

# Federal Register

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Thursday  
March 6, 1997

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## Part III

### Department of Education

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34 CFR Part 75, et al.  
Direct Grant Programs; Final Rule

**DEPARTMENT OF EDUCATION**

**34 CFR Parts 75, 206, 231, 235, 369, 371, 373, 375, 376, 378, 380, 381, 385, 386, 387, 388, 389, 390, 396, 610, 612, and 630**

**RIN 1880-AA74**

**Direct Grant Programs**

**AGENCY:** Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the Education Department General Administrative Regulations (EDGAR) that govern discretionary grant programs administered directly by the Department. These amendments reduce the need for specific regulations governing individual programs while ensuring that proposed projects meet the highest standards of professional excellence. These amendments establish new selection criteria and make additional changes to allow these new selection criteria to be used in a variety of circumstances. Also, these amendments would remove a number of regulations made unnecessary by the amendments.

**EFFECTIVE DATE:** These regulations take effect April 7, 1997, except the removal of 34 CFR Part 630 which takes effect on October 1, 1997.

**FOR FURTHER INFORMATION CONTACT:**

Margo Anderson, U.S. Department of Education, 555 New Jersey Avenue, NW., Washington, D.C. 20208-5530. Telephone: (202) 219-2005. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** On July 16, 1996, the Secretary published a notice of proposed rulemaking (NPRM) for these amendments in the Federal Register (61 FR 37184).

The NPRM explained why the Department developed a new approach to EDGAR selection criteria and how the Department would use the new criteria. Also, the NPRM discussed other changes the Secretary believes are necessary to permit full use of the flexibility available through the new approach to EDGAR selection criteria. For a more detailed discussion of the major issues concerning these amendments, see pages 37184-37186 of the NPRM.

These final regulations contain one significant change from the NPRM and this change is fully explained in the Analysis of Comments and Changes

elsewhere in this preamble. The other changes are minor editorial and technical revisions. Some of these revisions required that certain sections be renumbered or relettered, and, unless otherwise noted, references to these sections elsewhere in this preamble use the new numbers and letters, as appropriate.

Potential applicants are reminded that selection criteria, including any specific factors under those criteria, for a particular program will be announced in the application package or in a notice published in the Federal Register.

**Analysis of Comments and Changes**

In response to the Secretary's invitation to comment in the NPRM, fewer than 10 parties submitted comments on the proposed regulations. An analysis follows of the comments and of the changes in the regulations since publication of the NPRM.

Major issues are grouped according to subject, with appropriate sections of the regulations referenced in parentheses. Technical and other minor changes—and suggested changes that the Secretary is not legally authorized to make under the applicable statutory authority or are outside the scope of the NPRM—generally are not addressed.

**New Approach to Selection Criteria (§ 75.200 and § 75.210)**

*Comment:* The majority of commenters favored the changes to EDGAR and the Department's efforts to improve the general selection criteria. Some commenters praised specific additions and others lauded generally the new approach to tailoring selection criteria for each particular competition. These commenters agreed that the new approach would result in improvements in the grant application and evaluation process.

There were two commenters, however, who disagreed with the proposed menu approach to selection criteria. These commenters criticized the approach because the public would not be afforded the opportunity to comment formally on the Department's choice of selection criteria for a particular competition. These commenters believed that the public's opportunity to comment under the Paperwork Reduction Act of 1995 would be inadequate. Also, they were concerned that the new menu approach could lead to arbitrary decision-making by the Department's program managers or that the Secretary would use the new flexibility to supersede statutory provisions or program-specific regulations.

Moreover, these two commenters believed that the new approach would result in lower quality applications and projects. They objected to the approach on the grounds that, without a set of permanently established criteria, applicants could not begin to prepare applications in advance of the announcement of a competition. They also believed the general menu of selection criteria would not provide enough program-specific information for an applicant to prepare a quality application. Finally, they believed that the new approach would favor large applicant organizations with a general mission able to engage in general activities.

*Discussion:* The Department believes that potential grant applicants will have an adequate opportunity to comment on its choice of selection criteria for a particular program under the procedures required by the Paperwork Reduction Act (PRA). Comments submitted under the PRA will be reviewed not only by the Department, but also by the Office of Management and Budget (OMB), and they will be given careful consideration. Moreover, the Department welcomes comments and suggestions on selection criteria, and the application process generally, apart from the specific requirements of the PRA and formal opportunity to comment. Potential applicants, grantees, program beneficiaries, and others are encouraged to advise the program about their experience with the selection criteria, and to provide recommendations for criteria for future competitions at any time, for the program office's use in designing selection criteria.

Fears that the new approach will allow the Secretary to supersede statutory provisions or program-specific regulations are misplaced. The Secretary is bound by statutory provisions. In evaluating applications, the Department must adhere to selection criteria or other provisions related to the evaluation of applications required by statute. In addition, the Department intends that programs will use the new approach in conjunction with the statute and program-specific regulations, not instead of them.

Rather than leading to arbitrary decision-making, the new approach should lead to better focused and higher quality decision-making. Because the current EDGAR selection criteria are so general, the Department sometimes has difficulty distinguishing those projects that will best address statutory purposes and Departmental priorities from those that merely will address them. On the other hand, program-specific criteria

have often proved too narrow and inflexible. By using the new approach, the Department will be able to tailor the selection criteria to favor projects that best address the purposes of the statute and any priorities the Department may establish.

The Secretary believes that the new approach will lead to the selection of higher quality projects and will not favor large applicant organizations. The selection criteria are more focused on important project attributes than the existing EDGAR general selection criteria. The Secretary believes that, if considered in the context of a specific program and in conjunction with any applicable statutory provisions and program regulations, the selection criteria will be clear and will give an applicant enough direction to prepare a quality application. Therefore, the Secretary believes that large applicant organizations that can carry out general activities will not have an advantage. Application reviewers using the focused selection criteria in conjunction with applicable statutory provisions and regulations will evaluate whether these large organizations can carry out the kind of high quality activities that best address the specific purposes and priorities of the statute and the Department.

The Secretary does not believe that the new approach will prevent potential applicants from beginning to prepare applications in advance of an application announcement. Applicants may begin work on the basis of statutory purposes and requirements. In addition, it is unlikely that the selection criteria used in evaluating applications will change from one year to the next for most programs.

Additionally, in reviewing the proposed regulations, the Secretary determined that it would be helpful to make some minor clarifications to § 75.200(b)(3) regarding what selection criteria the Secretary could use in evaluating applications for new grants. The Secretary further determined that § 75.200(b)(3)(iii) and § 75.210(a) (as numbered in the NPRM) were redundant.

*Changes:* The Secretary revises § 75.200(b)(3) to clarify the selection criteria the Secretary may use in evaluating applications for new grants and removes redundant language from § 75.210.

#### New Approach to Allocating Points or Weights (§ 75.201)

*Comment:* The commenters who did not support the new menu approach to selection criteria also did not support the approach of assigning points or

weights to criteria on a competition by competition basis. These commenters did not give any reasons in addition to those already given for their opposition to the new menu approach to selection criteria.

The commenters in support of the entire approach also did not give any specific reasons for their support of the flexible allocation of points and weights.

One commenter, however, specifically recommended against limiting the number or percentage of points that could be assigned to any particular criterion or factor. This commenter thought that point weighting should be flexible to address the priorities of a particular grant program.

*Discussion:* These amendments add only the flexibility of distributing weights among criteria and factors. The Secretary previously amended the EDGAR regulations to allow for the flexible allocation of points and for establishing a total maximum score on a competition by competition basis (see 60 FR 63872, December 12, 1995, Direct Grant Programs). In promulgating that rule, the Secretary did not receive any negative comments regarding points. Some programs used the authority for flexible point allocation and total maximum score and did not receive negative comments. The Secretary believes this flexibility should continue.

*Changes:* None.

#### Similar or Overlapping Criteria and Factors (§ 75.210)

*Comments:* A few commenters stated that particular criteria were redundant, overlap, or may only have subtle differences. Some of those commenters thought the criteria and factors should be organized differently. Commenters made suggestions for rewording various factors.

Commenters also pointed out factors that were unclear or could be improved. Commenters stated that § 75.210(b)(2)(xv) (as renumbered) was overly restrictive and that the meaning of § 388.20(a)(2)(iii) was unclear.

*Discussion:* The Secretary has reworded and reorganized the criteria to focus on an evaluation of the project to be implemented and of key attributes of the project, rather than on an evaluation of how well the application is written.

Although the entire menu of criteria and factors may seem to overlap or contain factors with only subtle differences, the Department will not use all of the criteria and factors at one time. For example, one commenter thought factors (xiv), (xv), and (xvi) of § 75.210(b)(2)(as renumbered) were redundant and that factor (xvi) should

suffice. Although factor (xvi) does encompass factors (xiv) and (xv), the Department would expect only one of these factors to be used in a set of selection criteria for a particular competition. The Secretary believes (xiv) and (xv) are needed to emphasize certain priorities in different program areas. Also, the need criterion (§ 75.210(a), as renumbered) and significance criterion (§ 75.210(b), as renumbered) are similar, but the need criterion is better suited to programs that provide services, and the significance criterion to programs that carry out demonstration projects. In a small number of cases, both criteria may apply.

The Secretary agrees that §§ 75.210(b)(2)(ii)(xv) (as renumbered) and 388.20(a)(2)(iii) should be revised.

*Changes:* The Secretary changes and clarifies §§ 75.210(b)(2)(ii)(xv) and 388.20(a)(2)(iii).

34 CFR Parts 637, 658, 660, 661, and 669

*Comments:* None.

*Discussion:* In the NPRM, the Secretary proposed to remove the selection criteria from 34 CFR parts 637 (Minority Science Improvement Program), 658 (Undergraduate International Studies and Foreign Language Program), 660 (The International Research and Studies Program), 661 (Business and International Education Program), and 669 (Language Resource Centers Program). The Secretary proposed instead that these programs would use the new EDGAR menu of selection criteria to evaluate applications. Also, the Secretary proposed to make corresponding changes in other sections of these parts to reflect the use of the EDGAR selection criteria.

The Secretary published a notice of proposed rulemaking (NPRM) in the Federal Register proposing that parts 637, 661, and 669 should be removed completely and that additional sections in parts 658 and 660 should be eliminated. (61 FR 52399, October 7, 1996). The Secretary currently is reviewing the public comments on that NPRM. Therefore, the Secretary has not included changes to parts 637, 658, 660, 661 and 669 in these final regulations.

*Changes:* The Secretary is removing all references to changes to 34 CFR parts 637, 658, 660, 661, and 669.

#### Clarifications Regarding Using the Selection Criteria (§ 75.201 and § 75.210)

*Comments:* None.

*Discussion:* In reviewing the proposed regulations, the Secretary determined

that it would be helpful to make some minor clarifications regarding the use of the selection criteria. The Secretary believes it is necessary to note in the regulations that the Secretary informs applicants of the selection criteria chosen and the factors selected for considering the selection criteria, if any, in the application package or a notice published in the Federal Register. This information was included in the preamble to the NPRM, but not in the regulations.

The Secretary also believes it would be helpful to clarify in the regulations that certain factors are mandatory (§ 75.210 (d)(2) and (e)(2), as renumbered) if the applicable selection criterion is chosen.

*Changes:* The Secretary amends the language in § 75.201 to add a new paragraph specifying that the Secretary informs applicants of the selection criteria chosen and the factors selected for considering the selection criteria, if any, in the application package or a notice published in the Federal Register. Also, the Secretary amends the language in § 75.210 to clarify that factors § 75.210 (d)(2) and (e)(2) (as renumbered) are mandatory factors that are always considered if selection criteria § 75.210 (d) and (e) are chosen.

#### Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number assigned to the collection of information in these final regulations is displayed at the end of the affected section of the regulations.

#### Intergovernmental Review

Many programs affected by these regulations are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

#### Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from

any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

#### List of Subjects

##### 34 CFR Part 75

Administrative practice and procedure, Continuation funding, Education, Grant programs—education, Grants administration, Incorporation by reference, Performance reports, Reporting and recordkeeping requirements, Unobligated funds.

##### 34 CFR Part 206

Administrative practice and procedure, Colleges and universities, Educational study programs, Grants program—education, Migrant labor, Students, Vocational education.

##### 34 CFR Part 231

Drug abuse, Elementary and secondary education, Grants program—education.

##### 34 CFR Part 235

Drug abuse, Elementary and secondary education, Grants program—education.

##### 34 CFR Part 369

American Indians, Disabled, Grants program—education, Vocational rehabilitation.

##### 34 CFR Part 371

American Indians, Disabled, Employment, Grants program—education, Vocational rehabilitation.

##### 34 CFR Part 373

Blind, Deaf, Disabled, Grants program—education, Vocational rehabilitation.

##### 34 CFR Part 375

Disabled, Grants program—education, Migrant labor, Vocational rehabilitation.

##### 34 CFR Part 376

Disabled, Grants program—education, Vocational rehabilitation, Youth.

##### 34 CFR Part 378

Arts and crafts, Disabled, Grants program—education, Hobbies, Recreation and recreation areas, Vocational rehabilitation.

##### 34 CFR Part 380

Disabled, Grants program—education, Vocational rehabilitation.

##### 34 CFR Part 381

Advocacy, Disabled, Grants program—education.

##### 34 CFR Part 385

Disabled, Grants program—education, Occupational training, Training programs, Vocational rehabilitation.

##### 34 CFR Part 386

Disabled, Grants program—education, Occupational training, Training programs, Vocational education, Vocational rehabilitation.

##### 34 CFR Part 387

Disabled, Grants program—education, Occupational training, Training programs, Vocational education, Vocational rehabilitation.

##### 34 CFR Part 388

Disabled, Grants program—education, Occupational training, Training programs, Vocational education, Vocational rehabilitation.

##### 34 CFR Part 390

Disabled, Grants program—education, Occupational training, Training programs, Vocational education, Vocational rehabilitation.

##### 34 CFR Part 396

Blind, Deaf, Disabled, Grants program—education, Occupational training, Training programs, Vocational education.

##### 34 CFR Part 610

Colleges and universities, Elementary and secondary education, Education of disadvantaged, Education of students with disabilities, Grant programs—education.

##### 34 CFR Part 612

Colleges and universities, Drug abuse, Grant programs—education.

##### 34 CFR Part 630

Colleges and universities, Grant programs—education.

Dated: February 26, 1997.

(Catalog of Federal Domestic Assistance Number does not apply.)

Richard W. Riley,

Secretary of Education.

In accordance with general rulemaking authority under 20 U.S.C. 3474 adn 1221e-3, The Secretary amends Parts 75, 206, 231, 235, 369, 371, 373, 375, 376, 378, 380, 381, 385, 386, 387, 388, 389, 390, 396, 610, 612, and 630 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. 1221-3 and 3474, unless otherwise noted.

2. Section 75.200(b)(3) is revised to read as follows:

**§ 75.200 How applications for new grants and cooperative agreements are selected for funding; standards for use of cooperative agreements.**

\* \* \* \* \*

(b) \* \* \*

(3) To evaluate the applications for new grants under the program the Secretary may use:

(i) Selection criteria established under § 75.209.

(ii) Selection criteria in program-specific regulations.

(iii) Selection criteria established under § 75.210.

(iv) Any combination of criteria from paragraphs (b)(3)(i), (b)(3)(ii), and (b)(3)(iii) of this section.

\* \* \* \* \*

3. Section 75.201 is revised to read as follows:

**§ 75.201 How the selection criteria will be used.**

(a) In the application package or a notice published in the Federal Register, the Secretary informs applicants of—

(1) The selection criteria chosen; and  
(2) The factors selected for considering the selection criteria, if any.

(b) If points or weights are assigned to the selection criteria, the Secretary informs applicants in the application package or a notice published in the Federal Register of—

(1) The total possible score for all of the criteria for a program; and  
(2) The assigned weight or the maximum possible score for each criterion or factor under that criterion.

(c) If no points or weights are assigned to the selection criteria and selected factors, the Secretary evaluates each criterion equally and, within each criterion, each factor equally.

(Authority: 20 U.S.C. 1221e-3 and 3474)

**§ 75.209 [Amended]**

4. Section 75.209(a) is amended by removing “If a discretionary grant program does not have implementing regulations or has implementing regulations that do not include selection criteria, the” and by adding, instead, “The”.

5. Section 75.210 is revised to read as follows:

**§ 75.210 General selection criteria.**

In determining the selection criteria to be used in each grant competition, the Secretary may select one or more of the following criteria and may select from among the list of optional factors under each criterion. However, paragraphs (d)(2) and (e)(2) of this section are mandatory factors under their respective criteria:

(a) *Need for project.* (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers one or more of the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project.

(ii) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(iii) The extent to which the proposed project will provide services or otherwise address the needs of students at risk of educational failure.

(iv) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals.

(v) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(vi) The extent to which the proposed project will prepare personnel for fields in which shortages have been demonstrated.

(b) *Significance.* (1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers one or more of the following factors:

(i) The national significance of the proposed project.

(ii) The significance of the problem or issue to be addressed by the proposed project.

(iii) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(iv) The potential contribution of the proposed project to increased knowledge or understanding of rehabilitation problems, issues, or effective strategies.

(v) The likelihood that the proposed project will result in system change or improvement.

(vi) The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study.

(vii) The potential for generalizing from the findings or results of the proposed project.

(viii) The extent to which the proposed project is likely to yield findings that may be utilized by other appropriate agencies and organizations.

(ix) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(x) The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies.

(xi) The likely utility of the products (such as information, materials, processes, or techniques) that will result from the proposed project, including the potential for their being used effectively in a variety of other settings.

(xii) The extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies.

(xiii) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(xiv) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(xv) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in employment, independent living services, or both, as appropriate.

(xvi) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(c) *Quality of the project design.* (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which there is a conceptual framework underlying the

proposed research or demonstration activities and the quality of that framework.

(iv) The extent to which the proposed activities constitute a coherent, sustained program of research and development in the field, including, as appropriate, a substantial addition to an ongoing line of inquiry.

(v) The extent to which the proposed activities constitute a coherent, sustained program of training in the field.

(vi) The extent to which the proposed project is based upon a specific research design, and the quality and appropriateness of that design, including the scientific rigor of the studies involved.

(vii) The extent to which the proposed research design includes a thorough, high-quality review of the relevant literature, a high-quality plan for research activities, and the use of appropriate theoretical and methodological tools, including those of a variety of disciplines, if appropriate.

(viii) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives.

(ix) The quality of the proposed demonstration design and procedures for documenting project activities and results.

(x) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project.

(xi) The extent to which the proposed development efforts include adequate quality controls and, as appropriate, repeated testing of products.

(xii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(xiii) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(xiv) The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements.

(xv) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition.

(xvi) The extent to which the proposed project will be coordinated

with similar or related efforts, and with other appropriate community, State, and Federal resources.

(xvii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(xviii) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(xix) The extent to which the proposed project encourages parental involvement.

(xx) The extent to which the proposed project encourages consumer involvement.

(xxi) The extent to which performance feedback and continuous improvement are integral to the design of the proposed project.

(xxii) The quality of the methodology to be employed in the proposed project.

(xxiii) The extent to which fellowship recipients or other project participants are to be selected on the basis of academic excellence.

(d) *Quality of project services.* (1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers one or more of the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(ii) The extent to which entities that are to be served by the proposed technical assistance project demonstrate support for the project.

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iv) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(v) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in

practice among the recipients of those services.

(vi) The extent to which the training or professional development services to be provided by the proposed project are likely to alleviate the personnel shortages that have been identified or are the focus of the proposed project.

(vii) The likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous academic standards.

(viii) The likelihood that the services to be provided by the proposed project will lead to improvements in the skills necessary to gain employment or build capacity for independent living.

(ix) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(x) The extent to which the technical assistance services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(xi) The extent to which the services to be provided by the proposed project are focused on those with greatest needs.

(xii) The quality of plans for providing an opportunity for participation in the proposed project of students enrolled in private schools.

(e) *Quality of project personnel.* (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers one or more of the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(f) *Adequacy of resources.* (1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the

Secretary considers one or more of the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(iii) The extent to which the budget is adequate to support the proposed project.

(iv) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(v) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(vi) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

(vii) The potential for the incorporation of project purposes, activities, or benefits into the ongoing program of the agency or organization at the end of Federal funding.

(g) *Quality of the management plan.*  
(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers one or more of the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(iv) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(v) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(h) *Quality of the project evaluation.*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers one or more of the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation are appropriate to the context within which the project operates.

(iii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(iv) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(v) The extent to which the methods of evaluation will provide timely guidance for quality assurance.

(vi) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(vii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

(Approved by the Office of Management and Budget under control number 1875-0102)  
(Authority: 20 U.S.C. 1221e-3 and 3474)

6. A new § 75.211 is added to read as follows:

**§ 75.211 Selection criteria for unsolicited applications.**

(a) If the Secretary considers an unsolicited application under 34 CFR 75.222(a)(2)(ii), the Secretary uses the selection criteria and factors, if any, used for the competition under which the application could have been funded.

(b) If the Secretary considers an unsolicited application under 34 CFR 75.222(a)(2)(iii), the Secretary selects from among the criteria in 75.210(b), and may select from among the specific factors listed under each criterion, the criteria that are most appropriate to evaluate the activities proposed in the application.

(Authority: 20 U.S.C. 1221e-3 and 3474)

**PART 206—SPECIAL EDUCATIONAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND OTHER SEASONAL FARMWORK—HIGH SCHOOL EQUIVALENCY PROGRAM AND COLLEGE ASSISTANCE MIGRANT PROGRAM**

7. The authority citation for Part 206 continues to read as follows:

Authority: 20 U.S.C. 1070d-2, unless otherwise noted.

8. Section 206.30 is revised to read as follows:

**§ 206.30 How does the Secretary evaluate an application?**

The Secretary evaluates an application under the procedures in 34 CFR Part 75.

(Authority: 20 U.S.C. 1070d-2(a) and (e))

**§ 206.31 [Removed]**

9. Section 206.31 is removed.

**PART 231—[REMOVED]**

10. Part 231 is removed.

**PART 235—[REMOVED]**

11. Part 235 is removed.

**PART 369—VOCATIONAL REHABILITATION SERVICE PROJECTS**

12. The authority citation for Part 369 is revised to read as follows:

Authority: 29 U.S.C. 711(c), 732, 750, 777(a)(1), 777b, 777f and 795g, unless otherwise noted.

**§ 369.1 [Amended]**

13. Section 369.1 is amended by removing paragraphs (b)(2) and (b)(4), by removing in paragraph (b)(3) “(34 CFR part 373)”, in paragraph (b)(5) “(34 CFR part 375)”, and in paragraph (b)(7) “(34 CFR part 378)”, and by redesignating paragraphs (b)(3), (b)(5), (b)(6), (b)(7), and (b)(8) as paragraphs (b)(2), (b)(3), (b)(4), (b)(5), and (b)(6) respectively.

**§ 369.2 [Amended]**

14. Section 369.2 is amended by removing paragraphs (b) and (d) and by redesignating paragraphs (c), (e), (f), (g), and (h) as paragraphs (b), (c), (d), (e), and (f) respectively.

**§ 369.21 [Amended]**

15. Section 369.21 is amended by removing “under 34 CFR parts 372, 373, 374, 375, 376, 378, or 379”, and adding, in its place, “covered by this part”.

16. Section 369.30 is revised to read as follows:

**§ 369.30 How does the Secretary evaluate an application?**

The Secretary evaluates an application under the procedures in 34 CFR Part 75.

(Authority: 29 U.S.C. 711(c))

**§ 369.31 [Removed]**

17. Section 369.31 is removed.

**§ 369.32 [Amended]**

18. Section 369.32 is amended by removing "listed in § 369.31 and 34 CFR parts 371, 372, 373, 374, 375, 376, 378, and 379", in the introductory text and adding, in its place, "used in accordance with the procedures in 34 CFR part 75".

**§ 369.42 [Amended]**

19. Section 369.42 paragraph (b) is amended by removing "34 CFR parts 371, 372, 373, 374, 375, 376, 378, or 379", and adding, in its place, "a program covered by this part".

**PART 371—VOCATIONAL REHABILITATION SERVICE PROJECTS FOR AMERICAN INDIANS WITH DISABILITIES**

20. The authority citation for Part 371 continues to read as follows:

Authority: 29 U.S.C. 711(c) and 750, unless otherwise noted.

**§ 371.30 [Removed]**

21. Section 371.30 is removed.

**PART 373—[REMOVED]**

22. Part 373 is removed.

**PART 375—[REMOVED]**

23. Part 375 is removed.

**PART 376—SPECIAL PROJECTS AND DEMONSTRATIONS FOR PROVIDING TRANSITIONAL REHABILITATION SERVICES TO YOUTH WITH DISABILITIES**

24. The authority citation for Part 376 continues to read as follows:

Authority: 29 U.S.C. 777a(b), unless otherwise noted.

**§ 376.31 [Removed]**

25. Section 376.31 is removed.

**PART 378—[REMOVED]**

26. Part 378 is removed.

**PART 380—SPECIAL PROJECTS AND DEMONSTRATIONS FOR PROVIDING SUPPORTED EMPLOYMENT SERVICES TO INDIVIDUALS WITH THE MOST SEVERE DISABILITIES AND TECHNICAL ASSISTANCE PROJECTS**

27. The authority citation for Part 380 continues to read as follows:

Authority: 29 U.S.C. 711(c) and 777a(c), unless otherwise noted.

28. Section 380.10 is revised to read as follows:

**§ 380.10 How does the Secretary evaluate an application?**

The Secretary evaluates an application under the procedures in 34 CFR Part 75.

(Authority: 29 U.S.C. 777a(c))

**§§ 380.11, 380.12, and 380.13 [Removed]**

29. Sections 380.11, 380.12, and 380.13 are removed.

30. Section 380.14 is revised to read as follows:

**§ 380.14 What other factors does the Secretary consider in reviewing an application?**

In addition to the selection criteria used in accordance with the procedures in 34 CFR Part 75, the Secretary, in making awards under this part, considers the geographical distribution of projects in each program category throughout the country.

(Authority: 29 U.S.C. 777a(a)(1) and 777a(c))

**PART 381—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS**

31. The authority citation for Part 381 continues to read as follows:

Authority: 29 U.S.C. 794e, unless otherwise noted.

32. Section 381.20 is revised to read as follows:

**§ 381.20 How does the Secretary evaluate an application?**

In any fiscal year in which the amount appropriated for the PAIR program is less than \$5,500,000, the Secretary evaluates applications under the procedures in 34 CFR Part 75.

(Authority: 29 U.S.C. 711(c) and 794e (b) and (f))

**§ 380.21 [Removed]**

33. Section 381.21 is removed.

**PART 385—REHABILITATION TRAINING**

34. The authority citation for Part 385 continues to read as follows:

Authority: 29 U.S.C. 711(c), 772, and 774, unless otherwise noted.

35. Section 385.31 is revised to read as follows:

**§ 385.31 How does the Secretary evaluate an application?**

(a) The Secretary evaluates applications under the procedures in 34 CFR Part 75.

(b) The Secretary evaluates each application using selection criteria identified in parts 386, 387, 388, 389 and 390, as appropriate.

(c) In addition to the selection criteria described in paragraph (b) of this section, the Secretary evaluates each application using—

(1) Selection criteria in 34 CFR 75.210;

(2) Selection criteria established under 34 CFR 75.209; or

(3) A combination of selection criteria established under 34 CFR 75.209 and selection criteria in 34 CFR 75.210.

(Authority: 29 U.S.C. 711(c))

**§ 385.32 [Removed]**

36. Section 385.32 is removed.

**§ 385.33 [Amended]**

37. Section 385.33 is amended by removing the number "385.32" in the introductory text and adding in its place the number "75.210".

**PART 386—REHABILITATION TRAINING: REHABILITATION LONG-TERM TRAINING**

38. The authority citation for Part 386 continues to read as follows:

Authority: 29 U.S.C. 711(c) and 774, unless otherwise noted.

39. Section 386.20 is revised to read as follows:

**§ 386.20 What additional selection criteria are used under this program?**

In addition to the criteria in 34 CFR 385.31(c), the Secretary uses the following additional selection criteria to evaluate an application:

(a) *Relevance to State-Federal rehabilitation service program.* (1) The Secretary reviews each application for information that shows that the proposed project appropriately relates to the mission of the State-Federal rehabilitation service program.

(2) The Secretary looks for information that shows that the project can be expected either—

(i) To increase the supply of trained personnel available to State and other public or nonprofit agencies involved in the rehabilitation of individuals with physical or mental disabilities through degree or certificate granting programs; or

(ii) To improve the skills and quality of professional personnel in the



rehabilitation field in which the training is to be provided through the granting of a degree or certificate.

(b) *Nature and scope of curriculum.*

(1) The Secretary reviews each application for information that demonstrates the adequacy of the proposed curriculum.

(2) The Secretary looks for information that shows—

(i) The scope and nature of the coursework reflect content that can be expected to enable the achievement of the established project objectives;

(ii) The curriculum and teaching methods provide for an integration of theory and practice relevant to the educational objectives of the program;

(iii) There is evidence of educationally focused practical and other field experiences in settings that ensure student involvement in the provision of vocational rehabilitation, supported employment, or independent living rehabilitation services to individuals with disabilities, especially individuals with severe disabilities;

(iv) The coursework includes student exposure to vocational rehabilitation, supported employment, or independent living rehabilitation processes, concepts, programs, and services; and

(v) If applicable, there is evidence of current professional accreditation by the designated accrediting agency in the professional field in which grant support is being requested.

(Authority: 29 U.S.C. 711(c) and 771a)

### **PART 387—EXPERIMENTAL AND INNOVATIVE TRAINING**

40. The authority citation for Part 387 continues to read as follows:

Authority: 29 U.S.C. 711(c) and 774, unless otherwise noted.

41. Section 387.30 is revised to read as follows:

#### **§ 387.30 What additional selection criteria are used under this program?**

In addition to the criteria in 34 CFR 385.31(c), the Secretary uses the following additional selection criteria to evaluate an application:

(a) *Relevance to State-Federal rehabilitation service program.* (1) The Secretary reviews each application for information that shows that the proposed project appropriately relates to the mission of the State-Federal rehabilitation service program.

(2) The Secretary looks for information that shows that the project can be expected either—

(i) To increase the supply of trained personnel available to public and private agencies involved in the

rehabilitation of individuals with disabilities; or

(ii) To maintain and improve the skills and quality of rehabilitation workers.

(b) *Nature and scope of curriculum.*

(1) The Secretary reviews each application for information that demonstrates the adequacy and scope of the proposed curriculum.

(2) The Secretary looks for information that shows that—

(i) The scope and nature of the training content can be expected to enable the achievement of the established project objectives of the training project;

(ii) The curriculum and teaching methods provide for an integration of theory and practice relevant to the educational objectives of the program;

(iii) There is evidence of educationally focused practicum or other field experiences in settings that assure student involvement in the provision of vocational rehabilitation or independent living rehabilitation services to individuals with disabilities, especially individuals with severe disabilities; and

(iv) The didactic coursework includes student exposure to vocational rehabilitation or independent living rehabilitation processes, concepts, programs, and services.

(Authority: 29 U.S.C. 711(c) and 774)

### **PART 388—STATE VOCATIONAL REHABILITATION UNIT IN-SERVICE TRAINING**

42. The authority citation for Part 388 continues to read as follows:

Authority: 29 U.S.C. 711(c) and 774, unless otherwise noted.

43. Section 388.20 is revised to read as follows:

#### **§ 388.20 What additional selection criterion is used under this program?**

In addition to the selection criteria in 34 CFR 385.31(c), the Secretary uses the following additional selection criteria to evaluate an application:

(a) *Evidence of need.* (1) The Secretary reviews each application for information that shows that the need for the in-service training has been adequately justified.

(2) The Secretary looks for information that shows—

(i) How the proposed project relates to the mission of the State-Federal rehabilitation service program and can be expected to improve the competence of all State vocational rehabilitation personnel in providing vocational rehabilitation services to individuals with disabilities that will result in

employment outcomes or otherwise contribute to more effective management of the State unit program;

(ii) That the State unit in-service training plan responds to needs identified in their training needs assessment and the proposed training relates to the unit's State plan, particularly the requirements in section 101(a)(7) of the Rehabilitation Act for each designated State unit to develop a comprehensive system of personnel development;

(iii) The need for in-service training methods and materials that will improve the effectiveness of services to individuals with disabilities assisted under the Rehabilitation Act and ensure employment outcomes; and

(iv) The State has conducted a needs assessment of the in-service training needs for all of the State unit employees.

(b) [Reserved.]

(Authority: 29 U.S.C. 711(c), 770, and 771a)

### **PART 389—REHABILITATION CONTINUING EDUCATION PROGRAMS**

44. The authority citation for Part 389 continues to read as follows:

Authority: 29 U.S.C. 711(c) and 774, unless otherwise noted.

45. Section 389.30 is revised to read as follows:

#### **§ 389.30 What additional selection criterion is used under this program?**

In addition to the criteria in 34 CFR 385.31(c), the Secretary uses the following additional selection criterion to evaluate an application:

(a) *Relevance to State-Federal rehabilitation service program.*

(1) The Secretary reviews each application for information that shows that the proposed project appropriately relates to the mission of the State-Federal rehabilitation service programs.

(2) The Secretary reviews each application for information that shows that the proposed project includes an assessment of the potential of existing programs within the geographical area (including State vocational rehabilitation unit in-service training) to meet the needs for which support is sought.

(3) The Secretary looks for information that shows that the proposed project can be expected to improve the competence of professional and other personnel in the rehabilitation agencies serving individuals with severe disabilities.

(6) [Reserved.]

(Authority: 29 U.S.C. 711(c))

**PART 390—REHABILITATION SHORT-TERM TRAINING**

46. The authority citation for Part 390 continues to read as follows:

Authority: 29 U.S.C. 711(c) and 774, unless otherwise noted.

47. Section 390.30 is revised to read as follows:

**§ 390.30 What additional selection criterion is used under this program?**

In addition to the criteria in 34 CFR 385.31(c), the Secretary uses the following additional selection criterion to evaluate an application:

(a) *Relevance to State-Federal rehabilitation service program.* (1) The Secretary reviews each application for information that shows that the proposed project appropriately relates to the mission of the State-Federal rehabilitation service programs.

(2) The Secretary looks for information that shows that the proposed project can be expected to improve the skills and competence of—

(i) Personnel engaged in the administration or delivery of rehabilitation services; and

(ii) Others with an interest in the delivery of rehabilitation services.

(b) [Reserved.]

(Authority: 29 U.S.C. 711(c) and 774)

**PART 396—TRAINING OF INTERPRETERS FOR INDIVIDUALS WHO ARE DEAF AND INDIVIDUALS WHO ARE DEAF-BLIND**

48. The authority citation for Part 396 continues to read as follows:

Authority: 29 U.S.C. 771a(f), unless otherwise noted.

49. Section 396.30 is revised to read as follows:

**§ 396.30 How does the Secretary evaluate an application?**

(a) The Secretary evaluates applications under the procedures in 34 CFR Part 75.

(b) The Secretary evaluates each application using selection criteria in § 396.31.

(c) In addition to the selection criteria described in paragraph (b) of this section, the Secretary evaluates each application using—

(1) Selection criteria in 34 CFR 75.210;

(2) Selection criteria established under 34 CFR 75.209; or

(3) A combination of selection criteria established under 34 CFR 75.209 and selection criteria in 34 CFR 75.210.

(Authority: 29 U.S.C. 771a(f))

50. Section 396.31 is revised to read as follows:

**§ 396.31 What additional selection criteria are used under this program?**

In addition to the criteria in 34 CFR 396.30(c), the Secretary uses the following additional selection criterion to evaluate an application:

(a) *Demonstrated relationships with service providers and consumers.* The Secretary reviews each application to determine the extent to which—

(1) The proposed interpreter training project was developed in consultation with service providers;

(2) The training is appropriate to the needs of both individuals who are deaf and individuals who are deaf-blind and to the needs of public and private agencies that provide services to either individuals who are deaf or individuals who are deaf-blind in the geographical area to be served by the training project;

(3) There is a working relationship between the interpreter training project and service providers; and

(4) There are opportunities for individuals who are deaf and individuals who are deaf-blind to be involved in the training project.

(Authority: 29 U.S.C. 771a(f))

**§ 396.32 [Amended]**

51. Section 396.32 is amended by adding after the number “396.31” the cross-reference “and 34 CFR 75.210”.

**PART 610—[REMOVED]**

52. Part 610 is removed.

**PART 612—[REMOVED]**

53. Part 612 is removed.

**PART 630—[REMOVED]**

54. Part 630 is removed, effective October 1, 1997.

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