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3. *Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)*—When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR Part 5—Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333)*—Where applicable, all contracts awarded by recipients in excess of $2,000 for construction contracts and in excess of $2500 for other contracts that involve the employment of mechanics or laborers must include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR Part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. *Rights to Inventions Made Under a Contract or Agreement*—Contracts or agreements for the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401—Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements, and any implementing regulations issued by the awarding agency.

6. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended*—Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to ED and the Regional Office of the Environmental Protection Agency (EPA).

7. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*—Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. The disclosures are forwarded from tier to tier up to the recipient.

8. *Debarment and Suspension (E.O. 12549 and E.O. 12689)*—No contract may be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O 12549 and E.O. 12689—Debarment and Suspension. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549.

Contractors with awards that exceed the small purchase threshold must provide the required certification regarding its exclusion status and that of its principal employees.

(Authority: 20 U.S.C. 1221e–3, 3474; OMB Circular A–110)

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AUTHORITY: 20 U.S.C. 1221e–3 and 3474, unless otherwise noted.

SOURCE: 45 FR 22497, Apr. 3, 1980, unless otherwise noted. Redesignated at 45 FR 77368, Nov. 21, 1980.

Subpart A—General

REGULATIONS THAT APPLY TO DIRECT GRANT PROGRAMS

§ 75.1 Programs to which part 75 applies.

(a) The regulations in part 75 apply to each direct grant program of the Department of Education.

(b) If a direct grant program does not have implementing regulations, the Secretary implements the program under the authorizing statute and, to the extent consistent with the authorizing statute, under the General Education Provisions Act and the regulations in this part. For the purposes of this part, the term ''direct grant program'' includes any grant program of the Department other than a program whose authorizing statute or implementing regulations provide a formula for allocating program funds among eligible States. With respect to Public Law 81–874 (the Impact Aid Program), the term ''direct grant program'' includes only the entitlement increase for children with disabilities under section 3(d)(2)(C) of Public Law 81–874 (20 U.S.C. 238(d)(2)(C) and disaster assistance under section 7 of that law (20 U.S.C. 241–1).

NOTE: See part 76 for the general regulations that apply to programs that allocate funds among eligible States. For a description of the two kinds of direct grant programs see § 75.200. Paragraph (b) of that section describes discretionary grant programs. Paragraph (c) of that section describes formula grant programs. Also see §§ 75.201, 75.209, and 75.210 for the selection criteria for discretionary grant programs that do not have implementing regulations or whose implementing regulations do not include selection criteria.

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

[45 FR 22497, Apr. 3, 1980, as amended at 45 FR 28669, Apr. 29, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 45 FR 84059, Dec. 22, 1980, 50 FR 29330, July 18, 1985; 52 FR 27803, July 24, 1987; 57 FR 30336, July 8, 1992; 60 FR 63873, Dec. 12, 1995]

§ 75.2 Exceptions in program regulations to part 75.

If a program has regulations that are not consistent with part 75, the implementing regulations for that program identify the sections of part 75 that do not apply.

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

§ 75.4 Department contracts.

(a) A Federal contract made by the Department is governed by—

(1) Chapters 1 and 34 of title 48 of the Code of Federal Regulations (Federal Acquisition Regulation and Education Department Acquisition Regulation).

(2) Any applicable program regulations; and

(3) The request for proposals for the procurement, if any, referenced in *Commerce Business Daily*.

(b) The regulations in part 75 do not apply to a contract of the Department unless regulations in part 75 or a program's regulations specifically provide otherwise.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 57 FR 30336, July 8, 1992]

ELIGIBILITY FOR A GRANT

§ 75.50 How to find out whether you are eligible.

Eligibility to apply for a grant under a program of the Department is governed by the authorizing statute and implementing regulations for that program.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 52 FR 27803, July 24, 1987]

§ 75.51 How to prove nonprofit status.

(a) Under some programs, an applicant must show that it is a nonprofit organization. (See the definition of *nonprofit* in 34 CFR 77.1.)

(b) An applicant may show that it is a nonprofit organization by any of the following means:

(1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code;

(2) A statement from a State taxing body or the State attorney general certifying that:

(i) The organization is a nonprofit organization operating within the State; and

(ii) No part of its net earnings may lawfully benefit any private shareholder or individual;

(3) A certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or

(4) Any item described in paragraphs (b) (1) through (3) of this section if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

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

§ 75.52 Eligibility of faith-based organizations for a grant.

(a)(1) A faith-based organization is eligible to apply for and to receive a grant under a program of the Department on the same basis as any other private organization, with respect to programs for which such other organizations are eligible.

(2) In the selection of grantees, the Department shall not discriminate for or against a private organization on the basis of the organization's religious character or affiliation.

(b) The provisions of § 75.532 apply to a faith-based organization that receives a grant under a program of the Department.

(c) A private organization that engages in inherently religious activities, such as religious worship, instruction, or proselytization, must offer those services separately in time or location from any programs or services supported by a grant from the Department, and participation in any such inherently religious activities by beneficiaries of the programs supported by the grant must be voluntary.

(d)(1) A faith-based organization that applies for or receives a grant under a program of the Department may retain its independence, autonomy, right of expression, religious character, and authority over its governance.

(2) A faith-based organization may, among other things—

(i) Retain religious terms in its name;

(ii) Continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs;

(iii) Use its facilities to provide services without removing or altering religious art, icons, scriptures, or other symbols from these facilities;

(iv) Select its board members and otherwise govern itself on a religious basis; and

(v) Include religious references in its mission statement and other chartering or governing documents.

(e) A private organization that receives a grant under a program of the Department shall not discriminate against a beneficiary or prospective beneficiary in the provision of program services on the basis of religion or religious belief.

(f) If a grantee contributes its own funds in excess of those funds required by a matching or grant agreement to supplement federally funded activities, the grantee has the option to segregate those additional funds or commingle

them with the funds required by the matching requirements or grant agreement. However, if the additional funds are commingled, this section applies to all of the commingled funds.

(g) A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, in section 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e-1, is not forfeited when the organization receives financial assistance from the Department.

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

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

[69 FR 31710, June 4, 2004]

INELIGIBILITY OF CERTAIN INDIVIDUALS TO RECEIVE ASSISTANCE

SOURCE: Sections 75.60 through 75.62 appear at 57 FR 30337, July 8, 1992, unless otherwise noted.

§ 75.60 Individuals ineligible to receive assistance.

(a) An individual is ineligible to receive a fellowship, scholarship, or discretionary grant funded by the Department if the individual—

(1) Is not current in repaying a debt or is in default, as that term is used in 34 CFR part 668, on a debt—

(i) Under a program listed in paragraph (b) of this section; or

(ii) To the Federal Government under a nonprocurement transaction; and

(2) Has not made satisfactory arrangements to repay the debt.

(b) An individual who is not current in repaying a debt, or is in default, as that term is used in 34 CFR part 668, on a debt under a fellowship, scholarship, discretionary grant, or loan program, as included in the following list, and who has not made satisfactory arrangements to repay the debt, is ineligible under paragraph (a) of this section:

(1) A grant awarded under the Pell Grant (20 U.S.C. 1070a, *et seq.*), National Early Intervention Scholarship and Partnership (NEISP) Program (20 U.S.C. 1070a–21, *et seq.*), Supplemental Educational Opportunity Grant (SEOG) (20 U.S.C. 1070b, *et seq.*), or State Student Incentive Grant (SSIG) (20 U.S.C. 1070c, *et seq.*) program, or a scholarship awarded under the Robert C. Byrd Honors Scholarship Program (20 U.S.C. 1070d–31, *et seq.*), a fellowship awarded under the Jacob K. Javits Fellows Program (20 U.S.C. 1134h–1134k), or a fellowship awarded under the Patricia Roberts Harris Fellowship Program (20 U.S.C. 1134d–1134f).

(2) A fellowship awarded under the Christa McAuliffe Fellowship Program (20 U.S.C. 1113–1113e), the Bilingual Education Fellowship Program (20 U.S.C. 3221–3262), or the Rehabilitation Long-Term Training Program (29 U.S.C. 774(b)).

(3) A loan made under the Perkins Loan Program (20 U.S.C. 1087aa, *et seq.*), the Income Contingent Direct Loan Demonstration Project (20 U.S.C. 1087a, *et seq.*), the Stafford Loan Program, Supplemental Loans for Students (SLS), PLUS, or Consolidation Loan Program (20 U.S.C. 1071, *et seq.*), or the Cuban Student Loan Program (22 U.S.C. 2601, *et seq.*).

(4) A scholarship or repayment obligation incurred under the Paul Douglas Teacher Scholarship Program (20 U.S.C. 1111, *et seq.*).

(5) A grant, or a loan, made under the Law Enforcement Education Program (42 U.S.C. 3775).

(6) A stipend awarded under the Indian Fellowship Program (29 U.S.C. 774(b)).

(7) A scholarship awarded under the Teacher Quality Enhancement Grants Program (20 U.S.C. 1021 *et seq.*).

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

[57 FR 30337, July 8, 1992, as amended at 59 FR 24870, May 12, 1994; 65 FR 19609, Apr. 11, 2000]

§ 75.61 Certification of eligibility; effect of ineligibility.

(a) An individual who applies for a fellowship, scholarship, or discretionary grant from the Department shall provide with his or her application a certification under the penalty of perjury—

(1) That the individual is eligible under § 75.60; and

(2) That the individual has not been debarred or suspended by a judge under section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a).

(b) The Secretary specifies the form of the certification required under paragraph (a) of this section.

(c) The Secretary does not award a fellowship, scholarship, or discretionary grant to an individual who—

(1) Fails to provide the certification required under paragraph (a) of this section; or

(2) Is ineligible, based on information available to the Secretary at the time the award is made.

(d) If a fellowship, scholarship, or discretionary grant is made to an individual who provided a false certification under paragraph (a) of this section, the individual is liable for recovery of the funds made available under the certification, for civil damages or penalties imposed for false representation, and for criminal prosecution under 18 U.S.C. 1001.

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

§ 75.62 Requirements applicable to entities making certain awards.

(a) An entity that provides a fellowship, scholarship, or discretionary grant to an individual under a grant from, or an agreement with, the Secretary shall require the individual who applies for such an award to provide with his or her application a certification under the penalty of perjury—

(1) That the individual is eligible under § 75.60; and

(2) That the individual has not been debarred or suspended by a judge under section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a).

(b) An entity subject to this section may not award a fellowship, scholarship, or discretionary grant to an individual if—

(1) The individual fails to provide the certification required under paragraph (a) of this section; or

(2) The Secretary informs the entity that the individual is ineligible under § 75.60.

(c) If a fellowship, scholarship, or discretionary grant is made to an individual who provided a false certification under paragraph (a) of this section, the individual is liable for recovery of the funds made available under the certification, for civil damages or penalties imposed for false representation, and for criminal prosecution under 18 U.S.C. 1001.

(d) The Secretary may require an entity subject to this section to provide a list of the individuals to whom fellowship, scholarship, or discretionary grant awards have been made or are proposed to be made by the entity.

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

Subpart B [Reserved]

Subpart C—How To Apply for a Grant

THE APPLICATION NOTICE

§ 75.100 Publication of an application notice; content of the notice.

(a) Each fiscal year the Secretary publishes application notices in the FEDERAL REGISTER that explain what kind of assistance is available for new grants under the programs that the Secretary administers.

(b) The application notice for a program explains one or more of the following:

(1) How to apply for a new grant.

(2) If preapplications are used under the program, how to preapply for a new grant.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 45 FR 86297, Dec. 30, 1980; 51 FR 20824, June 9, 1986; 59 FR 30261, June 10, 1994]

§ 75.101 Information in the application notice that helps an applicant apply.

(a) The Secretary may include such information as the following in an application notice:

(1) How an applicant can get an application package that contains:

(i) Information about the program; and

(ii) The application form that the applicant must use.

(2) The amount of funds available for grants, the estimated number of those grants, the estimated amounts of those grants and, if appropriate, the maximum award amounts of those grants.

(3) If the Secretary plans to approve multi-year projects, the project period that will be approved.

(4) Any priorities established by the Secretary for the program for that year and the method the Secretary will

use to implement the priorities. (See § 75.105 *Annual priorities.*)

(5) Where to find the regulations that apply to the program.

(6) The statutory authority for the program.

(7) The deadlines established under § 75.102 (Deadline date for applications.) and 34 CFR 79.8 (How does the Secretary provide States an opportunity to comment on proposed Federal financial assistance?)

(b) If the Secretary either requires or permits preapplications under a program, an application notice for the program explains how an applicant can get the preapplication form.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 45 FR 84059, Dec. 22, 1980; 46 FR 3205, Jan. 14, 1981; 51 FR 20824, June 9, 1986; 51 FR 21164, June 11, 1986; 60 FR 63873, Dec. 12, 1995; 61 FR 8455, Mar. 4, 1996]

CROSS REFERENCE: See 34 CFR 77.1—definitions of ''budget period'' and ''project period.''

§ 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.

(c) [Reserved]

(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:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(e) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

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

NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

[45 FR 22497, Apr. 3, 1980, as amended at 51 FR 20824, June 9, 1986; 69 FR 41201, July 8, 2004]

§ 75.103 Deadline date for preapplications.

(a) If the Secretary invites or requires preapplications under a program, the application notice for the program sets a deadline date for preapplications.

(b) An applicant shall submit its preapplication in accordance with the procedures for applications in § 75.102(b) and (d).

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

§ 75.104 Applicants must meet procedural rules.

(a) The Secretary may make a grant only to an eligible party that submits an application.

(b) If a maximum award amount is established in a notice published in the FEDERAL REGISTER, the Secretary may reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount.

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

[61 FR 8455, Mar. 4, 1996]

§ 75.105 Annual priorities.

(a) *What programs are covered by this section?* This section applies to any program for which the Secretary establishes priorities for selection of applications in a particular fiscal year.

(b) *How does the Secretary establish annual priorities?* (1) The Secretary establishes final annual priorities by publishing the priorities in a notice in the FEDERAL REGISTER, usually in the application notice for that program.

(2) The Secretary publishes proposed annual priorities for public comment, unless:

(i) The final annual priorities will be implemented only by inviting applications that meet the priorities (Cross-reference: See 34 CFR 75.105(c)(1));

(ii) The final annual priorities are chosen from a list of priorities already established in the program's regulations;

(iii) Publishing proposed annual priorities would seriously interfere with an orderly, responsible grant award process or would otherwise be impracticable, unnecessary, or contrary to the public interest;

(iv) The program statute requires or authorizes the Secretary to establish specified priorities; or

(v) The annual priorities are chosen from allowable activities specified in the program statute.

(c) *How does the Secretary implement an annual priority?* The Secretary may choose one or more of the following methods to implement an annual priority:

(1) *Invitations.* The Secretary may simply invite applications that meet a priority. If the Secetary chooses this method, an application that meets the priority receives no competitive or absolute preference over applications that do not meet the priority.

(2) *Competitive preference.* The Secretary may give one of the following kinds of competitive preference to applications that meet a priority.

(i) The Secretary may award some or all bonus points to an application depending on the extent to which the application meets the priority. These points are in addition to any points the applicant earns under the selection criteria (see § 75.200(b)). The notice states the maximum number of additional points that the Secretary may award to an application depending upon how well the application meets the priority.

(ii) The Secretary may select an application that meets a priority over an application of comparable merit that does not meet the priority.

(3) *Absolute preference.* The Secretary may give an absolute preference to applications that meet a priority. The Secretary establishes a separate competition for applications that meet the priority and reserves all or part of a program's funds solely for that competition. The Secretary may adjust the amount reserved for the priority after determining the number of high quality applications received.

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

[46 FR 3205, Jan. 14, 1981, as amended at 57 FR 30337, July 8, 1992; 60 FR 63873, Dec. 12, 1995]

APPLICATION CONTENTS

CROSS REFERENCE: See § 75.200 for a description of discretionary and formula grant programs.

§ 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.

(b) An applicant may make changes to its application on or before the deadline date for submitting applications under the program.

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

CROSS REFERENCE: See § 75.200 How applications for new grants are selected for funding.

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 69 FR 41201, July 8, 2004]

§ 75.112 Include a proposed project period and a timeline.

(a) An application must propose a project period for the project.

(b) An application must include a narrative that describes how and when, in each budget period of the project, the applicant plans to meet each objective of the project.

(Approved by the Office of Management and Budget under control number 1875–0102)

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 59 FR 30261, June 10, 1994]

§ 75.117 Information needed for a multi-year project.

An applicant that proposes a multi-year project shall include in its application:

(a) Information that shows why a multi-year project is needed;

(b) A budget narrative accompanied by a budget form prescribed by the Secretary, that provides budget information for each budget period of the proposed project period.

(Approved by the Office of Management and Budget under control number 1875–0102)

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 59 FR 30261, June 10, 1994]

§ 75.118 Requirements for a continuation award.

(a) A recipient that wants to receive a continuation award shall submit a performance report that provides the most current performance and financial expenditure information, as directed by the Secretary, that is sufficient to meet the reporting requirements of 34 CFR 74.51, 75.590, 75.720, and 80.40.

(b) If a recipient fails to submit a performance report that meets the requirements of paragraph (a) of this section, the Secretary denies continued funding for the grant.

(Approved by the Office of Management and Budget under control number 1875–0102)

(Authority: 20 U.S.C. 1221e–3(a)(1) and 3474)

CROSS REFERENCE: See § 75.117 Information needed for a multi-year project, and §§ 75.250 through 75.253 Approval of multi-year projects, § 75.590 Evaluation by the recipient, § 75.720 Financial and performance reports, § 74.51 Monitoring and reporting program performance, and § 80.40 Monitoring and reporting program performance.

[59 FR 30261, June 10, 1994, as amended at 64 FR 50391, Sept. 16, 1999]

§ 75.119 Information needed if private school students participate.

If a program requires the applicant to provide an opportunity for participation of students enrolled in private schools, the application must include the information required of subgrantees under 34 CFR 76.656.

(Approved by the Office of Management and Budget under control number 1880–0513)

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 53 FR 49143, Dec. 6, 1988]

SEPARATE APPLICATIONS—ALTERNATIVE PROGRAMS

§ 75.125 Submit a separate application to each program.

An applicant shall submit a separate application to each program under which it wants a grant.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 52 FR 27803, July 24, 1987; 60 FR 46493, Sept. 6, 1995]

§ 75.126 Application must list all programs to which it is submitted.

If an applicant is submitting an application for the same project under more than one Federal program, the applicant shall list these programs in its application. The Secretary uses this information to avoid duplicate grants for the same project.

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

GROUP APPLICATIONS

§ 75.127 Eligible parties may apply as a group.

(a) Eligible parties may apply as a group for a grant.

(b) Depending on the program under which a group of eligible parties seeks assistance, the term used to refer to the group may vary. The list that follows contains some of the terms used to identify a group of eligible parties:

(1) Combination of institutions of higher education.

(2) Consortium.

(3) Joint applicants.

(4) Cooperative arrangements.

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

§ 75.128 Who acts as applicant; the group agreement.

(a) If a group of eligible parties applies for a grant, the members of the group shall either:

(1) Designate one member of the group to apply for the grant; or

(2) Establish a separate, eligible legal entity to apply for the grant.

(b) The members of the group shall enter into an agreement that:

(1) Details the activities that each member of the group plans to perform; and

(2) Binds each member of the group to every statement and assurance made by the applicant in the application.

(c) The applicant shall submit the agreement with its application.

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

§ 75.129 Legal responsibilities of each member of the group.

(a) If the Secretary makes a grant to a group of eligible applicants, the applicant for the group is the grantee and is legally responsible for:

(1) The use of all grant funds;

(2) Ensuring that the project is carried out by the group in accordance with Federal requirements; and

(3) Ensuring that indirect cost funds are determined as required under § 75.564(e).

(b) Each member of the group is legally responsible to:

(1) Carry out the activities it agrees to perform; and

(2) Use the funds that it receives under the agreement in accordance with Federal requirements that apply to the grant.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 59 FR 59581, Nov. 17, 1994]

STATE COMMENT PROCEDURES

§ 75.155 Review procedures if State may comment on applications: Purpose of §§ 75.156–75.158.

If the authorizing statute for a program requires that a specific State agency be given an opportunity to comment on each application, the State and the applicant shall use the procedures in §§ 75.156–75.158 for that purpose.

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

CROSS REFERENCE: See 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities) for the regulations implementing the application review procedures that States may use under E.O. 12372.

[57 FR 30338, July 8, 1992]

§ 75.156 When an applicant under § 75.155 must submit its application to the State; proof of submission.

(a) Each applicant under a program covered by § 75.155 shall submit a copy of its application to the State on or before the deadline date for submitting its application to the Department.

(b) The applicant shall attach to its application a copy of its letter that requests the State to comment on the application.

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

§ 75.157 The State reviews each application.

A State that receives an application under § 75.156 may review and comment on the application.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 3474)

§ 75.158 Deadlines for State comments.

(a) The Secretary may establish a deadline date for receipt of State comments on applications.

(b) The State shall make its comments in a written statement signed by an appropriate State official.

(c) The appropriate State official shall submit comments to the Secretary by the deadline date for State comments. The procedures in § 75.102 (b) and (d) (how to meet a deadline) of this part apply to this submission.

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

§ 75.159 Effect of State comments or failure to comment.

(a) The Secretary considers those comments of the State that relate to:

(1) Any selection criterion that applies under the program; or

(2) Any other matter that affects the selection of projects for funding under the program.

(b) If the State fails to comment on an application on or before the deadline date for the appropriate program, the State waives its right to comment.

(c) If the applicant does not give the State an opportunity to comment, the Secretary does not select that project for a grant.

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

DEVELOPMENT OF CURRICULA OR INSTRUCTIONAL MATERIALS

§ 75.190 Consultation.

Each applicant that intends to develop curricula or instructional materials under a grant is encouraged to assure that the curricula or materials will be developed in a manner conducive to dissemination, through continuing consultations with publishers, personnel of State and local educational agencies, teachers, administrators, community representatives, and other individuals experienced in dissemination.

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

§ 75.191 Consultation costs.

An applicant may budget reasonable consultation fees or planning costs in connection with the development of curricula or instructional materials.

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

§ 75.192 Dissemination.

If an applicant proposes to publish and disseminate curricula or instructional materials under a grant, the applicant shall include an assurance in its application that the curricula or materials will reach the populations for which the curricula or materials were developed.

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

Subpart D—How Grants Are Made

SELECTION OF NEW PROJECTS

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

(a) *Direct grant programs.* The Department administers two kinds of direct grant programs. A direct grant program is either a discretionary grant or a formula grant program.

(b) *Discretionary grant programs.* (1) A discretionary grant program is one that permits the Secretary to use discretionary judgment in selecting applications for funding.

CROSS REFERENCE: See § 75.219 Exceptions to the procedures under § 75.217.

(2) The Secretary uses selection criteria to evaluate the applications submitted for new grants under a discretionary grant program.

(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.

(4) The Secretary may award a cooperative agreement instead of a grant if the Secretary determines that substantial involvement between the Department and the recipient is necessary to carry out a collaborative project.

(5) The Secretary uses the selection procedures in this subpart to select recipients of cooperative agreements.

(c) *Formula grant programs.* (1) A formula grant program is one that entitles certain applicants to receive grants if they meet the requirements of the program. Applicants do not compete with each other for the funds, and each grant is either for a set amount or for an amount determined under a formula.

(2) The Secretary applies the program statute and regulations to fund projects under a formula grant program.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 52 FR 27803, July 24, 1987; 57 FR 30338, July 8, 1992; 60 FR 63873, Dec. 12, 1995; 62 FR 10401, Mar. 6, 1997]

§ 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)

[62 FR 10401, Mar. 6, 1997]

§§ 75.202–75.206 [Reserved]

§ 75.209 Selection criteria based on statutory provisions.

(a) The Secretary may evaluate applications by—

(1) Establishing selection criteria based on statutory provisions that apply to the authorized program, which may include, but are not limited to—

(i) Specific statutory selection criteria;

(ii) Allowable activities;

(iii) Application content requirements; or

(iv) Other pre-award and post-award conditions; and

(2) Assigning the maximum possible score for each of the criteria established under paragraph (a)(1) of this section.

(b) The Secretary evaluates an application by determining how well the project proposed by the applicant meets each statutory provision selected under paragraph (a)(1) of this section.

Example: If a program statute requires that each application address how the applicant will serve the needs of limited English proficient children, under § 75.209 the Secretary could establish a criterion and evaluate applications based on how well the applicant's proposed project meets that statutory provision. The Secretary might decide to award up to 10 points for this criterion. Applicants who have the best proposals to serve the needs of limited English proficient children would score highest under the criterion in this example.

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

[60 FR 63873, Dec. 12, 1995, as amended at 62 FR 10401, Mar. 6, 1997]

§ 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)

[62 FR 10401, Mar. 6, 1997]

§ 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)

[62 FR 10403, Mar. 6, 1997]

SELECTION PROCEDURES

§ 75.215 How the Department selects a new project: purpose of §§ 75.216–75.222.

Sections 75.216–75.222 describe the process the Secretary uses to select applications for new grants. All of these sections apply to a discretionary grant program. However, only § 75.216 applies also to a formula grant program.

CROSS REFERENCE: See § 75.200(b) Discretionary grant program, and (c) Formula grant program.

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

§ 75.216 Applications not evaluated for funding.

The Secretary does not evaluate an application if—

(a) The applicant is not eligible;

(b) The applicant does not comply with all of the procedural rules that govern the submission of the application;

(c) The application does not contain the information required under the program; or

(d) The proposed project cannot be funded under the authorizing statute or implementing regulations for the program.

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

[57 FR 30338, July 8, 1992]

§ 75.217 How the Secretary selects applications for new grants.

(a) The Secretary selects applications for new grants on the basis of the authorizing statute, the selection criteria, and any priorities or other requirements that have been published in the FEDERAL REGISTER and apply to the selection of those applications.

(b)(1) The Secretary may use experts to evaluate the applications submitted under a program.

(2) These experts may include persons who are not employees of the Federal Government.

(c) The Secretary prepares a rank order of the applications based solely

on the evaluation of their quality according to the selection criteria.

(d) The Secretary then determines the order in which applications will be selected for grants. The Secretary considers the following in making these determinations:

(1) The information in each application.

(2) The rank ordering of the applications.

(3) Any other information—

(i) Relevant to a criterion, priority, or other requirement that applies to the selection of applications for new grants;

(ii) Concerning the applicant's performance and use of funds under a previous award under any Department program; and

(iii) Concerning the applicant's failure under any Department program to submit a performance report or its submission of a performance report of unacceptable quality.

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

[52 FR 27804, July 24, 1987, as amended at 62 FR 4167, Jan. 29, 1997]

§ 75.218 Applications not evaluated or selected for funding.

(a) The Secretary informs an applicant if its application—

(1) Is not evaluated; or

(2) Is not selected for funding.

(b) If an applicant requests an explanation of the reason its application was not evaluated or selected, the Secretary provides that explanation.

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

[57 FR 30338, July 8, 1992]

§ 75.219 Exceptions to the procedures under § 75.217.

The Secretary may select an application for funding without following the procedures in § 75.217 if:

(a) The objectives of the project cannot be achieved unless the Secretary makes the grant before the date grants can be made under the procedures in § 75.217;

(b)(1) The application was evaluated under the preceding competition of the program;

(2) The application rated high enough to deserve selection under § 75.217; and

(3) The application was not selected for funding because the application was mishandled by the Department; or

(c) The Secretary receives an unsolicited application that meets the requirements of § 75.222.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 52 FR 27804, July 24, 1987; 60 FR 12096, Mar. 3, 1995]

§ 75.220 Procedures the Department uses under § 75.219(a).

If the special circumstances of § 75.219(a) appear to exist for an application, the Secretary uses the following procedures:

(a) The Secretary assembles a board to review the application.

(b) The board consists of:

(1) A program officer of the program under which the applicant wants a grant;

(2) An employee from the Office of the Chief Financial Officer (OCFO) with responsibility for grant policy; and

(3) A Department employee who is not a program officer of the program but who is qualified to evaluate the application.

(c) The board reviews the application to decide if:

(1) The special circumstances under § 75.219(a) are satisfied;

(2) The application rates high enough, based on the selection criteria, priorities, and other requirements that apply to the program, to deserve selection; and

(3) Selection of the application will not have an adverse impact on the budget of the program.

(d) The board forwards the results of its review to the Secretary.

(e) If each of the conditions in paragraph (c) of this section is satisfied, the Secretary may select the application for funding.

(f) Even if the Secretary does not select the application for funding, the applicant may submit its application under the procedures in Subpart C of this part.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 45 FR 86297, Dec. 30, 1980; 64 FR 50391, Sept. 16, 1999]

§ 75.221 Procedures the Department uses under § 75.219(b).

If the special circumstances of § 75.219(b) appear to exist for an application, the Secretary may select the application for funding if:

(a) The Secretary has documentary evidence that the special circumstances of § 75.219(b) exist; and

(b) The Secretary has a statement that explains the circumstances of the mishandling.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 3474)

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 52 FR 27804, July 24, 1987. Redesignated at 60 FR 12096, Mar. 3, 1995]

§ 75.222 Procedures the Department uses under § 75.219(c).

If the Secretary receives an unsolicited application, the Secretary may consider the application under the following procedures unless the Secretary has published a notice in the FEDERAL REGISTER stating that the program that would fund the application would not consider unsolicited applications:

(a)(1) The Secretary determines whether the application could be funded under a competition planned or conducted for the fiscal year under which funds would be used to fund the application.

(2)(i) If the application could be funded under a competition described in paragraph (a)(1) of this section and the deadline for submission of applications has not passed, the Secretary refers the application to the appropriate competition for consideration under the procedures in § 75.217.

(ii)(A) If the application could have been funded under a competition described in paragraph (a)(1) of this section and the deadline for submission of applications has passed, the Secretary may consider the application only in exceptional circumstances, as determined by the Secretary.

(B) If the Secretary considers an application under paragraph (a)(2)(ii) of this section, the Secretary considers the application under paragraphs (b) through (e) of this section.

(iii) If the application could not be funded under a competition described in paragraph (a)(1) of this section, the Secretary considers the application under paragraphs (b) through (e) of this section.

(b) If an application may be considered under paragraphs (a)(2)(ii) or (iii) of this section, the Secretary determines if—

(1) There is a substantial likelihood that the application is of exceptional quality and national significance for a program administered by ED;

(2) The application meets the requirements of all applicable statutes and codified regulations that apply to the program; and

(3) Selection of the project will not have an adverse impact on the funds available for other awards planned for the program.

(c) If the Secretary determines that the criteria in paragraph (b) of this section have been met, the Secretary assembles a panel of experts that does not include any employees of the Department to review the application.

(d) The experts—

(1) Evaluate the application based on the selection criteria; and

(2) Determine whether the application is of such exceptional quality and national significance that it should be funded as an unsolicited application.

(e) If the experts highly rate the application and determine that the application is of such exceptional quality and national significance that it should be funded as an unsolicited application, the Secretary may fund the application.

NOTE TO § 75.222: To assure prompt consideration, applicants submitting unsolicited applications should send the application, marked ''Unsolicited Application'' on the outside, to the Chief, Application Control Center, U.S. Department of Education, Washington, DC 20202–4725.

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

[60 FR 12096, Mar. 3, 1995]

§ 75.223 [Reserved]

§ 75.224 What are the procedures for using a multiple tier review process to evaluate applications?

(a) The Secretary may use a multiple tier review process to evaluate applications.

(b) The Secretary may refuse to review applications in any tier that do

not meet a minimum cut-off score established for the prior tier.

(c) The Secretary may establish the minimum cut-off score—

(1) In the application notice published in the FEDERAL REGISTER; or

(2) After reviewing the applications to determine the overall range in the quality of applications received.

(d) The Secretary may, in any tier—

(1) Use more than one group of experts to gain different perspectives on an application; and

(2) Refuse to consider an application if the application is rejected under paragraph (b) of this section by any one of the groups used in the prior tier.

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

[66 FR 60138, Nov. 30, 2001]

§ 75.225 What procedures does the Secretary use if the Secretary decides to give special consideration to novice applications?

(a) As used in this section, ''novice applicant'' means—

(1) Any applicant for a grant from ED that—

(i) Has never received a grant or subgrant under the program from which it seeks funding;

(ii) Has never been a member of a group application, submitted in accordance with §§ 75.127–75.129, that received a grant under the program from which it seeks funding; and

(iii) Has not had an active discretionary grant from the Federal Government in the five years before the deadline date for applications under the program.

(2) In the case of a group application submitted in accordance with §§ 75.127–75.129, a group that includes only parties that meet the requirements of paragraph (a)(1) of this section.

(b) For the purposes of paragraph (a)(1)(iii) of this section, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

(c) If the Secretary determines that special consideration of novice applications is appropriate, the Secretary may either—

(1) Establish a separate competition for novice applicants; or

(2) Give competitive preference to novice applicants under the procedures in 34 CFR 75.105(c)(2).

(d) Before making a grant to a novice applicant, the Secretary imposes special conditions, if necessary, to ensure the grant is managed effectively and project objectives are achieved.

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

[66 FR 60138, Nov. 30, 2001; 67 FR 4316, Jan. 29, 2002]

PROCEDURES TO MAKE A GRANT

§ 75.230 How the Department makes a grant; purpose of §§ 75.231–75.236.

If the Secretary selects an application under §§ 75.217, 75.220, or 75.222, the Secretary follows the procedures in §§ 75.231–75.236 to set the amount and determine the conditions of a grant. Sections 75.235–75.236 also apply to grants under formula grant programs.

CROSS REFERENCE: See § 75.200 How applications for new grants are selected for funding.

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

§ 75.231 Additional information.

After selecting an application for funding, the Secretary may require the applicant to submit additional information.

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

§ 75.232 The cost analysis; basis for grant amount.

(a) Before the Secretary sets the amount of a new grant, the Secretary does a cost analysis of the project. The Secretary:

(1) Verifies the cost data in the detailed budget for the project;

(2) Evaluates specific elements of costs; and

(3) Examines costs to determine if they are necessary, reasonable, and allowable under applicable statutes and regulations.

(b) The Secretary uses the cost analysis as a basis for determining the amount of the grant to the applicant. The cost analysis shows whether the applicant can achieve the objectives of the project with reasonable efficiency

and economy under the budget in the application.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 59 FR 30261, June 10, 1994]

§ 75.233 Setting the amount of the grant.

(a) Subject to any applicable matching or cost-sharing requirements, the Secretary may fund up to 100 percent of the allowable costs in the applicant's budget.

(b) In deciding what percentage of the allowable costs to fund, the Secretary may consider any other financial resources available to the applicant.

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

[57 FR 30338, July 8, 1992]

§ 75.234 The conditions of the grant.

(a) The Secretary makes a grant to an applicant only after determining—

(1) The approved costs; and

(2) Any special conditions.

(b) In awarding a cooperative agreement, the Secretary includes conditions that state the explicit character and extent of anticipated collaboration between the Department and the recipient.

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

[57 FR 30338, July 8, 1992]

§ 75.235 The notification of grant award.

(a) To make a grant, the Secretary issues a notification of grant award and sends it to the grantee.

(b) The notification of grant award sets the amount of the grant award and establishes other specific conditions, if any.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 57 FR 30338, July 8, 1992]

§ 75.236 Effect of the grant.

The grant obligates both the Federal Government and the grantee to the requirements that apply to the grant.

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

CROSS REFERENCE: See 34 CFR part 74, Subpart L—Programmatic Changes and Budget Revisions.

APPROVAL OF MULTI-YEAR PROJECTS

§ 75.250 Project period can be up to 60 months.

The Secretary may approve a project period of up to 60 months.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 52 FR 27804, July 24, 1987]

§ 75.251 The budget period.

(a) The Secretary usually approves a budget period of not more than 12 months, even if the project has a multi-year project period.

(b) If the Secretary approves a multi-year project period, the Secretary:

(1) Makes a grant to the project for the initial budget period; and

(2) Indicates his or her intention to make contination awards to fund the remainder of the project period.

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

§ 75.253 Continuation of a multi-year project after the first budget period.

(a) The Secretary may make a continuation award for a budget period after the first budget period of an approved multi-year project if:

(1) The Congress has appropriated sufficient funds under the program;

(2) The recipient has either—

(i) Made substantial progress toward meeting the objectives in its approved application; or

(ii) Obtained the Secretary's approval of changes in the project that—

(A) Do not increase the cost of the grant; and

(B) Enable the recipient to meet those objectives in succeeding budget periods;

(3) The recipient has submitted all reports as required by § 75.118, and

(4) Continuation of the project is in the best interest of the Federal Government.

(b) Subject to the criteria in paragraph (a) of this section, in selecting applications for funding under a program the Secretary gives priority to contination awards over new grants.

(c)(1) Notwithstanding any regulatory requirements in 34 CFR part 80, a grantee may expend funds that have not been obligated at the end of a budget period for obligations of the subsequent budget period if—

(i) The obligation is for an allowable cost that falls within the scope and objectives of the project; and

(ii) ED regulations other than 34 CFR part 80, statutes, or the conditions of the grant do not prohibit the obligation.

NOTE: See 34 CFR 74.25(e)(2).

(2) The Secretary may—

(i) Require the grantee to send a written statement describing how the funds made available under this section will be used; and

(ii) Determine the amount of new funds that the Department will make available for the subsequent budget period after considering the statement the grantee provides under paragraph (c)(2)(i) of this section or any other information available to the Secretary about the use of funds under the grant.

(3) In determining the amount of new funds to make available to a grantee under this section, the Secretary considers whether the unobligated funds made available are needed to complete activities that were planned for completion in the prior budget period.

(d)(1) If the Secretary decides, under this section, not to make a continuation award, the Secretary may authorize a no-cost extension of the last budget period of the grant in order to provide for the orderly closeout of the grant.

(2) If the Secretary makes a continuation award under this section—

(i) The Secretary makes the award under §§ 75.231–75.236; and

(ii) The new budget period begins on the day after the previous budget period ends.

(e) Unless prohibited by program regulations, a recipient that is in the final budget period of a project period may seek continued assistance for the project under the procedures for selecting new projects.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 57 FR 30338, July 8, 1992; 59 FR 30261, June 10, 1994; 62 FR 40424, July 28, 1997]

CROSS REFERENCES: 1. See Subpart C—How to Apply for a Grant.

2. See § 75.117 Information needed for a multi-year project; and § 75.118 Application for a continuation award.

§ 75.254 [Reserved]

MISCELLANEOUS

§ 75.260 Allotments and reallotments.

(a) Under some of the programs covered by this part, the Secretary allots funds under a statutory or regulatory formula.

(b) Any reallotment to other grantees will be made by the Secretary in accordance with the authorizing statute for that program.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 52 FR 27804, July 24, 1987]

§ 75.261 Extension of a project period.

(a) *General rule.* A grantee may, notwithstanding any regulatory requirement in 34 CFR part 80, extend the project period of an award one time for a period up to twelve months without the prior approval of the Secretary, if—

(1) The grantee meets the requirements for extension of 34 CFR 74.25(e)(2); and

(2) ED regulations other than the regulations in 34 CFR part 80, statutes or the conditions of an award do not prohibit the extension.

(b) *Specific rule for certain programs of the National Institute on Disability and Rehabilitation Research.* Notwithstanding paragraph (a) of this section, grantees under the following programs of NIDRR must request prior approval to extend their grants under paragraph (c) of this section:

(1) The Knowledge Dissemination and Utilization Centers and Disability and Technical Assistance Centers authorized under 29 U.S.C. 761a(b)(2), (4), (5), (6), and (11) and implemented at 34 CFR part 350, subpart B, §§ 350.17–350.19.

(2) The Rehabilitation Research and Training Centers program authorized under 29 U.S.C. 762(b) and implemented at 34 CFR part 350, subpart C.

(3) The Rehabilitation Engineering Research Centers authorized under 29 U.S.C. 762(b)(3) and implemented at 34 CFR part 350, subpart D.

(4) The Special Projects and Demonstrations for Spinal Cord Injuries authorized under 29 U.S.C. 762(b)(4) and implemented at 34 CFR part 359.

(c) *Other regulations.* If ED regulations, other than the regulations in 34 CFR part 80, or the conditions of the award require the grantee to get prior approval to extend the project period, the Secretary may permit the grantee to extend the project period if—

(1) The extension does not violate any statute or regulations;

(2) The extension does not involve the obligation of additional Federal funds;

(3) The extension is to carry out the activities in the approved application; and

(4)(i) The Secretary determines that, due to special or unusual circumstances applicable to a class of grantees, the project periods for the grantees should be extended; or

(ii)(A) The Secretary determines that special or unusual circumstances would delay completion of the project beyond the end of the project period;

(B) The grantee requests an extension of the project at least 45 calendar days before the end of the project period; and

(C) The grantee provides a written statement before the end of the project period giving the reasons why the extension is appropriate under paragraph (c)(4)(ii)(A) of this section and the period for which the project needs extension.

(d) *Waiver.* The Secretary may waive the requirement in paragraph (a)(4)(ii)(B) of this section if—

(1) The grantee could not reasonably have known of the need for the extension on or before the start of the 45-day time period; or

(2) The failure to give notice on or before the start of the 45-day time period was unavoidable.

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

[57 FR 30338, July 8, 1992, as amended at 62 FR 40424, July 28, 1997]

§ 75.262 Conversion of a grant or a cooperative agreement.

(a)(1) The Secretary may convert a grant to a cooperative agreement or a cooperative agreement to a grant at the time a continuation award is made under § 75.253.

(2) In deciding whether to convert a grant to a cooperative agreement or a cooperative agreement to a grant, the Secretary considers the factors included in § 75.200(b) (4) and (5).

(b) The Secretary and a recipient may agree at any time to convert a grant to a cooperative agreement or a cooperative agreement to a grant, subject to the factors included in § 75.200(b) (4) and (5).

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

[57 FR 30339, July 8, 1992]

§ 75.263 Pre-award costs; waiver of approval.

A grantee may, notwithstanding any requirement in 34 CFR part 80, incur pre-award costs as specified in 34 CFR 74.25(e)(1) unless—

(a) ED regulations other than 34 CFR part 80 or a statute prohibit these costs; or

(b) The conditions of the award prohibit these costs.

(Authority: 20 U.S.C. 1221e–3 and 3474; OMB Circulars A–21, A–87, and A–122)

[62 FR 40425, July 28, 1997]

§ 75.264 Transfers among budget categories.

A grantee may, notwithstanding any requirement in 34 CFR part 80, make transfers as specified in 34 CFR 74.25 unless—

(a) ED regulations other than 34 CFR part 80 or a statute prohibit these transfers; or

(b) The conditions of the grant prohibit these transfers.

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

[62 FR 40425, July 28, 1997]

Subpart E—What Conditions Must Be Met by a Grantee?

NONDISCRIMINATION

§ 75.500 Federal statutes and regulations on nondiscrimination.

(a) Each grantee shall comply with the following statutes and regulations:

Subject	Statute	Regulations
Discrimination on the basis of race, color or national origin.	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d through 2000d–4).	34 CFR part 100.
Discrimination on the basis of sex.	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681–1683).	34 CFR part 106.
Discrimination on the basis of handicap.	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).	34 CFR part 104.
Discrimination on the basis of age.	The Age Discrimination Act (42 U.S.C. 6101 *et seq.*).	34 CFR part 110.

(b) A grantee that is a covered entity as defined in § 108.3 of this title shall comply with the nondiscrimination requirements of the Boy Scouts of America Equal Access Act, 20 U.S.C. 7905, 34 CFR part 108.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 71 FR 15002, Mar. 24, 2006]

PROJECT STAFF

§ 75.511 Waiver of requirement for a full-time project director.

(a) If regulations under a program require a full-time project director, the Secretary may waive that requirement under the following conditions:

(1) The project will not be adversely affected by the waiver.

(2)(i) The project director is needed to coordinate two or more related projects; or

(ii) The project director must teach a minimum number of hours to retain faculty status.

(b) The waiver either permits the grantee:

(1) To use a part-time project director; or

(2) Not to use any project director.

(c)(1) An applicant or a grantee may request the waiver.

(2) The request must be in writing and must demonstrate that a waiver is appropriate under this section.

(3) The Secretary gives the waiver in writing. The waiver is effective on the date the Secretary signs the waiver.

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

CROSS REFERENCE: See 34 CFR 74.25, Revision of budget and program plans; and 34 CFR 80.30, Changes.

§ 75.515 Use of consultants.

(a) Subject to Federal statutes and regulations, a grantee shall use its general policies and practices when it hires, uses, and pays a consultant as part of the project staff.

(b) The grantee may not use its grant to pay a consultant unless:

(1) There is a need in the project for the services of that consultant; and

(2) The grantee cannot meet that need by using an employee rather than a consultant.

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

§ 75.516 Compensation of consultants—employees of institutions of higher education.

If an institution of higher education receives a grant for research or for educational services, it may pay a consultant's fee to one of its employees only in unusual circumstances and only if:

(a) The work performed by the consultant is in addition to his or her regular departmental load; and

(b)(1) The consultation is across departmental lines; or

(2) The consultation involves a separate or remote operation.

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

§ 75.517 Changes in key staff members.

A grantee shall comply with 34 CFR 74.25(c)(2) concerning replacement or lesser involvement of any key project staff, whether or not the grant is for research.

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

[45 FR 22497, Apr. 3, 1980, as amended at 64 FR 50391, Sept. 16, 1999]

§ 75.519 Dual compensation of staff.

A grantee may not use its grantee to pay a project staff member for time or work for which that staff member is

compensated from some other source of funds.

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

CONFLICT OF INTEREST

§ 75.524 Conflict of interest: Purpose of § 75.525.

(a) The conflict of interest regulations of the Department that apply to a grant are in § 75.525.

(b) These conflict of interest regulations do not apply to a ''government'' as defined in 34 CFR 80.3.

(c) The regulations in § 75.525 do not apply to a grantee's procurement contracts. The conflict of interest regulations that cover those procurement contracts are in 34 CFR part 74.

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

[45 FR 22497, Apr. 3, 1980, as amended at 64 FR 50391, Sept. 16, 1999]

§ 75.525 Conflict of interest: Participation in a project.

(a) A grantee may not permit a person to participate in an administrative decision regarding a project if:

(1) The decision is likely to benefit that person or a member of his or her immediate family; and

(2) The person:

(i) Is a public official; or

(ii) Has a family or business relationship with the grantee.

(b) A grantee may not permit any person participating in the project to use his or her position for a purpose that is—or gives the appearance of being—motivated by a desire for a private financial gain for that person or for others.

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

ALLOWABLE COSTS

§ 75.530 General cost principles.

The general principles to be used in determining costs applicable to grants and cost-type contracts under grants are specified at 34 CFR 74.27 (for administration of grants to institutions of higher education, and other non-profit organizations) and 34 CFR 80.22 (for uniform administrative requirements for grants and cooperative agreements to State and local governments).

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

CROSS REFERENCE: See 34 CFR part 74, Subpart D—After-the-Award Requirements and 34 CFR part 80, Subpart C—Post-Award Requirements.

[64 FR 50391, Sept. 16, 1999]

§ 75.531 Limit on total cost of a project.

A grantee shall insure that the total cost to the Federal Government is not more than the amount stated in the notification of grant award.

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

§ 75.532 Use of funds for religion prohibited.

(a) No grantee may use its grant to pay for any of the following:

(1) Religious worship, instruction, or proselytization.

(2) Equipment or supplies to be used for any of the activities specified in paragraph (a)(1) of this section.

(b) [Reserved]

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 69 FR 31711, June 4, 2004.

§ 75.533 Acquisition of real property; construction.

No grantee may use its grant for acquisition of real property or for construction unless specifically permitted by the authorizing statute or implementing regulations for the program.

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

§ 75.534 Training grants—automatic increases for additional dependents.

The Secretary may increase a grant to cover the cost of additional dependents not specified in the notice of award under § 75.235 if—

(a) Allowances for dependents are authorized by the program statute and are allowable under the grant; and

(b) Appropriations are available to cover the cost.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 57 FR 30339, July 8, 1992]

INDIRECT COST RATES

§ 75.560 General indirect cost rates; exceptions.

(a) The differences between direct and indirect costs and the principles for determining the general indirect cost rate that a grantee may use for grants under most programs are specified in the cost principles for—

(1) Institutions of higher education, at 34 CFR 74.27;

(2) Hospitals, at 34 CFR 74.27;

(3) Other nonprofit organizations, at 34 CFR 74.27;

(4) Commercial (for-profit) organizations, at 34 CFR 74.27; and

(5) State and local governments and federally-recognized Indian tribal organizations, at 34 CFR 80.22.

(b) A grantee must have a current indirect cost rate agreement to charge indirect costs to a grant. To obtain an indirect cost rate, a grantee must submit an indirect cost proposal to its cognizant agency and negotiate an indirect cost rate agreement.

(c) The Secretary may establish a temporary indirect cost rate for a grantee that does not have an indirect cost rate agreement with its cognizant agency.

(d) The Secretary accepts an indirect cost rate negotiated by a grantee's cognizant agency, but may establish a restricted indirect cost rate for a grantee to satisfy the statutory requirements of certain programs administered by the Department.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 57 FR 30339, July 8, 1992; 59 FR 59582, Nov. 17, 1994]

§ 75.561 Approval of indirect cost rates.

(a) If the Department of Education is the cognizant agency, the Secretary approves an indirect cost rate for a grantee other than a local educational agency. For the purposes of this section, the term local educational agency does not include a State agency.

(b) Each State educational agency, on the basis of a plan approved by the Secretary, shall approve an indirect cost rate for each local educational agency that requests it to do so. These rates may be for periods longer than a year if rates are sufficiently stable to justify a longer period.

(c) The Secretary generally approves indirect cost rate agreements annually. Indirect cost rate agreements may be approved for periods longer than a year if the Secretary determines that rates will be sufficiently stable to justify a longer rate period.

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

[59 FR 59583, Nov. 17, 1994]

§ 75.562 Indirect cost rates for educational training projects.

(a) Educational training grants provide funding for training or other educational services. Examples of the work supported by training grants are summer institutes, training programs for selected participants, the introduction of new or expanded courses, and similar instructional undertakings that are separately budgeted and accounted for by the sponsoring institution. These grants do not usually support activities involving research, development, and dissemination of new educational materials and methods. Training grants largely implement previously developed materials and methods and require no significant adaptation of techniques or instructional services to fit different circumstances.

(b) The Secretary uses the definition in paragraph (a) to determine which grants are educational training grants.

(c) Indirect cost reimbursement on a training grant is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. For the purposes of this section, a modified total direct cost base is defined as total direct costs less stipends, tuition and related fees, and capital expenditures of $5,000 or more.

(1) The eight percent limit also applies to cost-type contracts under grants, if these contracts are for training as defined in this section.

(2) The eight percent limit does not apply to agencies of State or local governments, including federally recognized Indian tribal governments, as defined in 34 CFR 80.3.

(3) Indirect costs in excess of the eight percent limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

(d) A grantee using the training rate of eight percent is required to have documentation available for audit that shows that its negotiated indirect cost rate is at least eight percent.

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

[59 FR 59582, Nov. 17, 1994]

§ 75.563 Restricted indirect cost rate—programs covered.

If a grantee decides to charge indirect costs to a program that has a statutory requirement prohibiting the use of Federal funds to supplant non-Federal funds, the grantee shall use a restricted indirect cost rate computed under 34 CFR 76.564 through 76.569.

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

[59 FR 59583, Nov. 17, 1994]

§ 75.564 Reimbursement of indirect costs.

(a) Reimbursement of indirect costs is subject to the availability of funds and statutory or administrative restrictions.

(b) The application of the rates and the determination of the direct cost base by a grantee must be in accordance with the indirect cost rate agreement approved by the grantee's cognizant agency.

(c) Indirect cost reimbursement is not allowable under grants for—

(1) Fellowships and similar awards if Federal financing is exclusively in the form of fixed amounts such as scholarships, stipend allowances, or the tuition and fees of an institution;

(2) Construction grants;

(3) Grants to individuals;

(4) Grants to organizations located outside the territorial limits of the United States;

(5) Grants to Federal organizations; and

(6) Grants made exclusively to support conferences.

(d) Indirect cost reimbursement on grants received under programs with statutory restrictions or other limitations on indirect costs must be made in accordance with the restrictions in 34 CFR 76.564 through 76.569.

(e) Indirect costs for a group of eligible parties (see §§ 75.127–75.129) are limited to the amount derived by applying the rate of the applicant, or a restricted rate when applicable, to the grant in keeping with the terms of the applicant's indirect cost rate agreement.

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

[59 FR 59583, Nov. 17, 1994]

§ 75.580 Coordination with other activities.

A grantee shall, to the extent possible, coordinate its project with other activities that are in the same geographic area served by the project and that serve similar purposes and target groups.

(Authority: 20 U.S.C. 1221e–3, 2890, and 3474)

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 57 FR 30339, July 8, 1992]

EVALUATION

§ 75.590 Evaluation by the recipient.

A recipient shall submit a performance report, or, for the last year of a project, a final report, that evaluates at least annually—

(a) The recipient's progress in achieving the objectives in its approved application;

(b) The effectiveness of the project in meeting the purposes of the program; and

(c) The effect of the project on participants being served by the project.

(Approved by the Office of Management and Budget under control number 1875–0102)

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 57 FR 30339, July 8, 1992; 59 FR 30262, June 10, 1994; 60 FR 6660, Feb. 3, 1995]

§ 75.591 Federal evaluation—cooperation by a grantee.

A grantee shall cooperate in any evaluation of the program by the Secretary.

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

[45 FR 86297, Dec. 30, 1980]

§ 75.592 Federal evaluation—satisfying requirement for grantee evaluation.

If a grantee cooperates in a Federal evaluation of a program, the Secretary may determine that the grantee meets the evaluation requirements of the program, including § 75.590.

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

CONSTRUCTION

CROSS REFERENCE: See 34 CFR part 74, Subpart P—Procurement Standards.

§ 75.600 Use of a grant for construction: Purpose of §§ 75.601–75.615.

Sections 75.601–75.615 apply to:

(a) An applicant that requests funds for construction; and

(b) A grantee whose grant includes funds for construction.

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

§ 75.601 Applicant's assessment of environmental impact.

An applicant shall include with its application its assessment of the impact of the proposed construction on the quality of the environment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 and Executive Order 11514 (34 FR 4247).

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

§ 75.602 Preservation of historic sites must be described in the application.

(a) An applicant shall describe in its application the relationship of the proposed construction to and probable effect on any district, site, building, structure, or object that is:

(1) Included in the National Register of Historic Places; or

(2) Eligible under criteria established by the Secretary of Interior for inclusion in the National Register of Historic Places.

CROSS REFERENCE: See 36 CFR part 60 for these criteria.

(b) In deciding whether to make a grant, the Secretary considers:

(1) The information provided by the applicant under paragraph (a) of this section; and

(2) Any comments by the Advisory Council on Historic Preservation.

CROSS REFERENCE: See 36 CFR part 800, which provides for comments from the Council.

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

§ 75.603 Grantee's title to site.

A grantee must have or obtain a full title or other interest in the site, including right of access, that is sufficient to insure the grantee's undisturbed use and possession of the facilities for 50 years or the useful life of the facilities, whichever is longer.

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

§ 75.604 Availability of cost-sharing funds.

A grantee shall ensure that sufficient funds are available to meet any non-Federal share of the cost of constructing the facility.

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

§ 75.605 Beginning the construction.

(a) A grantee shall begin work on construction within a reasonable time after the grant for the construction is made.

(b) Before construction is advertised or placed on the market for bidding, the grantee shall get approval by the Secretary of the final working drawings and specifications.

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

§ 75.606 Completing the construction.

(a) A grantee shall complete its construction within a reasonable time.

(b) The grantee shall complete the construction in accordance with the application and approved drawings and specifications.

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

§ 75.607 General considerations in designing facilities and carrying out construction.

(a) A grantee shall insure that the construction is:

(1) Functional;

(2) Economical; and

(3) Not elaborate in design or extravagant in the use of materials, compared with facilities of a similar type constructed in the State or other applicable geographic area.

(b) The grantee shall, in developing plans for the facilities, consider excellence of architecture and design and inclusion of works of art. The grantee may not spend more than one percent of the cost of the project on inclusion of works of art.

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

§ 75.608 Areas in the facilities for cultural activities.

A grantee may make reasonable provision, consistent with the other uses to be made of the facilities, for areas in the facilities that are adaptable for artistic and other cultural activities.

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

[57 FR 30339, July 8, 1992]

§ 75.609 Comply with safety and health standards.

In planning for and designing facilities, a grantee shall observe:

(a) The standards under the Occupational Safety and Health Act of 1970 (Pub. L. 91–576) (See 36 CFR part 1910); and

(b) State and local codes, to the extent that they are more stringent.

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

§ 75.610 Access by the handicapped.

A grantee shall comply with the Federal regulations on access by the handicapped that apply to construction and alteration of facilities. These regulations are:

(a) For residential facilities—24 CFR part 40; and

(b) For non-residential facilities—41 CFR subpart 101–19.6.

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

§ 75.611 Avoidance of flood hazards.

In planning the construction, a grantee shall, in accordance with the provisions of Executive Order 11988 of February 10, 1978 (43 FR 6030) and rules and regulations that may be issued by the Secretary to carry out those provisions:

(a) Evaluate flood hazards in connection with the construction; and

(b) As far as practicable, avoid uneconomic, hazardous, or unnecessary use of flood plains in connection with the construction.

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

§ 75.612 Supervision and inspection by the grantee.

A grantee shall maintain competent architectural engineering supervision and inspection at the construction site to insure that the work conforms to the approved drawings and specifications.

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

§ 75.613 Relocation assistance by the grantee.

A grantee is subject to the regulations on relocation assistance and real property acquisition in 34 CFR part 15.

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

§ 75.614 Grantee must have operational funds.

A grantee shall insure that, when construction is completed, sufficient funds will be available for effective operation and maintenance of the facilities.

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

§ 75.615 Operation and maintenance by the grantee.

A grantee shall operate and maintain the facilities in accordance with applicable Federal, State, and local requirements.

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

§ 75.616 Energy conservation.

(a) To the extent feasible, a grantee shall design and construct facilities to maximize the efficient use of energy.

(b) The following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) are incorporated by reference in this section:

(1) ASHRAE–90 A–1980 (Sections 1–9).

(2) ASHRAE–90 B–1975 (Sections 10–11).

(3) ASHRAE–90 C–1977 (Section 12).

Incorporation by reference of these provisions has been approved by the Director of the Office of the Federal Register pursuant to the Director's authority under 5 U.S.C. 552 (a) and 1 CFR part 51. The incorporated document is

on file at the Department of Education, Grants and Contracts Service, rm. 3636 ROB–3, 400 Maryland Avenue, SW., Washington, DC 20202–4700 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* These standards may be obtained from the publication sales department at the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, NE., Atlanta, Georgia 30329.

(c) A grantee shall comply with ASHRAE standards listed in paragraph (b) of this section in designing and constructing facilities built with project funds.

(Authority: 20 U.S.C. 1221e–3 and 3474, 42 U.S.C. 8373(b), and E.O. 12185)

[57 FR 30339, July 8, 1992, as amended at 69 FR 18803, Apr. 9, 2004]

§ 75.617 Compliance with the Coastal Barrier Resources Act.

A recipient may not use, within the Coastal Barrier Resources System, funds made available under a program administered by the Secretary for any purpose prohibited by 31 U.S.C. chapter 55 (sections 3501–3510).

(Authority: 20 U.S.C. 1221e–3 and 3474, 31 U.S.C. 3504, 3505)

[57 FR 30339, July 8, 1992]

EQUIPMENT AND SUPPLIES

CROSS REFERENCE: See 34 CFR 74.32 Real property; 34 CFR 74.35 Supplies and other expendable property; 34 CFR 74.36 Intangible property; 34 CFR 74.2 Definitions; 34 CFR 80.31 Real property; 34 CFR 80.32 Equipment; 34 CFR 80.33 Supplies; and 34 CFR 80.34 Copyrights.

§ 75.618 Charges for use of equipment or supplies.

A grantee may not charge students or school personnel for the ordinary use of equipment or supplies purchased with grant funds.

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

PUBLICATIONS AND COPYRIGHTS

§ 75.620 General conditions on publication.

(a) *Content of materials.* Subject to any specific requirements that apply to its grant, a grantee may decide the format and content of project materials that it publishes or arranges to have published.

(b) *Required statement.* The grantee shall ensure that any publication that contains project materials also contains the following statements:

The contents of this (insert type of publication; e.g., book, report, film) were developed under a grant from the Department of Education. However, those contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the Federal Government.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 45 FR 86297, Dec. 30, 1980]

§ 75.621 Copyright policy for grantees.

A grantee may copyright project materials in accordance with 34 CFR part 74 or 80, as appropriate.

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

CROSS REFERENCE: See 34 CFR 74.22 Payment; 34 CFR 74.24 Program income; and 34 CFR 74.36 Intangible property; 34 CFR 80.25 Program income; and 34 CFR 80.34 Copyrights.

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 53 FR 19118, May 26, 1988; 57 FR 30339, July 8, 1992]

§ 75.622 Definition of "project materials."

As used in §§ 75.620–75.621, ''project materials'' means a copyrightable work developed with funds from a grant of the Department.

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

[57 FR 30339, July 8, 1992]

INVENTIONS AND PATENTS

CROSS REFERENCE: See 34 CFR 74.25, Program income and 34 CFR 80.25, Program income.

§ 75.626 Show Federal support; give papers to vest title.

Any patent application filed by a grantee for an invention made under a grant must include the following statement in the first paragraph:

The invention described in this application was made under a grant from the Department of Education.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 45 FR 86297, Dec. 30, 1980; 57 FR 30339, July 8, 1992]

OTHER REQUIREMENTS FOR CERTAIN PROJECTS

CROSS REFERENCE: See 34 CFR 74.21, Standards for financial management systems; 34 CFR 74.48, Contract provisions; 34 CFR 80.20, Standards for financial management and 34 CFR 80.36, Procurement.

§ 75.650 Participation of students enrolled in private schools.

If the authorizing statute for a program requires a grantee to provide for participation by students enrolled in private schools, the grantee shall provide a genuine opportunity for equitable participation in accordance with the requirements that apply to subgrantees under 34 CFR 76.650–76.662.

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

§ 75.681 Protection of human research subjects.

If a grantee uses a human subject in a research project, the grantee shall protect the person from physical, psychological, or social injury resulting from the project.

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

CROSS REFERENCE: See 34 CFR part 97—Protection of Human Subjects.

§ 75.682 Treatment of animals.

If a grantee uses an animal in a project, the grantee shall provide the animal with proper care and humane treatment in accordance with the Animal Welfare Act of 1970.

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

§ 75.683 Health or safety standards for facilities.

A grantee shall comply with any Federal health or safety requirements that apply to the facilities that the grantee uses for the project.

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

Subpart F—What Are the Administrative Responsibilities of a Grantee?

GENERAL ADMINISTRATIVE RESPONSIBILITIES

§ 75.700 Compliance with statutes, regulations, and applications.

A grantee shall comply with applicable statutes, regulations, and approved applications, and shall use Federal funds in accordance with those statutes, regulations, and applications.

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

§ 75.701 The grantee administers or supervises the project.

A grantee shall directly administer or supervise the administration of the project.

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

§ 75.702 Fiscal control and fund accounting procedures.

A grantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds.

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

CROSS REFERENCE: See 34 CFR part 74, Subpart C—Post-Award Requirements and Subpart D—After-the-Award Requirements and 34 CFR part 80, Subpart C—Post-Award Requirements and Subpart D—After-the-Grant Requirements.

§ 75.703 Obligation of funds during the grant period.

A grantee may use grant funds only for obligations it makes during the grant period.

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

§ 75.707 When obligations are made.

The following table shows when a grantee makes obligations for various kinds of property and services.

If the obligation is for—	The obligation is made—
(a) Acquisition of real or personal property.	On the date the grantee makes a binding written commitment to acquire the property.
(b) Personal services by an employee of the grantee.	When the services are performed.
(c) Personnal services by a contractor who is not an employee of the grantee.	On the date on which the grantee makes a binding written commitment to obtain the services.
(d) Performance of work other than personal services.	On the date on which the grantee makes a binding written commitment to obtain the work.
(e) Public utility services	When the grantee receives the services.
(f) Travel	When the travel is taken.
(g) Rental of real or personal property.	When the grantee uses the property.
(h) A preagreement cost that was properly approved by the Secretary under the cost principles identified in 34 CFR 74.171 or 80.22.	

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 57 FR 30340, July 8, 1992]

§ 75.708 Prohibition of subgrants.

(a) A grantee may not make a subgrant under a program covered by this part unless specifically authorized by statute.

(b) A grantee may contract for supplies, equipment, construction, and other services, in accordance with 34 CFR part 74, Subpart C—Post-Award Requirements (Procurement Standards §§ 74.40–74.48) and 34 CFR part 80, Subpart C—Post-Award Requirements (§ 80.36 Procurement).

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 52 FR 27804, July 24, 1987; 64 FR 50392, Sept. 16, 1999]

REPORTS

CROSS REFERENCE: See 34 CFR 74.51, Monitoring and reporting program performance; 34 CFR 74.52, Financial reporting; 34 CFR 80.40, Monitoring and reporting program performance; and 34 CFR 80.41 Financial reporting.

§ 75.720 Financial and performance reports.

(a) This section applies to the reports required under—

(1) 34 CFR 74.51 (Monitoring and reporting program performance) and 34 CFR 74.52 (Financial reporting); and

(2) 34 CFR 80.40 (Monitoring and reporting program performance) and 34 CFR 80.41 (Financial reporting).

(b) A grantee shall submit these reports annually, unless the Secretary allows less frequent reporting. However, the Secretary may require a grantee of a grant made under 34 CFR part 700, 706, 707, or 708 (certain programs of the Office of Educational Research and Improvement) to submit performance reports more often than annually.

(c) The Secretary may require a grantee to report more frequently than annually under 34 CFR 74.14 (Special award conditions), 34 CFR 74.21 (Standards for financial management systems), 34 CFR 80.12 (Special grant or subgrant conditions for ''high-risk'' grantees) or 34 CFR 80.20 (Standards for financial management systems).

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

[57 FR 30340, July 8, 1992, as amended at 64 FR 50392, Sept. 16, 1999]

§ 75.721 [Reserved]

RECORDS

CROSS REFERENCE: See 34 CFR 74.53, Retention and access requirements for records and 34 CFR 80.42, Retention and access requirements for records.

§ 75.730 Records related to grant funds.

A grantee shall keep records that fully show:

(a) The amount of funds under the grant;

(b) How the grantee uses the funds;

(c) The total cost of the project;

(d) The share of that cost provided from other sources; and

(e) Other records to facilitate an effective audit.

(Approved by the Office of Management and Budget under control number 1880–0513)

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 53 FR 49143, Dec. 6, 1988]

§ 75.731 Records related to compliance.

A grantee shall keep records to show its compliance with program requirements.

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

§ 75.732 Records related to performance.

(a) A grantee shall keep records of significant project experiences and results.

(b) The grantee shall use the records under paragraph (a) to:

(1) Determine progress in accomplishing project objectives; and

(2) Revise those objectives, if necessary.

(Approved by the Office of Management and Budget under control number 1880–0513)

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

CROSS REFERENCE: See 34 CFR 74.25, Revision of budget and program plans.

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 53 FR 49143, Dec. 6, 1988]

§ 75.733 [Reserved]

PRIVACY

§ 75.740 Protection of and access to student records; student rights in research, experimental programs, and testing.

(a) Most records on present or past students are subject to the requirements of section 444 of GEPA and its implementing regulations in 34 CFR part 99. (Section 444 is the Family Educational Rights and Privacy Act of 1974.)

(b) Under most programs administered by the Secretary, research, experimentation, and testing are subject to the requirements of section 445 of GEPA and its implementing regulations at 34 CFR part 98.

(Authority: 20 U.S.C. 1221e–3, 1232g, 1232h, and 3474)

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 57 FR 30340, July 8, 1992; 60 FR 46493, Sept. 6, 1995]

Subpart G—What Procedures Does the Department Use To Get Compliance?

CROSS REFERENCE: See 34 CFR part 74, Subpart M—Grant and Subgrant Closeout, Suspension, and Termination.

§ 75.900 Waiver of regulations prohibited.

(a) No official, agent, or employee of ED may waive any regulation that applies to a Department program, unless the regulation specifically provides that it may be waived.

(b) No act or failure to act by an official, agent, or employee of ED can affect the authority of the Secretary to enforce regulations.

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

§ 75.901 Suspension and termination.

(a) [Reserved]

(b) The Secretary may use the Education Appeal Board to resolve disputes that are not subject to other procedures. Cross reference: See the following sections in part 74:

(1) Section 74.113 (Violation of terms).

(2) Section 74.114 (Suspension).

(3) Section 74.115 (Termination).

(4) The last sentence of § 74.73(c) (Financial reporting after a termination).

(5) Section 74.112 (Amounts payable to the Federal Government).

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

[45 FR 86297, Dec. 30, 1980]

§ 75.902 [Reserved]

§ 75.903 Effective date of termination.

Termination is effective on the latest of:

(a) The date of delivery to the grantee of the notice of termination;

(b) The termination date given in the notice of termination; or

(c) The date of a final decision of the Secretary under part 78 of this title.

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

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 45 FR 86298, Dec. 30, 1980]

§ 75.910 Cooperation with audits.

A grantee shall cooperate with the Secretary and the Comptroller General of the United States or any of their authorized representatives in the conduct of audits authorized by Federal law. This cooperation includes access without unreasonable restrictions to records and personnel of the grantee for the purpose of obtaining relevant information.

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

[54 FR 21775, May 19, 1989]

PART 76—STATE-ADMINISTERED PROGRAMS

Subpart A—General

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