

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: Final Regulations.

SUMMARY: The Assistant Secretary for Educational Research and Improvement establishes final regulations that set 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 ensure that these application and proposal evaluation activities meet the highest standards of professional excellence.

EFFECTIVE DATE: These regulations take effect October 16, 1995.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On March 31, 1994, President Clinton signed Pub. L. 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.

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. The legislation required that the standards be developed in three phases. These regulations implement the first phase of the standards. The Assistant Secretary will publish at a later date additional proposed regulations to implement the remaining standards in accordance with the timelines established in the Act. The legislation requires the Board to review and approve the final standards.

On June 7, 1995, the Assistant Secretary for Educational Research and Improvement published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 30160).

Analysis of Comments and Changes

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

Issues are grouped according to subject with appropriate sections of the regulations referenced in parentheses. Substantive issues are discussed under the section of the regulations to which they pertain. In addition to the public comment, the comments of the Board's Committee on Standards are also addressed. That Committee met in public session on August 4, 1995, to provide final input for the Board and to act on the Board's behalf in approving the standards. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Qualifications of Peer Reviewers (§ 700.11)

Comments: Two commenters believed that § 700.11 should require the majority of reviewers for a given application to meet the qualifications in § 700.11(a)(1)(i). These commenters were concerned that requiring individual reviewers to possess only one or more of the qualifications listed under § 700.11(a)(1) might result in few or no reviewers for a given application possessing demonstrated expertise in the subject of the competition (§ 700.11(a)(1)(i)). One of these commenters also felt that each group of reviewers for a given application should include at least one reviewer with "in-depth knowledge of policy and practice in the field of education"

(§ 700.11(a)(1)(ii)), and at least one reviewer with "in-depth knowledge of theoretical perspectives or methodological approaches relevant to the subject of the competition" (§ 700.11(a)(1)(iii)). Another commenter felt that all reviewers for research projects should possess technical expertise regarding the theoretical and methodological aspects of the grant applications.

Discussion: The Secretary believes it is important for all reviewers to possess each of the qualifications in § 700.11(a)(1). The Board agreed that it is important for all reviewers to possess each of the qualifications in § 700.11(a)(1) but recommended that § 700.11(a)(1)(ii) be modified to allow a reviewer to be deemed qualified on the basis of in-depth knowledge of policy "or" practice in the field of education rather than both.

Changes: The Secretary has revised § 700.11(a)(1) to require each reviewer to possess each of the qualifications of (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) and replaced the word "and" in (a)(1)(ii) with the word "or".

Comments: One commenter expressed concern that the word "relevant" in § 700.11(a)(1)(i) was inadequate for specifying that reviewers have direct expertise in the topic area of grant applications they review.

Discussion: The Secretary agrees with this commenter.

Changes: The Secretary replaced the words "relevant to the subject area" with the words "in the subject area" in § 700.11(a)(1)(i) and also in § 700.11(a)(1)(iii).

Convening Reviewers to Discuss Unsolicited Applications (§ 700.21)

Comments: One commenter suggested substituting the word "may" for the word "will" in § 700.21(c) so as not to require the convening of reviewers in all instances. The commenter believed that it may not be necessary to convene reviewers to discuss the strengths and weaknesses of unsolicited applications.

Discussion: The Secretary believes that discussions of each application's strengths and weaknesses allows reviewers to share perspectives and provide a higher quality of review. Therefore, the Secretary believes that such discussions should, in general, be required. However, the Secretary agrees that in the case of unsolicited applications, it may not be necessary to convene reviewers.

Changes: The Secretary has added a new § 700.21(c)(2), which allows the Secretary to use discretion in determining whether to convene reviewers of unsolicited applications.

Comments: One commenter felt that it was important that applicants receive the written comments regarding the strengths and weaknesses of their applications at the same time as the applicants are notified of acceptance or rejection. Another commenter recommended that the OERI standards address the issue of OERI's communicating the results of the competition to the applicants and the larger community.

Discussion: The Secretary recently modified Department procedures to provide both successful and unsuccessful applicants earlier notification of funding decisions. In most cases, reviewer comments accompany these notifications. However, particularly for competitions that generate large numbers of applications, reviewer comments are sent at a later date so that this early notification of funding decisions need not be delayed. The Secretary routinely issues press releases to inform the public of the results of each competition.

Changes: None.

Evaluating Grant and Cooperative Agreement Applications and Contract Proposals (§ 700.21 and § 700.22)

Comments: One commenter stated that it was not clear that the Secretary will be constrained or informed by the results of the evaluations carried out by the peer reviewers. The commenter recommended changes to clarify that: (1) Each reviewer will provide a recommendation to fund or not to fund each application, accompanied by a numerical rating of the application; and (2) the Secretary will rely on numerical ratings given by the peer reviewers in rank ordering the applications.

Discussion: The Secretary agrees that § 700.21(e) should be revised to clarify that the Secretary prepares a rank order based solely on the peer reviewers' ratings. However, the Secretary believes that, in selecting applications for award, he must consider factors in addition to the applicants' rankings and the funding recommendations of the peer reviewers. These other factors, specified in § 700.40, include performance of the applicant under a prior award, the amount of funds available for the competition, and any other information relevant to a priority or other statutory or regulatory requirement applicable to the selection of applications for new awards.

Changes: The Secretary has revised § 700.21(e) to clarify that the rank order is based solely on the peer reviewers' ratings for each application.

Comments: One commenter pointed out that § 700.22(d), regarding the evaluation of contract proposals, enables reviewers to assign proposals to the category "capable of being made acceptable." The commenter recommended that a similar category be added to § 700.21(d), relating to the evaluation of grants and cooperative agreements. The commenter believes that such a change could allow applicants an opportunity to fix minor problems in otherwise outstanding grant applications and still be eligible for funding.

Discussion: The Federal Acquisition Regulations, which govern the Federal government's contract procurements expressly recommend the establishment of a category "capable of being made acceptable." In that grant competitions are held to determine which applicants are to receive the benefit of Federal financial assistance for the activities applicants propose, rather than to determine which applicant or applicants will be contracted to provide services according to government specifications, fairness would dictate that if one grant applicant is allowed to revise its application, all other grant competitors should be provided the same opportunity. In addition, grant competitions typically generate many more applications than do contract competitions. There are often many more highly rated applicants than there are funds available for awards, and so there is no need to allow competitors a second chance to make their applications fundable. As a practical matter, applications that are truly outstanding, but have minor problems, are likely to be rated highly, with the minor problems addressed during negotiation of the grant award. The Board discussed the issue raised by this commenter. The Board was concerned that reviewers of proposals for contracts had three categories in which they could place contract proposals while reviewers of grant and cooperative agreement applications only had two categories. The Board recommended that a third category be added under § 700.21(d) that would allow reviewers to distinguish between projects that they would recommend for funding and those that they would highly recommend.

Changes: The Secretary has added a new category of "highly recommended for funding" under § 700.21(d).

Comment: After consultation with the Board, the Secretary has determined that the evaluation criteria related to prior performance of applicants under previously funded grants or cooperative agreements (§ 700.30(e)(3)(ii)(D) and

§ 700.30(e)(4)(ii)(E)) would require applicants to provide that information for evaluation by the peer reviewers. This information is already available to the Secretary and will be another factor considered by the Secretary in making award decisions under § 700.40(a)(3).

Discussion: The evaluation criteria under § 700.30(e)(3)(ii)(D) and § 700.30(e)(4)(ii)(E) duplicate the factors in § 700.40(a)(3) and thus impose an unnecessary burden on applicants.

Changes: § 700.30(e)(3)(ii)(D) and § 700.30(e)(4)(ii)(E) are deleted.

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 submitted a copy of this section to the Office of Management and Budget (OMB) for its review, and it was approved by OMB. (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.

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.

Assessment of Educational Impact

Based on the response to the proposed regulations and on its own review, the Department has determined that the regulations in this document do not require transmission of information that

is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 700

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

Dated: September 11, 1995.

Richard W. Riley,
Secretary of Education.

Sharon P. Robinson,
Assistant Secretary for Educational Research and Improvement.

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

The Secretary amends 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

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- 700.40 How are grant and cooperative agreement applications selected for award?
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Authority: 20 U.S.C. 6011(i).

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 (the Office) 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 Education Department Acquisition Regulation, 48 CFR Chapter 34.

EDGAR means the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 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); and

(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 that 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 the following qualifications:

(i) Demonstrated expertise, including training and experience, in the subject area of the competition.

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

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

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

(b) For each competition for new awards for grants and cooperative agreements—

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

(ii) The majority of reviewers may 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 Department for the purposes of conflicts of interest analysis.

(b) As employees of the Department, peer reviewers are subject to the provisions of 18 U.S.C. 208, 5 CFR 2635.502, and the Department's 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 Department in accordance with FAR, 48 CFR 3.104-4(h)(2).

(b) As employees of the Department, 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 must 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 must be used.

(b) Each contract proposal must be read by at least three reviewers unless the contracting officer determines that an adequate peer review can be obtained by using 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 must 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) (1) Except as provided in paragraph (c)(2) of this section, after each peer reviewer has evaluated and rated each application independently, those reviewers who evaluated a common set of applications are 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.

(2) Reviewers are not convened to discuss an unsolicited application unless the Secretary determines that discussion of the application's strengths and weaknesses is necessary.

(d) Following discussion and any reevaluation and re-rating, reviewers shall independently place each application in one of three categories, either "highly recommended for funding," "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' ratings.

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

§ 700.22 How are proposals for contracts evaluated?

(a) Each peer reviewer must 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** or in the application package.

(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 need 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.

(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 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.

(Approved by the Office of Management and Budget under control number 1850-0723)

(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), the Secretary uses criteria or factors specified in the applicable program statute 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 must 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))

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