

DEPARTMENT OF EDUCATION**34 CFR Part 75**

RIN 1890-AA09

Direct Grant Programs**AGENCY:** Department of Education.**ACTION:** Final regulations.

SUMMARY: The Secretary amends regulations governing the process for submitting discretionary grant applications by removing current provisions requiring specific application formats, thereby permitting electronic submission of applications. The revisions also clarify that only applicants submitting paper applications are required to submit one original and two copies of their application to the Department of Education (Department).

DATES: These regulations are effective August 9, 2004.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On October 30, 2003, the Secretary published a notice of proposed rulemaking (NPRM) for these amendments in the **Federal Register** (68 FR 61780) in which the Secretary explained that the Department was proposing to amend its regulations to allow grant applications to be sent electronically via the Internet. This final rulemaking document fulfills the Secretary's proposal to remove the requirement that an application be mailed or hand-delivered. Under the final rule, the Department can receive applications electronically without using the pilot program as the authority for receiving electronic grant applications. As an added benefit, the changes to the regulations also increase the Department's flexibility to participate in new government-wide electronic grant initiatives.

There are no differences between the NPRM and these final regulations, other than a minor editorial change.

Under the new rule, the Department will inform applicants in the application notice whether the option to apply for a grant electronically is available or required for a particular grant program competition. This information will be restated in the application package's transmittal instructions. The application notice will include all the other information necessary to apply for a grant, including the deadline date and time for electronic and paper application.

Analysis of Comments

In response to the Secretary's invitation in the NPRM, three parties submitted comments on the proposed regulations. An analysis of the comments follows.

We discuss substantive issues under the sections of the regulations to which they pertain. Generally, we do not address technical and other minor changes and suggested changes the law does not authorize the Secretary to make.

Two commenters strongly supported the proposed changes to the regulations that would permit the Department to use the Internet to accept grant applications electronically. One of the supportive commenters did not address any particular proposed requirement other than to say generally that the proposed rule was a good idea. One commenter disagreed with the proposed change.

Section 75.109 Deadline Date for Applications

Comment: One supporter of the changes recommended that we amend the regulations to state specifically the two application options that are available to apply for a grant rather than taking the application methods out of the regulations. For example, the regulation would specify that an applicant could either use electronic means or submit a paper application and deliver it by mail, commercial delivery, or courier to the Department.

Discussion: The Department believes that potential grant applicants will have adequate opportunity to receive information about the application formats that will be used for a particular grant program competition when the Department publishes an application notice in the **Federal Register**. The Secretary believes that using the application notice to convey information regarding a grant competition's application requirements is a more effective way to convey information to prospective applicants. Application notices will contain detailed information on the application

process and specific requirements for a particular grant program competition.

We believe that the new approach of removing the specific application formats from the regulations and relocating the information to the application notice will not hinder potential applicants' ability to learn what application methods are available to them for a grant competition.

Changes: None.

Comment: Another commenter criticized the change because it would prevent some applicants from applying for a grant, especially certain rural and inner-city school districts, and faith-based organizations that might not have the technical resources or staff to be able to apply for a grant online.

Discussion: The Department realizes that there are potential applicants that do not have adequate computer equipment to gain access to the Internet and, even if the potential applicant had sufficient computer equipment, telecommunications charges for access to the Internet from some isolated areas might be prohibitively expensive. To address this concern, the Secretary will continue to allow applicants to submit a paper application in lieu of an electronic version. Furthermore, in grant competitions requiring mandatory submission of electronic applications, the Secretary will permit applicants to request a waiver from the mandatory electronic submission requirement. A waiver will allow applicants to submit a paper application if they are unable to submit their application electronically. For those programs that require electronic submission of applications, the application notice will include instructions on how an applicant can request a waiver to submit a paper application.

The Department has also taken steps to assist applicants during the transition from a paper-based application process to an electronic one. Applicants interested in submitting a grant application electronically can obtain assistance in several ways. Prospective applicants can access the Department's e-Grants home page (<http://e-grants.ed.gov>) where they can view an online demonstration on how to submit an application electronically via e-Application. Additionally, the Department has established a help desk, which applicants can contact for technical support. There is also an online e-Application User's Guide to assist applicants in all phases of the electronic application process.

Changes: None.

Executive Order 12866

Under Executive Order 12866 we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those we have determined to be necessary for administering the Department's programs effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of these final regulations, we have determined that the benefits of the regulations justify the costs.

Summary of Potential Costs and Benefits

We summarized the potential costs and benefits of these final regulations in the preamble to the NPRM (68 FR 61781). The cost to an applicant of submitting an electronic application is significantly less than the cost of submitting a paper application. Thus, the final rule will reduce applicant costs dramatically. The costs to applicants and the Department of maintaining the data included in the applications is also significantly reduced under the final rule. The benefits of the rule are also significant, permitting easy means for applicants to apply and giving applicants more time to prepare their application because electronic submission eliminates the delay caused by mailing an application.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Intergovernmental Review

These proposed regulations affect direct grant programs that are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and

review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Assessment of Educational Impact

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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(Catalog of Federal Domestic Assistance Number does not apply)

List of Subjects in 34 CFR Part 75

Administrative practice and procedure, Education Department, Grant programs—education, Grant administration, Performance reports, Reporting and recordkeeping requirements, Unobligated funds.

Dated: July 1, 2004.

Rod Paige,

Secretary of Education.

■ For the reasons discussed in the preamble, the Secretary amends part 75 of title 34 of the Code of Federal Regulations as follows:

PART 75—DIRECT GRANT PROGRAMS

■ 1. The authority citation for part 75 continues to read as follows:

Authority: 20 U.S.C 1221e-3 and 3474, unless otherwise noted.

■ 2. Section 75.102 is amended by revising paragraphs (a) and (b), and the introductory text in paragraph (d) to read as follows:

§ 75.102 Deadline date for applications.

(a) The application notice for a program sets a deadline date for the transmittal of applications to the Department.

(b) If an applicant wants a new grant, the applicant must submit an application in accordance with the requirements in the application notice.
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(d) If the Secretary allows an applicant to submit a paper application, the applicant must show one of the following as proof of mailing by the deadline date:
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■ 3. Section 75.109 is amended by revising paragraph (a) to read as follows:

§ 75.109 Changes to application; number of copies.

(a) Each applicant that submits a paper application shall submit an original and two copies to the Department, including any information that the applicant supplies voluntarily.
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