

DEPARTMENT OF EDUCATION

34 CFR Part 700

RIN 1850-AA51

Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Evaluation of Applications for Grants and Cooperative Agreements and Proposals for Contracts

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Assistant Secretary for Educational Research and Improvement proposes to add regulations that establish standards for the evaluation of applications for grants and cooperative agreements and proposals for contracts. The development of these standards is required by the Office of Educational Research and Improvement's authorizing legislation, the "Educational Research, Development, Dissemination, and Improvement Act of 1994." The standards will ensure that such application and proposal evaluation activities meet the highest standards of professional excellence.

DATES: Comments must be received on or before July 24, 1995.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Edward J. Fuentes, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 600, Washington, D.C. 20208-5530. Comments may also be sent through Internet to stan____comments@inet.ed.gov.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Edward J. Fuentes. Telephone (202) 219-1895. Internet electronic mail address: stan____questions@inet.ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:**Background**

On March 31, 1994, President Clinton signed Public Law 103-227, which includes Title IX—the "Educational Research, Development, Dissemination, and Improvement Act of 1994" (the

Act). The Act restructured the Office of Educational Research and Improvement (OERI) and endowed it with a broad mandate to conduct an array of research, development, dissemination, and improvement activities aimed at strengthening the education of all students. The Act also required the establishment of a National Educational Research Policy and Priorities Board (the Board) to work collaboratively with the Assistant Secretary to identify priorities to guide the work of OERI.

Statutory Requirements

The legislation directed the Assistant Secretary to develop, in consultation with the Board, such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the Office to ensure that such activities meet the highest standards of professional excellence. Such standards shall at a minimum—

- (a) Require that a process of open competition be used in awarding or entering into all grants, contracts, and cooperative agreements under the Act;
- (b) Require that a system of peer review be utilized by the Office for—
 - (1) Reviewing and evaluating all applications for grants and cooperative agreements and proposals for those contracts which exceed \$100,000;
 - (2) Evaluating and assessing the performance of all recipients of grants from and cooperative agreements and contracts with the Office; and
 - (3) Reviewing and designating exemplary and promising programs in accordance with section 941(d) of the Act;
- (c) Describe the general procedures which shall be used by each peer review panel in its operations;

- (d)(1) Describe the procedures which shall be utilized in evaluating applications for grants and cooperative agreements and contract proposals; and
- (2) Specify the criteria and factors which shall be considered in making such evaluations;

- (e) Describe the procedures which shall be utilized in reviewing educational programs for designation as exemplary or promising programs; and
- (f) Require that the performance of all recipients of grants from and contracts and cooperative agreements with the Office shall be periodically evaluated, both during and at the conclusion of their receipt of assistance.

The Act also requires that the Assistant Secretary review the procedures utilized by the National Institutes of Health (NIH), the National Science Foundation (NSF), and other Federal departments or agencies

engaged in research and development and actively solicit recommendations from research organizations and members of the general public. OERI has: (1) Reviewed peer review procedures used by NIH, NSF, and various program offices within the Department of Education; (2) requested recommendations from research organizations and associations; and (3) solicited public comment on standards of peer review and program evaluation activities through a general notice requesting comments on the implementation of the Office's new authorizing legislation published in the **Federal Register** on July 7, 1994 (59 FR 34802).

Proposed Standards

These proposed standards have been developed by the Assistant Secretary in consultation with the Board. The standards proposed in this NPRM—

- Require that a process of open competition be used in awarding or entering into all grants, cooperative agreements and contracts funded under the Act;
- Require that a system of peer review be used for reviewing and evaluating all applications for grants and cooperative agreements and proposals for those contracts which exceed \$100,000;
- Establish principles for selecting qualified peer reviewers to evaluate and review applications for grants and cooperative agreements and proposals for contracts;
- Establish general procedures to be followed by the peer reviewers when evaluating applications or proposals;
- Establish improved evaluation criteria; and
- Describe the process by which applications or proposals are selected for funding.

In accordance with section 912(i)(3)(C) of the Act, § 700.2 of the proposed regulations provides that these standards shall be binding on all activities carried out by OERI using funds appropriated under section 912(m) of the Act. The OERI activities carried out with funds appropriated pursuant to section 912(m) of the Act are specified in § 700.2(b) of the proposed regulations.

The Secretary believes that these standards will ensure that applications for grant and cooperative agreement awards and proposals for contract awards are reviewed and evaluated in a rigorous, nonpartisan manner by highly qualified experts. The standards require that each application for a grant or cooperative agreement be evaluated by at least three peer reviewers except for awards of less than \$50,000 when fewer

reviewers may be used and for awards of more than \$1,000,000 when at least five reviewers must be used. These requirements reflect the Secretary's belief that the number of reviewers used should reflect the complexity of the activities that are the subject of the competition and that competitions involving larger awards generally are more complex than those involving smaller awards. Therefore, applications for grant awards should be reviewed by a group large enough to provide the breadth of perspectives necessary to evaluate the proposed work.

The Secretary believes that conflicts of interest for peer reviewers should be determined by applying established Department policy. Accordingly, peer reviewers for grants and cooperative agreements will be considered employees of the agency for the purposes of conflicts of interest analysis. As employees of the agency, peer reviewers will be subject to 18 U.S.C. Section 108, the criminal statute regarding conflicts of interest for government employees and, 5 CFR Section 2635.502, the Office of Government Ethics regulations.

To the extent practicable, the Secretary believes that these standards should apply to all research, development, dissemination, demonstration, and school improvement activities carried out by OERI. Furthermore, the Secretary believes that in many instances, the proposed peer review standards and evaluation criteria may be relevant to the research, development, and dissemination activities carried out by other offices in the Department. Therefore, § 700.3 authorizes the Secretary to elect to apply these standards to other activities carried out by the Department. The Secretary will announce through the grant application notice published in the **Federal Register**, the extent to which the standards are applicable for a given competition.

In accordance with section 912(i)(2)(D)(ii) of the Act, Subpart D of these proposed regulations specifies the evaluation criteria that may be used by reviewers to evaluate applications for grant and cooperative agreements and proposals for contracts. For each competition, the Secretary will select the criteria that best enable the Department to identify the highest quality applications consistent with the program purpose, statutory requirements and any priorities established. The Secretary may add to any individual criterion one or more specific factors within that criterion. For example, in the case of a national research center competition, the

Secretary may select the criterion "National Significance"; the Secretary may evaluate a national research center in terms of its potential contribution to increased knowledge or understanding of educational problems, issues, or effective strategies and the potential contribution of the project to the development and advancement of theory and knowledge in the field of study. In the case of a field initiated study competition, the Secretary may evaluate the national significance of a project in terms of the importance of the problem to be addressed and the potential of the project to contribute to the development and advancement of theory and knowledge in the field of study. In the case of a competition for demonstration activities, the Secretary may evaluate the national significance of a project in terms of whether the project involves the development or demonstration of creative or innovative strategies that build on, or are alternatives to, existing strategies and the potential for generalizing from project findings or results. For some competitions, the Secretary may select the criterion, "National Significance" without selecting specific factors.

The proposed standards provide an opportunity to improve significantly the manner in which OERI carries out its mandate by establishing a menu of evaluation criteria that: (1) Provide OERI the flexibility to choose a set of criteria tailored to a given competition; and (2) obviate the need to create specific evaluation criteria through individual program regulations.

The Assistant Secretary will publish at a later date additional proposed regulations to establish procedures to be used to designate programs as exemplary or promising and to evaluate the performance of all recipients awarded grants, cooperative agreements, or contracts by the Office.

Executive Order 12866

Assessment of Costs and Benefits

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those determined by the Secretary as necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements, if any, are identified and explained elsewhere in this preamble under the

heading Paperwork Reduction Act of 1980.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed regulations without impeding the effective and efficient administration of the program.

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example, § 700.11 Who may serve as peer reviewers.) (4) Is the description of the regulations in the "Supplementary Information" section of this preamble helpful in understanding the regulations? How could this description be more helpful in making the regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 5121, FB-10B), Washington, D.C. 20202-2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small local educational agencies (LEAs) and private schools receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small LEAs and private schools affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Section 700.30 contains information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of this section to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

These regulations affect the following types of entities eligible to apply for grants and cooperative agreements: State or local governments, businesses or other for profit organizations, nonprofit institutions, and any combinations of these types of entities. The Department needs and uses the information to evaluate applications for funding.

Annual public reporting and recordkeeping burden for this collection of information is estimated to range from 15 hours for each of the approximately 750 applications expected for a field initiated study competition to 150 hours for ten or fewer applications expected for a national research center. Therefore, the actual burden will be determined by the type of project to be supported in the particular competition.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, D.C. 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local

governments for coordination and review of proposed Federal financial assistance.

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

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 600, 555 New Jersey Avenue, N.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

List of Subjects in 34 CFR Part 700

Education, Educational research, Elementary and secondary education, Government contracts, Grant programs—education, Libraries, Reporting and recordkeeping requirements.

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

Dated: May 31, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

The Secretary proposes to amend chapter VII of Title 34 of the Code of Federal Regulations by adding a new Part 700 to read as follows:

PART 700—STANDARDS FOR THE CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT (OERI)—EVALUATION OF APPLICATIONS FOR GRANTS AND COOPERATIVE AGREEMENTS AND PROPOSALS FOR CONTRACTS

Subpart A—General

Sec.

- 700.1 What is the purpose of these standards?
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 700.4 What definitions apply?
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Subpart B—Selection of Peer Reviewers

- 700.10 When is the peer review process used?
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Subpart C—The Peer Review Process

- 700.20 How many peer reviewers will be used?
 700.21 How are applications for grants and cooperative agreements evaluated?
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Subpart D—Evaluation Criteria

- 700.30 What evaluation criteria are used for grants and cooperative agreements?
 700.31 What additional evaluation criteria shall be used for grants and cooperative agreements?
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Subpart E—Selection for Award

- 700.40 How are grant and cooperative agreement applications selected for award?
 700.41 How are contract proposals selected for award?

Authority: 20 U.S.C. 6011(i), unless otherwise noted.

Subpart A—General**700.1 What is the purpose of these standards?**

(a) The standards in this part implement section 912(i) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) These standards are intended to ensure that activities carried out by the Office of Educational Research and Improvement meet the highest standards of professional excellence.

(Authority: 20 U.S.C. 6011(i)(1))

§ 700.2 What activities must be governed by these standards?

(a) The standards in this part are binding on all activities carried out by the Office using funds appropriated under section 912(m) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) Activities carried out with funds appropriated under section 912(m) of the Act include activities carried out by the following entities or programs:

- (1) The National Research Institutes.
- (2) The Office of Reform Assistance and Dissemination.
- (3) The Educational Resources Information Center Clearinghouses.
- (4) The Regional Educational Laboratories.
- (5) The Teacher Research Dissemination Demonstration Program.
- (6) The Goals 2000 Community Partnerships Program.
- (7) The National Educational Research Policy and Priorities Board.

(Authority: 20 U.S.C. 6011(i)(1))

§ 700.3 What additional activities may be governed by these standards?

(a) The Secretary may elect to apply the standards in this part to activities carried out by the Department using funds appropriated under an authority other than section 912(m) of the Act.

(b)(1) If the Secretary elects to apply these standards to a competition for new grant or cooperative agreement awards, the Secretary announces in a notice published in the **Federal Register**, the extent to which these standards are applicable to the competition.

(2) If the Secretary elects to apply these standards to a solicitation for a contract award, the Secretary announces in the request for proposals the extent to which these standards are applicable to the solicitation.

(Authority: 20 U.S.C. 6011(i))

§ 700.4 What definitions apply?

(a) *Definitions in the Educational Research, Development, Dissemination, and Improvement Act of 1994.* The following terms used in this part are defined in 20 U.S.C. 6011(l):

Development
Dissemination
Educational Research Office
National Research Institute
Technical Assistance

(b) *Definitions in Education Department General Administrative Regulations.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Department
Grant
Project
Secretary

(c) *Definitions in the Federal Acquisition Regulation.* The following terms used in this part are defined in 48 CFR Chapter 1:

Contracting Officer
Employee of an Agency
Proposal
Solicitation

(d) *Other definitions.* The following definitions also apply to this part:

Act means the Educational Research, Development, Dissemination, and Improvement Act of 1994 (title IX of Pub. L. 103-227, 108 Stat. 212).

EDAR means the Department of Education Acquisition Regulation, 48 CFR chapter 34.

EDGAR means the Department of Education General Administrative Regulations, 34 CFR parts 74, 75, 76, 77, 79, 80, 81, 82, 85 and 86.

FAR means the Federal Acquisition Regulation, 48 CFR chapter 1.

(Authority: 20 U.S.C. 6011)

§ 700.5 What are the processes of open competition?

The Secretary uses a process of open competition in awarding or entering into all grants, cooperative agreements, and contracts governed by these standards. The processes of open competition are the following:

(a) For all new awards for grants and cooperative agreements, the Secretary will make awards pursuant to the provisions of EDGAR with the exception of the provisions in 34 CFR 75.100(c)(5), 75.200 (b)(3), (b)(5), 75.210, and 75.217 (b)(1), (b)(2), (c), and (d).

(b) For contracts, the Department will conduct acquisitions pursuant to this part in accordance with the requirements of the Competition in Contracting Act, 41 U.S.C. 253, and the FAR.

(Authority: 20 U.S.C. 6011(i)(2); 41 U.S.C. 253)

Subpart B—Selection of Peer Reviewers**§ 700.10 When is the peer review process used?**

The Secretary uses a peer review process—

(a) To review and evaluate all applications for grants and cooperative agreements and proposals for those contracts which exceed \$100,000;

(b) To review and designate exemplary and promising programs in accordance with section 941(d) of the Act; and

(c) To evaluate and assess the performance of all recipients of grants from and cooperative agreements and contracts with the Office.

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.11 Who may serve as peer reviewers?

(a) An individual may serve as a peer reviewer for purposes of reviewing and evaluating applications for new awards for grants and cooperative agreements and contract proposals if the individual—

(1) Possesses one or more of the following qualifications:

(i) Demonstrated expertise, including training and experience, relevant to the subject of the competition.

(ii) In-depth knowledge of policy and practice in the field of education.

(iii) In-depth knowledge of theoretical perspectives or methodological approaches relevant to the subject of the competition; and

(2) Does not have a conflict of interest, as determined in accordance with § 700.12.

(b)(1) Except as provided in paragraph (b)(2) of this section, for each

competition for new awards for grants and cooperative agreements—

(i) Department staff shall not serve as peer reviewers except in exceptional circumstances as determined by the Secretary; and

(ii) The majority of reviewers shall be persons not employed by the Federal Government.

(2) For each review of an unsolicited grant or cooperative agreement application—

(i) Department employees may assist the Secretary in making an initial determination under 34 CFR 75.222(b); and

(ii) Department employees may not serve as peer reviewers in accordance with 34 CFR 75.222(c).

(c) To the extent feasible, the Secretary selects peer reviewers for each competition who represent a broad range of perspectives.

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.12 What constitutes a conflict of interest for grants and cooperative agreements?

(a) Peer reviewers for grants and cooperative agreements are considered employees of the agency for the purposes of conflicts of interest analysis.

(b) As employees of the agency, peer reviewers are subject to the provisions of 18 U.S.C. 208, 5 CFR 2635.502, and the Department policies used to implement those provisions.

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.13 What constitutes a conflict of interest for contracts.

(a) Peer reviewers for contract proposals are considered employees of the agency in accordance with FAR, 48 CFR 3.104-4(h)(2).

(b) As employees of the agency, peer reviewers are subject to the provisions of the FAR, 48 CFR Part 3 Improper Business Practices and Personal Conflict of Interest.

(Authority: 41 U.S.C. 423)

Subpart C—The Peer Review Process**§ 700.20 How many peer reviewers will be used?**

(a) Each application for a grant or cooperative agreement award shall be reviewed and evaluated by at least three peer reviewers except—

(1) For those grant and cooperative agreement awards under \$50,000, fewer than three peer reviewers may be used if the Secretary determines that adequate peer review can be obtained using fewer reviewers; and

(2) For those grant and cooperative agreement awards of more than

\$1,000,000, at least five reviewers will be used.

(b) Each contract proposal shall be read by at least three reviewers unless the contracting officer determines that an adequate peer review can be obtained by fewer reviewers.

(c) Before releasing contract proposals to peer reviewers outside the Federal Government, the contracting officer shall comply with FAR, 48 CFR 15.413-2(f).

(Authority: 20 U.S.C. 6011(i)(2)(B))

§ 700.21 How are applications for grants and cooperative agreements evaluated?

(a) Each peer reviewer shall be given a number of applications to evaluate.

(b) Each peer reviewer shall—

(1) Independently evaluate each application;

(2) Evaluate and rate each application based on the reviewer's assessment of the quality of the application according to the evaluation criteria and the weights assigned to those criteria; and

(3) Support the rating for each application with concise written comments based on the reviewer's analysis of the strengths and weaknesses of the application with respect to each of the applicable evaluation criteria.

(c) After each peer reviewer has evaluated and rated each application independently, those reviewers who evaluated a common set of applications will be convened to discuss the strengths and weaknesses of those applications. Each reviewer may then independently reevaluate and re-rate an application with appropriate changes made to the written comments.

(d) Following discussion and any reevaluation and re-rating, reviewers shall independently place each application in one of two categories, either "recommended for funding" or "not recommended for funding."

(e) After the peer reviewers have evaluated, rated, and made funding recommendations regarding the applications, the Secretary prepares a rank order of the applications based solely on the peer reviewers' evaluations.

(Authority: 20 U.S.C. 6011(i)(2)(C))

§ 700.22 How are proposals for contracts evaluated?

(a) Each peer reviewer shall be given a number of technical proposals to evaluate.

(b) Each peer reviewer shall—

(1) Independently evaluate each technical proposal;

(2) Evaluate and rate each proposal based on the reviewer's assessment of the quality of the proposal according to the technical evaluation criteria and the

importance or weight assigned to those criteria; and

(3) Support the rating for each proposal with concise written comments based on the reviewer's analysis of the strengths and weaknesses of the proposal with respect to each of the applicable technical evaluation criteria.

(c) After each peer reviewer has evaluated each proposal independently, those reviewers who evaluated a common set of proposals may be convened to discuss the strengths and weaknesses of those proposals. Each reviewer may then independently reevaluate and re-rate a proposal with appropriate changes made to the written comments.

(d) Following discussion and any reevaluation and re-rating, reviewers shall rank proposals and advise the contracting officer of each proposal's acceptability for contract award as "acceptable," "capable of being made acceptable without major modifications," or "unacceptable." Reviewers may also submit technical questions to be asked of the offeror regarding the proposal.

(Authority: 20 U.S.C. 6011(i)(2)(C))

Subpart D—Evaluation Criteria

§ 700.30 What evaluation criteria are used for grants and cooperative agreements?

(a) Except as provided in paragraph (d) of this section, the Secretary announces the applicable evaluation criteria for each competition and the assigned weights in a notice published in the **Federal Register**.

(b) In determining the evaluation criteria to be used in each grant and cooperative agreement competition, the Secretary selects from among the evaluation criteria in paragraph (e) of this section and may select from among the specific factors listed under each criterion.

(c) The Secretary assigns relative weights to each selected criterion and factor.

(d) In determining the evaluation criteria to be used for unsolicited applications, the Secretary selects from among the evaluation criteria in paragraph (e) of this section, and may select from among the specific factors listed under each criterion, the criteria which are most appropriate to evaluate the activities proposed in the application.

(e) The Secretary establishes the following evaluation criteria:

(1) *National significance.* (i) The Secretary considers the national significance of the proposed project.

(ii) In determining the national significance of the proposed project, the Secretary may consider one or more of the following factors:

(A) The importance of the problem or issue to be addressed.

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

(C) The scope of the project.

(D) The potential for generalizing from project findings or results.

(E) The potential contribution of the project to the development and advancement of theory and knowledge in the field of study.

(F) Whether the project involves the development or demonstration of creative or innovative strategies that build on, or are alternatives to, existing strategies.

(G) The nature of the products (such as information, materials, processes, or techniques) likely to result from the project and the potential for their effective use in a variety of other settings.

(H) The extent and quality of plans for disseminating results in ways that will allow others to use the information.

(2) *Quality of the project design.* (i) The Secretary considers the quality of the design of the proposed project.

(ii) In determining the quality of the design of the proposed project, the Secretary may consider one or more of the following factors:

(A) Whether the goals, objectives, and outcomes to be achieved by the project are clearly specified and measurable.

(B) Whether there is a conceptual framework underlying the proposed activities and the quality of that framework.

(C) Whether the proposed activities constitute a coherent, sustained program of research and development in the field, including a substantial addition to an ongoing line of inquiry.

(D) Whether a specific research design has been proposed, and the quality and appropriateness of that design, including the scientific rigor of the studies involved.

(E) The extent to which the 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, where appropriate.

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

(G) The extent to which development efforts include iterative testing of products and adequate quality controls.

(H) The likelihood that the design of the project will successfully address the intended, demonstrated educational needs or needs.

(I) How well and innovatively the project addresses statutory purposes, requirements and any priority or priorities announced for the program.

(J) The quality of the plan for evaluating the functioning and impact of the project, including the objectivity of the evaluation and the extent to which the methods of evaluation are appropriate to the goals, objectives, and outcomes of the project.

(3) *Quality and potential contributions of personnel.* (i) The Secretary considers the quality and potential contributions of personnel for the proposed project.

(ii) In determining the quality and potential contributions of personnel for the proposed project, the Secretary may consider one or more of the following factors:

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

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

(C) The qualifications, including training and experience, of proposed consultants or subcontractors.

(D) Past performance of any personnel in any previous Department-supported grants or cooperative agreements.

(4) *Adequacy of resources.* (i) The Secretary considers the adequacy of resources for the proposed project.

(ii) In determining the adequacy of resources for the proposed project, the Secretary may consider one or more of the following factors:

(A) The adequacy of support from the lead applicant organization.

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

(C) Whether the budget is adequate to support the project.

(D) Whether the costs are reasonable in relation to the objectives, design, and potential significance of the project.

(E) The cost-effectiveness of the project and the adequacy of the support provided by the applicant organization in any previous Department-supported grant or cooperative agreement.

(F) The potential for continued support of the project after federal funding ends.

(5) *Quality of the management plan.*

(i) The Secretary considers the quality of the management plan of the proposed project.

(ii) In determining the quality of the management plan of a proposed project, the Secretary may consider one or more of the following factors:

(A) The adequacy of the management plan to achieve the objectives of the project, including the specification of staff responsibility, timelines, and benchmarks for accomplishing project tasks.

(B) The adequacy of plans for ensuring high-quality products and services.

(C) The adequacy of plans for ensuring continuous improvement in the operation of the project.

(D) Whether time commitments of the project director or principal investigator and other key personnel are appropriate and adequate to meet project objectives.

(E) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the project, including those of parents and teachers, where appropriate.

(F) How the applicant will ensure that persons who are otherwise eligible to participate in the project are selected without regard to race, color, national origin, gender, age, or disability.

(G) The adequacy of plans for widespread dissemination of project results and products in ways that will assist others to use the information.

(Authority: 20 U.S.C. 6011(i)(2)(D)(ii))

§ 700.31 What additional evaluation criteria shall be used for grants and cooperative agreements?

In addition to the evaluation criteria established in § 700.30(e), criteria or factors specified in the applicable program statute shall be used to evaluate applications for grants and cooperative agreements.

(Authority: 20 U.S.C. 6011(i)(2)(D)(ii))

§ 700.32 What evaluation criteria shall be used for contracts?

(a) The evaluation criteria to be considered in the technical evaluation of contract proposals are contained in the FAR at 48 CFR 15.605. The evaluation criteria that apply to an

acquisition and the relative importance of those factors are within the broad discretion of agency acquisition officials.

(b) At a minimum, the evaluation criteria to be considered shall include cost or price and quality. Evaluation factors related to quality are called technical evaluation criteria.

(c) Technical evaluation criteria may include, but are not limited to, the following:

- (1) Technical excellence.
- (2) Management capability.
- (3) Personnel qualifications.
- (4) Prior experience.
- (5) Past performance.
- (6) Schedule compliance.

(Authority: 20 U.S.C. 6011(i)(2)(D)(ii))

Subpart E—Selection for Award

§ 700.40 How are grant and cooperative agreement applications selected for award?

(a) The Secretary determines the order in which applications will be selected for grants and cooperative agreement awards. The Secretary considers the following in making these determinations:

- (1) An applicant's ranking.
- (2) Recommendations of the peer reviewers with regard to funding or not funding.
- (3) Information concerning an applicant's performance and use of funds under a previous Federal award.
- (4) Amount of funds available for the competition.
- (5) Any other information relevant to a priority or other statutory or regulatory requirement applicable to the selection of applications for new awards.

(b) In the case of unsolicited applications, the Secretary uses the procedures in EDGAR (34 CFR 75.222 (d) and (e)).

(Authority: 20 U.S.C. 6022(i)(2)(D)(i))

§ 700.41 How are contract proposals selected for award?

Following evaluation of the proposals, the contracting officer shall select for award the offeror whose proposal is most advantageous to the Government considering cost or price and the other factors included in the solicitation.

(Authority: 20 U.S.C. 6011(i)(2)(D)(i))

[FR Doc. 95-13690 Filed 6-6-95; 8:45 am]

BILLING CODE 4000-01-P