

DEPARTMENT OF EDUCATION

Impact Aid

AGENCY: Department of Education.

ACTION: Notice announcing a special application and amendment filing date for certain Impact Aid fiscal years (FYs) 1995 and 1996 section 8002 grants and FY 1997 section 8003 grants.

SUMMARY: The Secretary announces a special filing date of January 31, 1997, for the submission of applications or amendments for certain Impact Aid FYs 1995 and 1996 section 8002 grants and FY 1997 section 8003 grants. Impact Aid regulations at 34 CFR 222.3 and 222.5 specify that the annual application deadline is January 31 of the fiscal year in which a local educational agency (LEA) seeks assistance under section 8002 or section 8003. Amendments for those applications must be made no later than the end of the fiscal year in which an LEA seeks assistance under section 8002 or section 8003. However, as a result of several legislative amendments to the Impact Aid statute (Title VIII of the Elementary and Secondary Education Act) in September 1996, it is necessary to provide additional time to the LEAs described below, which are affected by the amendments, to file new or amended applications for certain fiscal years for which the general annual filing dates have passed.

EFFECTIVE DATE: This notice announcing a special filing date of January 31, 1997,

for the specified Impact Aid FYs 1995 and 1996 section 8002 grants and FY 1997 section 8003 grants is effective December 13, 1996. The deadline date for the transmittal of comments by State Educational Agencies is February 15, 1997.

SUPPLEMENTARY INFORMATION: The categories of Impact Aid applicants and the basis and fiscal years for which new or amended applications for past years may be filed are summarized in the table at the end of this section and explained in detail as follows:

(1) Section 1 of the Impact Aid Technical Amendments of 1996 (Pub. L. 104-195) added section 8002(g) to the Impact Aid statute. This provision covers any LEA that has been consolidated since 1938, and that applied for and was determined eligible based on any of its formerly separate LEAs under section 8002's predecessor (section 2(c) of Pub. L. 81-874) at any time before FY 1995. It allows such an LEA to have its current eligibility and payment determined on the basis of whichever of its formerly separate districts it chooses. Local educational agencies affected by this provision may now amend or file new section 8002 applications for FY 1995 or 1996, or both.

(2) Section 5 of the Impact Aid Amendments of 1996 specifies that, beginning with FY 1997, eligibility and payments under section 8003(f) for heavily impacted districts should be determined based on student, revenue,

and tax data from the second preceding fiscal year rather than on current year data.

As a result of this provision, any affected section 8003 applicant may now file a section 8003(f) application for FY 1997.

(3) Section 376 of the National Defense Authorization Act of 1997 (Pub. L. 104-201) amended section 8003(a)(3) of the Impact Aid statute to allow an LEA that educates children in categories (F) or (G) (formerly identified as "civilian b's") to count those children for eligibility and payment if those children number at least 1,000 in average daily attendance or equal at least 10 percent of the LEA's total average daily attendance. Formerly, the statutorily required threshold was 2,000 children and 15 percent of total average daily attendance. Any section 8003 applicant affected by this statutory revision may now file or amend an FY 1997 section 8003 application.

In all three cases, the specified section 8002 or 8003 applications or amendments for past fiscal years must be filed by January 31, 1997. The 60-day extended deadline provision (with a ten percent payment reduction penalty) in section 8005(d) of the Impact Aid statute is not applicable to applications or amendments that are submitted under this extension as a result of the Congressional amendments for otherwise closed fiscal years specified in the box below.

NEW IMPACT AID APPLICATION AND AMENDMENT FILING DATES

Type of applicant	Basis for extension	Affected fiscal year	New filing date
Section 8002	Eligibility based on former districts for consolidated districts previously eligible under section 2(c) of P.L. 81-874.	FY 1995 or 1996, or both	January 31, 1997.
Section 8003(f)	Eligibility and payments for heavily impacted LEAs based on second preceding year student, revenue or tax data.	FY 1997	January 31, 1997.
Section 8003	Eligibility and payment for children under section 8003(a)(1) (F) or (G) based on such children numbering at least 1,000 in average daily attendance or equal to at least 10 percent of total average daily attendance.	FY 1997	January 31, 1997.

Waiver of Rulemaking

Section 222.3 of Title 34 of the Code of Federal Regulations, which establishes the annual January 31 Impact Aid application deadline, is currently in effect. However, due to the legislative amendments, the application period for certain prior fiscal years needed to be extended. Because this amendment makes a procedural change for this year only as a result of unique circumstances, proposed rulemaking is not required under 5 U.S.C. 553(b)(A). In addition, the Secretary has determined under 5 U.S.C. 553(b)(B)

that proposed rulemaking on this one-time limited suspension of the regulatory filing date is impracticable, unnecessary, and contrary to the public interest.

FOR APPLICATIONS OR INFORMATION CONTACT: Impact Aid Program, U.S. Department of Education, 600 Independence Avenue SW, 4200 Portals, Washington, DC 20202-6244. Telephone: (202) 260-3858. 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.

Program Authority: 20 U.S.C. 7705. (Catalog of Federal Domestic Assistance Number 84.041, Impact Aid)

Dated: December 9, 1996.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

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