ranges for the four categories: Highly Effective, Effective, Developing and Ineffective.

**23. Our district does not have any schools currently identified by NYSED as being “persistently lowest achieving.” Why are we being asked to commit to participation in Section (E) – Turning Around the Lowest-Achieving Schools?**

The Board of Regents has decided to merge the “persistently lowest achieving schools” designation into the State’s Schools Under Registration Review (SURR) process. Consequently, as described in New York’s Race to the Top application, the Commissioner will identify schools as Persistently Lowest Achieving during each year of the grant. In addition, districts that do not have persistently lowest achieving schools may nevertheless wish to participate in the Secondary School Innovation program in order to use RTTT funding either to implement one of the four intervention models or a different innovative school model in a non-identified school. For this reason, we are asking all participating LEAs to agree to the Section (E) initiatives both because they may have a school that could participate during the course of the four years of the RTTT grant and, more importantly, such agreement demonstrates your support for the State’s Plan, which makes turning around our lowest achieving schools an important priority.

**24. In practice, what is anticipated by the phrase "ensure the equitable distribution of effective teachers and principals"?**

The new statewide evaluation system will help improve the equitable distribution of effective teachers and principals by providing additional data from evaluations relating to student performance and by informing targeted and differentiated professional development with a focus on teachers and principals in high need schools and/or shortage subject areas. The State Plan will also provide additional incentives to encourage the most effective teachers and principals to take assignments and remain serving high-poverty and high-minority schools, especially in STEM areas.

**25. In Phase 1, LEAs were able to answer “Not Applicable” to (D)(3) concerning the equitable distribution of effective teachers and principals under limited circumstances. Why is this not the case now?**

It is Regents policy that all districts should have an equitable distribution of effective teachers and principals. This should be true regardless of the size or demographic profile of its student population.

**26. What will happen if an LEA submits the signed MOU and the preliminary Scope of Work and then our RTTT allocation grant is not sufficient to support all the work we agreed to do? What is my district’s legal obligation in this situation?**

To the extent made possible by the eventual grant award, implementation funding will be provided to participating LEAs. Depending on the final grant amount that New York would receive, the scope of State activities may need to be adjusted.

Districts may also realign existing funding to support projects on the four assurances (e.g., aligning district professional development in math with the new State standards).

**27. What will the final Scope of Work entail?**

If the State receives a RTTT award, participating LEAs will have 90 days to finalize a Scope of Work detailing their participation. The final Scope of Work will be developed by the district, in partnership with NYSED, and will consist of a detailed work plan, including the participating district’s specific goals, activities, budgets, key personnel, and annual targets for key performance measures. The final

Scope of Work will also set forth any applicable State-required timelines for implementation of the State Plan.

**28. Can participating LEAs withdraw and refuse the money once they see what specifically will be required in the final Scope of Work?**

Section II-C (Joint Responsibilities) of the MOU commits the NYSED and the participating LEA to negotiate in good faith to continue to achieve the overall goals of the State's RTTT grant, even when the State plan requires modifications that affect the LEA, or the LEA's plan requires modifications. If the good faith negotiations on the final Scope of Work are unsuccessful, the LEA may withdraw as a participating LEA, with the resulting loss of RTTT funding. The MOU also provides that it may be amended by written agreement signed by the parties and in consultation with USED.

## **ELIGIBILITY FOR PARTICIPATION**

**29. Who is eligible to be a “participating LEA”?**

Public school districts and public charter schools open and in operation during the 2010-11 school year are eligible to become “participating LEAs” under RTTT.

**30. Can BOCES be “participating LEAs”?**

While BOCES are local educational agencies (LEAs), they do not receive funding under Title I, Part A and would not be eligible to receive a grant from the 50% portion of the State's award designated for suballocations to participating LEAs. BOCES clearly have a vital role in working with the State to implement portions of the plan that necessitate full or nearly full statewide implementation. This partnership between BOCES and the State could be supported, in part, by RTTT funds coming from the 50% of the State grant that is not intended to be suballocated to participating LEAs.

BOCES District Superintendents and their respective board presidents and teacher union local presidents are therefore encouraged to submit a MOU as a demonstration of their commitment to the State's reform agenda as presented in the RTTT application.

**31. Are Special Act school districts serving high needs students eligible to be “participating LEAs”?**

According to the RTTT guidelines, only LEAs that receive Title I Part A funds are eligible to become “participating LEAs.” Special Act school districts currently only receive Title I, Part D (rather than Part A) funds. Therefore, these school districts are not eligible to receive a subgrant under this portion of the State's award. However, these districts can benefit from the remaining 50% that will be used to implement state-level initiatives to benefit all districts and to fund competitive in-state RFP activities.

**32. My district receives Title I funds but has no persistently low achieving schools. Are we eligible?**

Yes. If your district has no persistently lowest achieving schools, then it may use its RTTT funds for allowable activities under the other sections of the grant; that is, *Standards and Assessments, Data Systems to Support Instruction, and Great Teachers and Leaders*. Only schools identified as persistently lowest achieving must implement one of the four intervention models.

## DISTRIBUTION OF FUNDS

### **33. If a school district signs the MOU, and New York State wins the RTTT funding, will those participating districts automatically receive a share of the funds, or will they still need to compete for them?**

If New York is successful in its application, 50% of the State's award will be distributed as subgrants to participating LEAs based on the allocation formula used for the distribution of Title I funds. They will not have to compete for this portion of the RTTT funding. They will receive the subgrant, provided that NYSED and the LEA successfully negotiate a *Final Scope of Work* consistent with the State plan. Some funds from the remaining 50% of the State's award will be awarded through a competitive RFP programs.

### **34. How will my district's share of any award be calculated? What amount of financial support can my district expect?**

The size of an individual subgrant to a participating LEA will be dependent on two factors:

- The size of the grant awarded to New York (we are eligible for a maximum award of \$700 million -- \$350 million of this amount to be used for LEA subgrants); and
- The number of Title I eligible LEAS that choose to participate.

USED guidance specifically states that a state must calculate a section 14006(c) subgrant for each Title I eligible LEA by:

- a. Determining the LEA's share of total 2009 allocations of Part A of Title I of all LEAs that have signed MOUs and are participating in the State's RTTT plan (i.e., the LEAs Title I share); and then
- b. Multiplying the LEA's Title I share by the amount that must be subgranted to participating LEAs (i.e., 50 percent of the State's total RTTT grant).

### **35. If LEAs sign the MOU, how is the money distributed? Is it good for more than one year? Is there one allocation or more than one?**

Grant funds will be distributed to participating LEAs using the standard grant process employed by NYSED for all federal grants (i.e., the FS-10/25/10F process). This process enables LEAs to draw down funds as needed to pay program costs while minimizing the time that elapses between the draw and disbursement by the subgrantee. Participating LEAs will be accountable for meeting annual performance goals and timelines. USED will award RTTT Phase 2 funds to states in September 2010. States will then have a four-year project period from the time of the award in which to implement their plans and spend their grant money. A similar timeframe will apply for participating LEAs.

### **36. Our district does not receive Title I funds currently. Would we receive any funding from this initiative, even if we sign the MOU?**

If your district is not eligible for Title I Part A funding, the district will not receive a subgrant from the 50% of the State's RTTT that must go to "Participating LEAs" based on the Title I Part A formula. However, your district would benefit from the state-level initiatives intended to support all districts which are to be funded from the other 50% of the State grant (e.g., an enhanced data system, expanded formative and summative assessments, optional curriculum frameworks, and professional development opportunities with colleagues from around the state). In addition, the State plans to use

a portion of this other 50% of the funds to issue competitive RFPs for which your district may submit proposals for funding.

**37. What are the restrictions on how RTTT funding can be used?**

RTTT funding may only be used to support the initiatives contained in the State Plan.