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Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF EDUCATION

2 CFR Parts 3474 and 3485

34 CFR Parts 75, 76, 77, and 79

RIN 1875–AA14

[Docket ID ED–2026–OPEPD–2542]

Education Department General Administrative Regulations

AGENCY: Office of Planning, Evaluation and Policy Development, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education proposes to amend the Education Department General Administrative Regulations (EDGAR) and other provisions in 2 CFR parts 3474 and 3485 to update the regulations and better align them with other U.S. Department of Education (Department) regulations and procedures, and to include technical updates from the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards published in the **Federal Register** on April 22, 2024. The Department intends to finalize these regulations in late 2026.

DATES: We must receive your comments on or before September 23, 2026.

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at *Regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for more details.

FOR FURTHER INFORMATION CONTACT: Zachary Rogers, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 245–6776. Email: *EDGAR@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding these proposed regulations. Comments must be submitted via the Federal eRulemaking Portal at *regulations.gov*. A brief summary of the proposed rule is also available on the Federal eRulemaking Portal. If you require an accommodation or cannot otherwise submit your comments via *regulations.gov*, please contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. The Department will not accept comments by fax or by email, or comments submitted after the comment period closes. To ensure that the Department does not receive duplicate copies, please submit your comments only once.Additionally, please include the Docket ID at the top of your comments.

To ensure that public comments have maximum effect in developing the final regulations, the Department urges that each comment clearly identify the specific section or sections of the regulations that the comment addresses and that comments be in the same order as the regulations. In finalizing these proposed regulations, the Department may issue certain aspects of the final rule separately in order to appropriately respond to comments submitted by the public.

Federal eRulemaking Portal: Go to *www.Regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''FAQ.'' Also included on *Regulations.gov* is a commenter checklist that addresses how to submit effective comments.

In instances where individual submissions appear to be duplicates or near duplicates of comments prepared as part of a writing campaign, the Department may choose to post to *Regulations.gov* one representative sample comment along with the total comment count for that campaign. The Department will consider these comments along with all other comments received. In instances where individual submissions are bundled together (submitted as a single document or packaged together), the Department will post all of the substantive comments included in the submissions along with the total comment count for that document or package to *Regulations.gov*.

Comments containing personal threats will not be posted to *Regulations.gov* and may be referred to the appropriate authorities.

During and after the comment period, you may inspect public comments about the proposed regulations by accessing *Regulations.gov*. To inspect comments in person, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Privacy Note: The Department's policy is to generally make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *Regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this document. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

In this notice of proposed rulemaking, we propose to amend 2 CFR parts 3474 and 3485 and parts 75, 76, 77, and 79 of title 34 of the Code of Federal Regulations. These changes are detailed in the Summary of Major Provisions of this Regulatory Action and the Significant Proposed Regulations section of this document.

Summary of Major Provisions of this Regulatory Action: As discussed in greater detail in the *Significant Proposed Regulations* section of this document, the proposed regulations would:

- Make technical updates to ensure consistency across parts of EDGAR, including amending certain sections of its agency-specific Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards regulations in 2 CFR parts 3474 and 3485 by making technical updates to the cross-references cited in both parts to reflect revisions to the Uniform Administrative

Requirements, Cost Principles, and Audit Requirements for Federal Awards.

- Promote efficiency and cost savings within the Department and become more consistent with common practices among other Federal agencies, with regard to the publishing of notices and priorities in §§ 75.100, 75.104, 75.105, 75.222, 75.224, 79.3, 79.6, and 79.8.
- Clarify and streamline the selection criteria the Secretary may use to make discretionary awards under § 75.210.
- Clarify procedural approaches, such as the making of continuation awards under § 75.253.
- Ensure merit practices and high standards for all grants under §§ 75.500 and 76.500.
- Align EDGAR with the evidence framework in the Secretary's Supplemental Priorities and Definitions on Evidence-Based Literacy, Education Choice, and Returning Education to the States, published in the **Federal Register** September 9, 2025 (90 FR 43514), by updating the definitions related to evidence in Part 77.

The applicable authority for this regulatory package is 20 U.S.C. 1221 through 1221–1; 20 U.S.C. 1221e–3; 20 U.S.C. 1228a(c); 20 U.S.C. 3402; and 20 U.S.C. 3474, unless otherwise noted.

Proposed Regulations

Part 75 Direct Grant Programs

SECTION 75.4 [RESERVED]

Current Regulation: Section 75.4 is currently reserved.

Proposed Regulation: We propose to add a new § 75.4 that would add a severability provision, to be included in the general subpart A, which would make clear that, if any part of the proposed regulations in Part 75 is held invalid by a court, the remainder would still be in effect.

Reason: Each of the sections in Part 75 serves one or more related but distinct purposes. To best serve these purposes, we would include this administrative provision in the regulations to make clear that the regulations are designed to operate independently of each other and to convey the Department's intent that the potential invalidity of one provision should not affect the remainder. Relatedly, we propose to remove the separate severability provisions already specific to Subparts A, E, and F.

SECTION 75.51 HOW TO PROVE NONPROFIT STATUS

Current Regulation: Section 75.51 provides information on how and what an applicant may provide to prove their nonprofit status.

Proposed Regulation: We propose to amend the regulation to change the ''may'' language around providing documentation to a ''must.''

Reasons: The use of ''may'' makes it difficult, if an applicant does not provide documentation, for the Department to confirm nonprofit status, including requiring a search of multiple sources to try and confirm status.

SECTION 75.63 SEVERABILITY

Current Regulation: Section 75.63 includes language related to severability specific to Subpart A of Part 75.

Proposed Regulation: We propose to remove and reserve § 75.63.

Reasons: Section 75.63 discusses severability specific to Subpart A of Part 75, but the proposed § 75.4 would add language about severability applicability to all of Part 75; therefore, severability language for a specific subpart is unnecessary.

SECTION 75.100 PUBLICATION OF AN APPLICATION NOTICE; CONTENT OF THE NOTICE

Current Regulation: Section 75.100 includes a regulation related to the publication of an application notice and the content of the notice announcing the opportunity to apply for a new grant.

Proposed Regulation: We propose to amend the regulation to eliminate the requirement for the Secretary to publish application notices in the **Federal Register**. The proposed regulation would result in cost savings for the Department and taxpayers, be consistent with the notice requirements for Federal agencies in the governmentwide grants regulations in 2 CFR 200.204, align the Department's practices with more common practices among other Federal agencies, and allow the Department to streamline and simplify notices that are currently constrained by the rules of publishing in the **Federal Register**, such as formatting limitations, including the use of tables. Given that Federal agencies are charged a fee to publish documents in the **Federal Register**, this change would provide hundreds of thousands of dollars in annual cost savings for taxpayers and the Department.[1] For a detailed breakdown on the cost savings analysis, please review the *Regulatory Impact Analysis* section. Additionally, this proposed change would simplify the process for making application notices available to the public by removing time delays on public notification of funding opportunities. Currently, applicants seeking grants through the Department and other agencies must register and submit applications via *Grants.gov*, where funding opportunities are already listed. By eliminating the regulation to post notices in the **Federal Register**, applicants would no longer need to monitor multiple sources for grant information. Instead, they can rely on *Grants.gov* for all updates. *Grants.gov* provides the ability for potential applicants to receive email notification as new funding opportunities are posted. As ED increasingly partners with other Federal agencies as part of its ''final mission'' to return education to the States, in line with Executive Order 14242, this change will help align the Department's funding notices with the practices of other agencies, for consistent and improved government-wide simplification of notices that are not limited by required formatting and publishing standards with the **Federal Register**.

SECTION 75.104 ADDITIONAL APPLICATION PROVISIONS

Current Regulation: Section 75.104 concerns applicants' compliance with application provisions.

Proposed Regulation: We propose to amend the regulation to eliminate the requirement for the Secretary to publish maximum award amounts for grant competitions in application notices in the **Federal Register**. Instead, maximum award amounts would be included in the application notices.

Reason: As noted above, this change would simplify the Department's practices in alignment with other agencies.

SECTION 75.105 ANNUAL ABSOLUTE, COMPETITIVE PREFERENCE, AND INVITATIONAL PRIORITIES

Current Regulation: Section 75.105(b) specifies that the Secretary establishes priorities for the selection of applications in a particular fiscal year by publishing such annual priorities in a notice in the **Federal Register**.

Proposed Regulation: We propose to amend the regulation to eliminate the requirement for the Secretary to publish annual priorities for grant competitions in application notices in the **Federal Register**. Instead, priorities would be included in the application notices.

Reasons: As noted above, this change would simplify the Department's practices in alignment with other agencies.

[1] For information on publishing in the **Federal Register**, including information regarding the fees, see *https://www.gpo.gov/how-to-work-with-us/agency/services-for-agencies/ofr-publishing-services.*

SECTION 75.210 GENERAL SELECTION CRITERIA

Current Regulation: Section 75.210 lists the selection criteria and factors that the Department uses in the peer review process to score applications for discretionary grants.

Proposed Regulation: We propose changes to paragraphs (a) through (i) of § 75.210.

Reasons: We propose making revisions throughout § 75.210 in paragraphs (a), (b), (c), (d), and (g) to consistently refer to grant participants as the ''target population,'' which would ensure alignment of factors throughout § 75.210. Additional proposed changes to these paragraphs would streamline the language of individual factors to remove additional descriptive language to focus the intent.

In paragraph (a), we propose to include the extent to which a problem is being addressed, in addition to the significance of the problem. We propose to broaden the focus to employment and career outcomes in paragraph (a)(2)(iii).

In paragraph (b) we propose to focus paragraph (b)(2)(ii) on the problem to be addressed by the proposed project. In paragraph (b)(2)(iii), we propose to focus on the challenges more broadly, as well as the effective strategies to address said challenges. We propose a new paragraph (b)(2)(xviii) related to the services of high-quality personnel.

In paragraph (c), we propose edits to factors to add emphasis on the role of families in communities and edits for clarity and removal of potential redundancy in language within factors. In paragraph (c)(2)(xvii) we propose edits to focus the priority on academic standards for students. In paragraph (c)(2)(xxi) we propose to revise the factor to clarify the selection of project participants, to align with the merit language being proposed in § 75.500. In paragraph (c)(2)(xxiii) we propose the addition of implementation sites into the consideration of the incorporation of the work beyond the project period.

In paragraphs (d) and (e), we propose to revise paragraph (d)(2) and (e)(2) and to consolidate and remove paragraphs (d)(3) and (e)(3) to align the introduction of these criteria with the other selection criteria in § 75.210. In proposed redesignated paragraph (d)(2)(v), we propose to include technical assistance, in addition to training and professional development services. We also propose revisions to proposed redesignated paragraph (d)(2)(ix) to align more closely with language from the Secretary's Supplemental Priority and Definitions on Career Pathways and Workforce Readiness published in the **Federal Register** April 13, 2026 (91 FR 18780). We propose a new paragraph (d)(2)(xiii) on the use of evidence-based practices in the preparation of high-quality personnel.

In paragraph (e), we propose revisions and a removal of current paragraph (e)(3)(iv) to focus the project personnel criterion on the qualifications of the personnel; as such, we propose to redesignate current paragraph (e)(3)(v) as paragraph (e)(2)(iv). We proposed to add a new paragraph (e)(2)(vi) to align with the merit language being proposed in § 75.500.

In paragraph (f), we propose revisions to emphasize the role of the applicant and contributions of partners in the project as well as a consideration of experiences in the qualifications of personnel.

In paragraph (g), we propose streamlining of paragraph (g)(2)(iv) to focus on the time commitment of the project personnel. Proposed revisions to paragraph (g)(2)(v) align with other proposed revisions to emphasize a focus on the family and community.

In paragraph (h), we propose revisions to factors to specify the level of evidence for which an evaluation is designed to meet, rather than a description of the evidence level without the naming of the evidence level.

In paragraph (i), we propose a revision to paragraph (i)(1) to streamline the paragraph to emphasize the applicant's strategy to effectively scale the proposed project, without additional qualifiers, like how paragraph (1) is structured in other selection criteria. We propose a revision to paragraph (i)(2)(v) to streamline the factor to focus on the project, which is already inclusive of the scale of that project.

SECTION 75.220 PROCEDURES THE DEPARTMENT USES UNDER § 75.219(a)

Current Regulation: Section 75.220(b)(2) references an employee of the Office of the Finance and Operations (OFO) with responsibility for grants policy to serve on a board to review an application under the special circumstances of § 75.219(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).

Proposed Regulation: We propose revising paragraph (b)(2) to remove the reference to a specific office of the Department.

Reasons: Given staffing changes at the Department, this section would be updated to reference the qualifications of the individual instead of naming a specific office in the Department.

SECTION 75.222 PROCEDURES THE DEPARTMENT USES UNDER § 75.219(c)

Current Regulation: Section 75.222 describes the procedures for considering an unsolicited application, including the note accompanying § 75.222 references themailing of an unsolicited application and the address.

Proposed Regulation: Proposed § 75.222 would update the procedures for submitting an unsolicited application.

Reasons: The Department moved away from paper applications and is proposing to move away from physically mailed applications for unsolicited applications.

SECTION 75.224 WHAT ARE THE PROCEDURES FOR USING A MULTIPLE TIER REVIEW PROCESS TO EVALUATE APPLICATIONS?

Current Regulation: Section 75.224 outlines the procedures for when a multiple tier review is used.

Proposed Regulation: Proposed § 75.224 would remove reference to the notice publishing in the **Federal Register**.

Reason: As noted above, this change would simplify the Department's practices in alignment with other agencies.

SECTION 75.228 [DOES NOT EXIST]

Current Regulation: Section 75.228 currently does not exist.

Proposed Regulation: We propose to add a new § 75.228 that would allow the Secretary to provide competitive preference to applicants who propose to charge lower indirect costs than their negotiated rate.

Reason: The proposed revision would provide the Department with greater flexibility to give competitive preference to applicants that propose to charge lower indirect costs to help ensure that Federal funds are directed, to the greatest extent possible, towards the core activities and outcomes of programs.

SECTION 75.230 HOW THE DEPARTMENT MAKES A GRANT

Current Regulation: Section 75.230 outlines how the Secretary selects an application, including the amount of the award.

Proposed Regulation: Proposed § 75.230 would add a new paragraph to clarify that approval of an application does not obligate the Federal Government to provide additional funding for the award in the future.

Reasons: The proposed new paragraph would reflect existing Department practices.

SECTION 75.251 BUDGET PERIODS

Current Regulation: Section 75.251 outlines the process for multi-year projects, including multiple budget periods and a data collection period.

Proposed Regulation: We propose to correct a misspelling in paragraph (b)(2) and add a new paragraph (d) to clarify that the Secretary may consider any unspent or unobligated funds by a grantee in making funds available for multi-year projects, including making adjustments to awards based on an unspent balance.

Reason: The proposed new paragraph adds specificity to the authority that underpins existing Department practices.

SECTION 75.252 [RESERVED]

Current Regulation: Section 75.252 is currently reserved.

Proposed Regulation: We propose to add a new § 75.252 that would clarify the process for frontloading grant funds of a multi-year project.

Reason: The Department can frontload grant funds, but the addition of § 75.252 outlines how it may be done, as well as grantee responsibilities.

SECTION 75.253 CONTINUATION OF A MULTIYEAR PROJECT AFTER THE FIRST BUDGET PERIOD

Current Regulation: Section 75.253 describes the process and requirements for making continuation determinations and setting the amount of continuation awards.

Proposed Regulation: We propose revisions to § 75.253 to clarify the Secretary's authority to make continuation determinations and set continuation award amounts by removing subsection (c), allowing the Secretary to exercise the Secretary's discretion, as well as to clarify the Secretary's existing authority and practice to consider all pieces of relevant available information to inform a continuation determination, including information from the grant application and previous grantee activity. Proposed revisions also include the timing of making a continuation award, the funding for a continuation award, and a further clarification that the provisions of the General Education Provisions Act do not apply to decisions by the Secretary to reduce the amount of a continuation award or to not make a continuation determination.

Reasons: We propose these revisions to § 75.253 to clarify the Secretary's authority to make award decisions, and to clarify the existing practices and agency interpretation that allow the Secretary to rely on additional information in continuation award determinations under § 75.253; our current practices will be codified in § 75.253.

SECTION 75.500 CONSTITUTIONAL RIGHTS, FREEDOM OF INQUIRY, AND FEDERAL STATUTES AND REGULATIONS ON NONDISCRIMINATION

Current Regulation: Section 75.500 outlines the various statutes and regulations with which grantees must comply.

Proposed Regulation: We propose to add a new paragraph (f) that would require grantees to ensure that hiring, admissions, promotions, and compensation practices under the grant are based on merit and high standards, without regard to race, color, religion, sex, national origin, or proxies thereof unless an appropriate exception applies as a religious organization or an organization engaged in government-ordered remedial action; that the grantee's employment practices do not compel statements of belief in support or opposition to any political views as a condition of continued employment, promotion, admission, project participation, or the delivery of a benefit previously promised or entitled to the employee; and that, where applicable, the grantee has policies protecting freedom of speech, inquiry, and press, association, research as specified and required by § 75.500(a)-(e).

Reasons: The Department believes that the discretionary grants it administers will be most likely to achieve program objectives if awarded to entities that will emphasize merit, ability, and high standards in their hiring practices, as appropriate. In particular, the Department is cognizant of the Congressional directive contained within section 427 of the General Education Provisions Act that the Department ''promote educational excellence throughout the Nation'' by promoting the ability of program beneficiaries ''to meet high standards.'' By amending § 75.500 to require all grantees to prioritize merit and high standards throughout their funded project activities, the Department seeks to reinforce its commitment to ensuring excellence as a bedrock component of all Federal education programs.

SECTION 75.684 SEVERABILITY

Current Regulation: Section 75.684 includes language related to severability specific to Subpart E of Part 75.

Proposed Regulation: We propose to remove and reserve § 75.684.

Reasons: Section 75.684 discusses severability specific to Subpart E of Part 75, but proposed § 75.4 would add language about severability applicability to all of Part 75; therefore, severability language for a specific subpart is unnecessary.

SECTION 75.741 SEVERABILITY

Current Regulation: Section 75.741 includes language related to severability specific to Subpart E of Part 75.

Proposed Regulation: We propose to remove and reserve § 75.741.

Reasons: Section 75.741 discussed severability specific to Subpart E of Part 75, but proposed § 75.4 would add language about severability applicability to all of Part 75; therefore, severability language for a specific subpart is unnecessary.

SECTION 75.901 SUSPENSION AND TERMINATION

Current Regulation: Section 75.901 indicates that the Secretary may use the Office of Administrative Law Judges to resolve disputes concerning a variety of matters that are not subject to other proceedings.

Proposed Regulation: We propose to revise § 75.901 to provide clear notice to all recipients of the Department's ability to terminate discretionary awards for convenience in a manner consistent with law. Other clarifying edits are proposed in paragraph (a) regarding the other reasons for termination, including for noncompliance, by mutual agreement, upon notification by the recipient or subrecipient, and pursuant to additional terms and conditions included in the Federal award.

Reasons: This proposed clarification is similar to the existing authority at 2 CFR 200.340(a)(4) to terminate awards found to be inconsistent with program goals or agency priorities. It would also be consistent with the long-standing authority to terminate Federal contracts for convenience under the Federal Acquisition Regulations at 48 CFR 49.502 and 52.249–2 and the developing caselaw, as affirmed by recent opinions from the Supreme Court of the United States, that grantee agreements are ultimately contractual in nature.[2] The proposed changes would ensure that the Department retain ongoing programmatic discretion after an award is made, consistent with law, to

[2] *Department of Education* v. *California,* 604 U.S. __ (2025) (per curiam); *National Institutes of Health* v. *American Public Health Association,* 606 U.S. __ (2025) (per curiam).

terminate a discretionary award for convenience.

Reasons: The proposed revisions are meant to provide additional clarity and authority regarding reasons available to the Department for terminating Federal awards, and to add new provisions regarding temporary suspension generally consistent with parallel procedures for procurement contracts under the Federal Acquisition Regulations. These proposed revisions create greater alignment between Federal financial assistance and the long-standing termination for convenience provision applicable to Federal procurement contracts. The goals of these proposed revisions include ensuring that Federal funds are not wasted, projects remain aligned with Department priorities, and recipients remain accountable for delivering projects consistent with public purposes authorized by law.

Part 76 State-Administered Formula Grant Programs

SECTION 76.3 [DOES NOT EXIST]

Current Regulation: Section 76.3 currently does not exist.

Proposed Regulation: We propose to add a new § 76.3, to Subpart A—General, under the heading ''Regulations That Apply to State-Administered Programs,'' to add a severability provision, to be included in subpart A, which would make clear that, if any part of the proposed regulations in Part 76 is held invalid by a court, the remainder would still be in effect.

Reason: Each of the sections in Part 76 serves one or more important, related but distinct purposes. To best serve these purposes, we would include this administrative provision in the regulations to make clear that the regulations are designed to operate independently of each other and to convey the Department's intent that the potential invalidity of one provision should not affect the remainder. Relatedly, we propose to remove the separate severability provisions specific to Subparts A and G.

SECTION 76.53 SEVERABILITY

Current Regulation: Section 76.53 includes language related to severability specific to Subpart A of Part 76.

Proposed Regulation: We propose to remove and reserve § 76.53.

Reasons: Section 76.53 discusses severability specific to Subpart A of Part 76, but proposed § 76.3 would add language about severability applicability to all of Part 76; therefore, severability language for a specific subpart is unnecessary.

SECTION 76.500 CONSTITUTIONAL RIGHTS, FREEDOM OF INQUIRY, AND FEDERAL STATUTES AND REGULATIONS ON NONDISCRIMINATION

Current Regulation: Section 76.500 outlines the various statutes and regulations with which grantees must comply.

Proposed Regulation: We propose to add a new paragraph (f) that would require grantees to ensure merit practices as part of a grantee's General Administrative Responsibilities.

Reasons: The Department believes that the grants it administers will be most likely to achieve program objectives if awarded to entities that emphasize merit, ability, and rigor in their hiring practices. In particular, the Department is cognizant of the Congressional directive contained within section 427 of the General Education Provisions Act that the Department ''promote educational excellence throughout the Nation'' by promoting the ability of program beneficiaries ''to meet high standards.'' By amending § 76.500 to require all grantees to prioritize merit and high standards throughout their funded project activities, the Department seeks to reinforce its commitment to ensuring excellence as a bedrock component of all Federal education programs.

SECTION 76.684 SEVERABILITY

Current Regulation: Section 76.684 includes language related to severability specific to Subpart G of Part 75.

Proposed Regulation: We propose to remove and reserve § 76.684.

Reasons: Section 76.684 discusses severability specific to Subpart G of Part 76, but proposed § 76.3 would add language about severability applicability to all of Part 76; therefore, severability language for a specific subpart is unnecessary.

SECTION 76.700 COMPLIANCE WITH THE U.S. CONSTITUTION, STATUTES, REGULATIONS, STATED INSTITUTIONAL POLICIES, AND APPLICATIONS

Current Regulation: Section 76.700 states that grantees shall comply with and use Federal funds in accordance with applicable statutes, regulations, and approved applications.

Proposed Regulation: We propose to revise § 76.700 to include Executive orders in addition to statutes, regulations, and approved applications.

Reasons: We propose this revision to align to § 75.700, which includes the requirement for grantees of direct grant programs to comply with Executive orders. It was an oversight that this proposed change was not included in the updates to EDGAR published in the **Federal Register** on August 29, 2024 (89 FR 70300).

SECTION 76.784 SEVERABILITY

Current Regulation: Section 76.784 includes language related to severability specific to Subpart G of Part 75.

Proposed Regulation: We propose to remove and reserve § 76.784.

Reasons: Section 76.784 discusses severability specific to Subpart G of Part 76, but proposed § 76.3 would add language about severability applicability to all of Part 76; therefore, severability language for a specific subpart is unnecessary.

Part 77 Definitions That Apply to Department Regulations

SECTION 77.1 DEFINITIONS THAT APPLY TO ALL DEPARTMENT PROGRAMS

Current Regulation: Section 77.1 includes a number of definitions, including certain definitions related to evidence. These definitions support the various sections in EDGAR and are used by the Department in notices where relevant to the specific grant competition.

Proposed Regulation: We propose to revise the definitions of ''experimental study,'' ''moderate evidence,'' ''national level,'' ''promising evidence,'' ''quasi-experimental design study,'' ''regional level,'' and ''strong evidence'' and to add new definitions of ''evidence framework'' and ''frontloading.''

Reasons: The proposed updates to the definitions, including the definitions for the different tiers of evidence, align with the definitions in the Elementary and Secondary Education Act. The proposed addition of the definition for ''evidence framework'' aligns with the definition in the Secretary's Supplemental Priorities and Definitions on Evidence-Based Literacy, Education Choice, and Returning Education to the States published in the **Federal Register** on September 9, 2025 (90 FR 43514), and aligns the other definitions to support the proposed ''evidence framework'' definition. The proposed definition of ''frontloading'' is to clarify a term used in the proposed § 75.252. The proposed revisions to the definitions of ''national level'' and ''regional level'' would remove the example of the groups to streamline the definitions because the Department does not think the examples are necessary in defining the level of scale.

Evidence-Related Definitions

We propose revising the evidence definitions to include a new definition for ''evidence framework,'' and revising the definitions of ''experimental study,'' ''moderate evidence,'' ''promising evidence,'' ''quasi-experimental design study,'' and ''strong evidence.''

The proposed modifications to the definitions of ''experimental study,'' ''moderate evidence,'' ''promising evidence,'' ''quasi-experimental design study,'' and ''strong evidence'' align the definitions with 20 U.S.C. 7801(21)(A)(i). The proposed definitions retain the reference to rigorous methodologies and remove references to the What Works Clearinghouse within the definitions for each tier of evidence, to allow for additional approaches that the Department may select for applicants to use to demonstrate that they have met rigorous evidence standards. The new proposed definition for ''evidence framework'' describes those additional approaches and includes the review aligned with What Works Clearinghouse as one approach that the Department may use to establish that applicants have met rigorous evidence standards. The Department may also consider other methods to verify the rigor of evidence as described in the definition of ''evidence framework.''

Part 79 Intergovernmental Review of Department of Education Programs and Activities

SECTION 79.3 WHAT PROGRAMS AND ACTIVITIES OF THE DEPARTMENT ARE SUBJECT TO THESE REGULATIONS?

Current Regulation: Section 79.3 discusses programs and activities subject to intergovernmental review.

Proposed Regulation: We propose to amend the regulation to eliminate the requirement for the Secretary to publish the list of grant programs subject to intergovernmental review in application notices in the **Federal Register**. Instead, intergovernmental review applicability would be included in the application notices.

Reasons: As noted above, this change would simplify the Department's practices in alignment with other agencies.

SECTION 79.6 WHAT PROCEDURES APPLY TO THE SELECTION OF PROGRAMS AND ACTIVITIES UNDER THESE REGULATIONS?

Current Regulation: Section 79.6 outlines how a State may select a program for intergovernmental review.

Proposed Regulation: We propose to amend the regulation to eliminate the requirement for the program or activity to be published in the **Federal Register**. Instead, the program or activity would be included in application notices.

Reasons: As noted above, this change would simplify the Department's practices in alignment with other agencies.

SECTION 79.8 HOW DOES THE SECRETARY PROVIDE STATES AN OPPORTUNITY TO COMMENT ON PROPOSED FEDERAL FINANCIAL ASSISTANCE?

Current Regulation: Section 79.8 outlines how the Secretary gives States the opportunity to comment in the intergovernmental review process, including the deadline date for comments.

Proposed Regulation: We propose to amend the regulation to remove the reference to publishing in the **Federal Register**. Instead, the deadline date for comments would be included in application notices.

Reasons: As noted above, this change would simplify the Department's practices in alignment with other agencies.

Executive Orders 12866, 13563, and 14192

Regulatory Impact Analysis

This proposed regulatory action is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. This regulatory action is expected to be considered an ''Executive Order 14192 deregulatory action.''

We have also reviewed this proposed regulatory action under Executive Order 13563. We are only issuing the proposed regulations on a reasoned determination that their benefits would justify their minimal costs. The Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We have also determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive Orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action.

1. Need for Regulatory Action

The Department has identified a need for regulatory action to minimize administrative burden to the public by reducing the number of sources they need to access to view a notice, reduce costs for taxpayers and the Department, and promote efficiency within the Department. See further explanation above in the *Reasons* section.

2. Discussion of Costs, Benefits, and Transfers

2.A. Monetized Benefits and Transfers

The Department analyzed the costs and benefits of complying with these regulations. Most of the changes proposed in this notice of proposed rulemaking are technical in nature and are unlikely to affect the administration of programs or allocation of benefits in any substantial way. Given the large number of edits proposed herein, we discuss each provision and its likely costs and benefits in turn below. We do not discuss edits proposed for which we are updating citations or cross-references and making other technical edits.

Proposed changes to § 75.4, which would add severability language for all of Part 75 and remove the separate severability language in §§ 75.63, 75.684, and 75.741, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Proposed changes to § 75.51, which would more clearly specify what an applicant must provide to prove nonprofit status, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Proposed changes to §§ 75.100, 75.104, 75.105, 75.222, 75.224, 79.3, 79.6, and 79.8 would result in a reduction of administrative burden to the public as well as cost savings to the Department.

Currently, the Department publishes grant application information first to the **Federal Register** and subsequently to *Grants.gov* and the Department program websites. The proposed changes to §§ 75.100. 75.104, 75.105, 75.222, 75.224, 79.3, 79.6, and 79.8 would streamline this process and reduce administrative burden to potential grant applicants by consolidating grant application notices in fewer locations. Based on the average number of notices inviting application documents published from FY 2021 through FY 2025, the Department estimates that, on average, 84 notices inviting applications are published in the **Federal Register** each year. We note that the President's FY 2027 Budget Request for the Department of Education [3] proposed

[3] *https://www.ed.gov/about/ed-overview/annual-performance-reports/budget/budget-requests/fy-* Continued

several program consolidations and eliminations for programs currently administered by the Department. These proposed consolidations and eliminations are not reflected in this Regulatory Impact Analysis. As the Department winds down operations, depending on funding decisions by Congress, estimated outyear benefits may decrease in the future.

The proposed changes to §§ 75.100, 75.104, 75.105, 75.222, 75.224, 79.3, 79.6, and 79.8 would result in reductions to administrative and legal staff hours typically spent on preparing notices inviting applications for the **Federal Register**. The submission of notices inviting applications to the **Federal Register** creates immense administrative burdens related to formatting and transmission requirements; every grant competition where a notice inviting applications is no longer submitted to the **Federal Register** would significantly reduce this burden. Additionally, posting notices inviting applications to the **Federal Register** creates time delays on public notification of funding opportunities. For each grant competition where a notice inviting applications is no longer submitted to the **Federal Register**, we assume a program officer at the GS–13/5 level earning a loaded wage rate of $89.49 per hour,[4] on average, would spend 10 fewer hours per competition ensuring that the notice inviting applications is prepared according to the specific formatting requirements for the **Federal Register**. Similarly, we also assume that two Department attorneys at the GS–14/5 level (loaded wage rate of $105.75 [4] per hour) would spend approximately 2.5 fewer hours each ensuring that each notice inviting applications conforms to Departmental regulatory style guides, based on the *Office of the Federal Register* requirements. We assume that a senior Department attorney at the GS–15/5 level (loaded wage rate of $127.86 [4]) would no longer spend 10 hours annually reviewing and updating Departmental regulatory style guides specific to notices inviting applications. We also estimate that one management and program analyst at the GS–13/5 level would no longer spend 5 hours per notice inviting applications transmitting the notice to the **Federal Register** in the appropriate Government Printing Office system. In sum, we estimate that this provision would generate cost savings of approximately $158,451 for the Department per year over the next ten years.

In addition, as required by law, the Department pays the Government Printing Office for each notice inviting applications published in the **Federal Register**. The cost of publication in the **Federal Register** is approximately $453 per published **Federal Register** page.[5] From FY 2021 through FY 2025, the Department published an estimated average of 84 notices inviting applications per year in the **Federal Register**. Each notice inviting applications was, on average, 6.34 pages in length. The Department estimates an annual cost of $241,250 per year to publish notices inviting applications in the **Federal Register** over the next ten years.

In total, the Department estimates net present value benefits of $3,409,531 and $2,807,333 over 10 years at a 3 percent and 7 percent discount rate, respectively. This value is equivalent to an annualized benefit of $399,701 per year over 10 years. The Department requests comments on the analysis and estimates contained in this Regulatory Impact Analysis.

Proposed changes to § 75.210, which would streamline word choice are unlikely to generate any quantifiable costs and may benefit the Department and the general public by improving the clarity of the regulations.

Proposed changes to § 75.220, which would clarify procedures for special circumstances for an application, are unlikely to generate any quantifiable costs and may benefit the Department and the general public by improving the clarity of the regulations.

Proposed changes to § 75.222, which would update the submission process for unsolicited applications, are unlikely to generate any quantifiable costs and may benefit the Department and the general public by improving the clarity of the regulations.

Proposed changes to § 75.228, which would allow the Secretary to give competitive preference to applicants who charge lower indirect costs than their negotiated rate, would provide the Department with greater flexibility to ensure that Federal funds are directed toward the activities and outcomes most central to a program's purpose. This authority would enable the Department to give competitive preference in competitions for applicants who charge lower indirect costs, based on the unique objectives and design of individual grant programs, particularly where program goals are best advanced by maximizing resources available for direct services, evidence-based interventions, capacity-building activities, or other programmatic investments. By establishing the competitive preference in the application notice, applicants would have clear expectations before applying, promoting consistency, fairness, and informed budgeting across all competitors. This flexibility would also strengthen the Department's stewardship of Federal funds by allowing it to align funding structures with program objectives and ensure that available resources are used as effectively as possible to achieve intended outcomes.

As a result of changes to § 75.228 to allow the Secretary to give competitive preference for applicants who charge lower indirect costs, the Department anticipates, within impacted programs, a transfer of grant project fund allocation from the indirect cost budget category to the direct cost budget category. We assume the proposed rule, when implemented by the Secretary, will increase the scope and impact of grant services by shifting funds from general administrative purposes towards core project activities directly related to the goals and objective of the grant award. While we are not able to monetize the scope of the potential benefit, we assume that this transfer will significantly expand the scope and impact of affected programs and therefore significantly improve educational outcomes.

We estimate, for the purposes of establishing a baseline, that the average indirect cost rate for non-restricted rate grant program is 25%.[6] For all discretionary grantees the average award size is $750,000.[7] We assume that only $600,000 of each average award is chargeable to the indirect cost rate. Therefore, we establish an average baseline of $150,000 allocated to indirect costs and $450,000 allocated to direct costs for each of the sampled awards.

We are unable to predict to what extent the Secretary will exercise the authority provided under this proposed rule in future years. Therefore, we conducted a sensitivity analysis of multiple scenarios that evaluate the potential impact based on the number of new applicants impacted and to what extent the indirect cost rate is lowered

2027-department-of-education-justifications-of-appropriation-estimates-congress.

[4] 2026 OPM GS Schedule, Washington DC locality, with 35% fringe rate.

[5] *https://www.gpo.gov/how-to-work-with-us/agency/services-for-agencies/ofr-publishing-services.*

[6] Based on Department grant system reports for 172 discretionary grant awards made in 2025 or 2026.

[7] Average award made in FY 2025 across 7,011 discretionary awards.

below the baseline for a new award grant competition.

TABLE 1—INDIRECT COST RATE CHANGE SENSITIVITY ANALYSIS

Indirect cost rate (%)	Indirect cost	Direct cost	Total transfer
25 (Baseline)	$150,000	$450,000	
20	120,000	480,000	$30,000
15	90,000	510,000	60,000
8	48,000	552,000	102,000

For the purposes of this analysis, the Department estimates that if the indirect cost rate for each of these sampled awards were, on average, lowered to 15%, the resulting allocations would be $90,000 to indirect costs and $510,000 for direct costs. This would be a transfer of $60,000 from indirect costs to direct costs per impacted grant award.

TABLE 2—NEW GRANT RECIPIENT IMPACT SENSITIVITY ANALYSIS

New grantees	20%	15%	8%
250	$7,500,000	$15,000,000	$25,500,000
750	22,500,000	45,000,000	76,500,000
1500	45,000,000	90,000,000	153,000,000

We assume that in each of the next 10 years, 750 new grant recipients would apply to programs where the Secretary gives competitive preference for applicants who charge lower indirect costs. Therefore, we estimate an annual transfer of $45,000,000 from indirect costs to direct costs over each of the next 10 years. To the extent that our sample underestimates the average indirect cost rate, the total amount transferred to the direct cost category would increase. The Department requests comments on the analysis and estimates contained in this Regulatory Impact Analysis.

Proposed changes to § 75.230, which would clarify future commitments of the Federal Government for an award, are unlikely to generate any quantifiable costs and may benefit the Department and the general public by improving the clarity of the regulations.

Proposed changes to § 75.251, which would clarify the treatment of unobligated balances on a grant, are unlikely to generate quantifiable costs and may benefit the Department and the general public by improving the clarity of the regulations.

Proposed changes to § 75.252, which would clarify the use of frontloading, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity and transparency of the Department's authority to frontload grant funds.

Proposed changes to § 75.253, which clarify the Secretary's role in making continuation determinations and the timeline for continuations, are unlikely to generate quantifiable costs and may benefit the Department and the general public by improving the clarity and transparency of regulations.

Proposed changes to § 75.500, which would require assurances from grantees, are unlikely to generate any quantifiable costs and may benefit the Department and the general public by improving the clarity of the regulations.

Proposed changes to § 75.901, which would clarify how a grant may be terminated, including termination disputes, are unlikely to generate any quantifiable costs and may benefit the Department and the general public by improving the clarity of the regulations.

Proposed changes to § 76.3, which would add severability language for all of Part 76 and remove the separate severability language in §§ 76.43, 76.684, and 76.784, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Proposed changes to § 76.700, which would add Executive orders to the list of authorities with which grantees must comply, are unlikely to generate any quantifiable costs and may benefit the Department and the general public by improving the clarity of the regulations.

Proposed changes to § 77.1(c), which will apply to any applicant applying to a program that incorporates any of the definitions identified in this notice, would result in cost savings for both applicants and the Department by reducing regulatory burden. As discussed previously in this notice, the proposed changes would update existing definitions and add new definitions, both of which are unlikely to generate any quantifiable costs and would benefit the public and the Department by improving the clarity and reducing the complexity of the regulations. In total, the Department estimates net present value benefits of $1,589,716 and $1,308,937 over 10 years at a 3 percent and 7 percent discount rate, respectively. This value is equivalent to an annualized benefit of $186,363 over 10 years. The regulations are expected to result in estimated annual cost transfers of $45,038,500 over 10 years following publication of these proposed regulations.

As a result of changes to § 77.1(c) to revise evidence definitions, the Department anticipates a reduced burden for applicants to competitive grant competitions. We assume the revised definitions will reduce the complexity of evidence definitions and ultimately reduce the number of hours required to prepare a grant application. The Department estimates 2 fewer hours from a grant writer (education administrator, loaded wage rate of $107.60/hour [8]) for each of the estimated 866 [9] applicants applying to a competitive grant competition that requires at least a promising evidence level. In total, the Department estimates reviewing and revising these procedures will reduce costs by approximately $186,363 annually over the next 10 years.

Due to the addition of a new definition for "evidence framework," in

[8] National OEWS, May 2025 SOC Code 11–9030, loaded wage rate of 100%.

[9] Based on fiscal year 2024 applications received under programs incorporating evidence.

§ 77.1(c), the Department anticipates a transfer of burden. Under the new ''evidence framework'' definition, the burden of evidence reviews could, at the discretion of the Department, shift from Department-funded evidence reviewers to reviewers funded by third parties (*e.g.,* philanthropy, State educational agencies).

The specific cost transfer would be dependent on how the Department utilizes the additional flexibility provided under the new definition of ''evidence framework.'' For the purposes of this analysis, the Department estimates, based on administrative data and experience, that the cost of an evidence review is $3,500 per application. We estimate that half (11) of the estimated 22 [10] applicants who apply to a competitive grant competition requiring at least a moderate evidence level would rely upon an evidence review not funded by the Department or a study that is already in the What Works Clearinghouse. In total, the Department estimates a cost transfer of $38,500 from the Department to third parties as a result of this new definition. The Department anticipates that taxpayers could realize net savings as a result of this proposed definition.

2.B. Non-Monetized Benefits

The Department believes the proposed changes to §§ 75.100, 75.104, 75.105, 75.222, 75.224, 79.3, 79.6, and 79.8 would yield other real and significant benefits that are not as straightforwardly monetized. The proposed changes would improve the quality of grant applications by ensuring that applicants have a single, definitive source of grant competition information and requirements. The proposed changes would ultimately improve project outcomes and yield significant economic benefit to the public. For example, the Department believes the proposed changes will be particularly beneficial to applicants that have never received a Federal grant award.

TABLE 4.1—NET ANNUAL BENEFITS, YEARS 1 THROUGH 10

Year	Net annual benefits
Year 1	$586,064
Year 2	586,064
Year 3	586,064
Year 4	586,064
Year 5	586,064
Year 6	586,064
Year 7	586,064
Year 8	586,064
Year 9	586,064
Year 10	586,064
Total Net Present Value (NPV), 3 percent	4,999,247
Total Net Present Value (NPV), 3 percent	4,116,270
Annualized, 7 percent	586,064
Annualized, 7 percent	586,064

[10] Based on fiscal year 2024 applications received under programs incorporating evidence. Assumes only a third (22 of 53) of applications received require review by Institute of Education Sciences peer reviewers.

Regulatory Flexibility Act Certification

This section considers the effects that the final regulations may have on small entities in the educational sector as required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*The Secretary certifies that this proposed regulatory action would not have a substantial economic impact on a substantial number of small entities.

The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

Paperwork Reduction Act

The proposed regulatory action does not contain any information collection requirements.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

List of Subjects

2 CFR 3474

Accounting, Administrative practice and procedure, Adult education, Aged, Agriculture, American Samoa, Bilingual education, Blind, Business and Industry, Civil rights, Colleges and universities, Communications, Community development, Community facilities, Copyright, Credit, Cultural exchange programs, Education, Education of disadvantaged, Education of individuals with disabilities, Educational facilities, Educational research, Educational study programs, Electric power, Electric power rates, Electric utilities, Elementary and secondary education, Energy conservation, Equal educational opportunity, Federally affected areas, Government contracts, Grant programs, Grant administration, Guam, Home improvement, Homeless, Hospitals, Housing, Human research subjects, Indians, Indians—education, Infants and children, Insurance, Intergovernmental relations, International organizations, Inventions and patents, Loan programs, Manpower training programs, Migrant labor, Mortgage insurance, Nonprofit organizations, Northern Mariana Islands, Pacific Islands Trust Territory, Privacy, Renewable energy, Reporting and recordkeeping requirements, Rural areas, Scholarships and fellowships, School construction, Schools, Science and technology, Securities, Small business, State and local governments, Student aid, Teachers, Telecommunications, Telephone, Urban areas, Veterans, Virgin Islands, Vocational education, Vocational rehabilitation, Waste treatment and disposal, Water pollution control, Water resources, Water supply, Watersheds, Women.

2 CFR Part 3485

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

34 CFR Part 75

Accounting, Copyright, Education, Grant programs—education, Guam, Indemnity payments, Inventions and patents, Private schools, Reporting and recordkeeping requirements, Youth organizations.

34 CFR Part 76

Accounting, Administrative practice and procedure, American Samoa, Education, Grant programs—education, Guam, Northern Mariana Islands, Pacific Islands Trust Territory, Prisons, Private schools, Reporting and recordkeeping requirements, Virgin Islands, Youth organizations.

34 CFR Part 77

Education, Grant programs—education.

Linda McMahon,
Secretary of Education.

For the reasons discussed in the preamble, the Secretary proposes to amend parts 3474, and 3485 of title 2 of the Code of Federal Regulations, and parts 75, 76, and 77 of title 34 of the Code of Federal Regulations as follows:

PART 3474—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 1. The authority citation for part 3474 continues to read as follows:

Authority: 20 U.S.C. 1221e–3, 3474; 42 U.S.C. 2000bb *et seq.;* E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258; E.O. 13559, 75 FR 71319, 3 CFR, 2010 Comp., p. 273; E.O. 13831, 83 FR 20715, 3 CFR, 2018 Comp., p. 806; and 2 CFR part 200, unless otherwise noted.

■ 2. Amend § 3474.1 by revising paragraph (a) to read as follows:

§ 3474.1 Adoption of 2 CFR Part 200.

(a) The Department of Education adopts the Office of Management and Budget (OMB) Guidance in 2 CFR part 200, except for 2 CFR 200.102(a) and 2 CFR 200.208(a). Thus, this part gives regulatory effect to the OMB guidance and supplements the guidance as needed for the Department.

■ 3. Amend § 3474.10 to read as follows:

§ 3474.10 Clarification regarding 2 CFR 200.208.

The Secretary or a pass-through entity may, in appropriate circumstances, designate the specific conditions established under 2 CFR 200.208 as ''high-risk conditions'' and designate a non-Federal entity subject to specific conditions established under § 200.208 as ''high-risk''.

(Authority: 20 U.S.C. 1221e–3, 3474, and 2 CFR part 200)

PART 3485—NONPROCUREMENT DEBARMENT AND SUSPENSION

■ 4. The authority citation for part 3485 continues to read as follows:

Authority: E.O. 12549 (3 CFR 1986 Comp., p. 189); E.O. 12689 (3 CFR 1989 Comp., p. 235); sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); 20 U.S.C. 1082, 1094, 1221e–3, and 3474, unless otherwise noted.

■ 5. Amend § 3485.220 by revising paragraphs (b)(1) and (2) to read as follows:

§ 3485.220 Are any procurement contracts included as covered transactions?

(a) * * *

(b) * * *

(1) The contract is awarded by a participant in a nonprocurement transaction that is covered under 2 CFR 180.210, and the contract amount is expected to equal or exceed $25,000.

(2) The contract requires the consent of an official of a Federal agency. In that case, the contract is always a covered transaction, regardless of the amount or who awarded it. For example, it could be a subcontract awarded by a contractor at a tier below a nonprocurement transaction, as shown in the Appendix to Part 3485—Covered Transactions.

* * * * *

PART 75—DIRECT GRANT PROGRAMS

■ 6. Revise the authority citation for part 75 to read as follows:

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

Section 75.263 also issued under 2 CFR 200.308(g)(1).

Section 75.617 also issued under 31 U.S.C. 3504, 3505.

Section 75.500 also issued under 20 U.S.C. 1228a(c).

Section 75.740 also issued under 20 U.S.C. 1232g and 1232h.

■ 7. Add § 75.4 after § 75.2 to read as follows:

If any provision of this part or its application to any person, act, or practice is held invalid, the remainder of the part or the application of its provisions to any person, act, or practice shall not be affected thereby.

■ 8. Amend § 75.51 in paragraph (b) by removing ''may'' and replacing with ''must''.

■ 9. Amend § 75.100 in paragraph (a) by removing ''in the **Federal Register**''.

■ 10. Amend § 75.104 in paragraph (b) by removing ''published in the **Federal Register**''.

■ 11. Amend § 75.105 by removing in paragraph (b)(1) ''in a notice in the **Federal Register**, usually''.

■ 12. Amend § 75.118 by revising the cross reference at the end of the section and designating as paragraph (c) to read as follows:

§ 75.118 Requirements for a continuation award.

* * * * *

(c) Cross Reference: See 2 CFR 200.328, Financial reporting, and 200.329, Monitoring and reporting program performance; and 34 CFR 75.117, Information needed for a multi-year project, 75.250 through 75.253, Approval of multi-year projects, 75.590, Evaluation by the grantee, and 75.720, Financial and performance reports.

■ 13. Revise § 75.210 to read as follows:

§ 75.210 General selection criteria.

In determining the selection criteria to evaluate applications submitted in a 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. The Secretary may define a selection criterion by selecting one or more specific factors within a criterion or assigning factors from one criterion to another criterion.

(a) *Need for the 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 data presented (including a comparison to local, State, regional, national, or international data) that demonstrates the issue, challenge, or opportunity to be addressed by the proposed project.

(ii) The extent to which the proposed project demonstrates 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 support, resources, or services; or otherwise address the needs of the target population and close gaps in educational opportunity or employment and career outcomes.

(iv) The extent to which the proposed project will focus on improving outcomes or otherwise addressing the needs of the target population.

(v) The extent to which the specific nature and magnitude of gaps or challenges are identified, and the extent to which these gaps or challenges will be addressed by the services, supports, infrastructure, or opportunities described in the proposed project.

(vi) The extent to which the proposed project will prepare individuals for employment in fields and careers in which there are demonstrated shortages.

(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 extent to which the proposed project is relevant at the national level.

(ii) The significance of the problem or issue to be addressed by the proposed project, and the extent to which the proposed project would address the problem or issue.

(iii) The extent to which findings from the proposed project's implementation will contribute new knowledge to the field by increasing understanding of challenges (including the underlying or related challenges), effective strategies for addressing challenges, and effective implementation of effective strategies.

(iv) The potential contribution of the proposed project to improve the provision of rehabilitative services, increase the number or quality of rehabilitation counselors, or develop and implement effective strategies for providing vocational rehabilitation services to individuals with disabilities.

(v) The likelihood that the proposed project will result in systemic change that supports continuous, sustainable, and measurable improvement.

(vi) The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study, including the extent to which the contributions may be used by other appropriate agencies, organizations, institutions, or entities.

(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 build local, State, regional, or national capacity to provide, improve, sustain, or expand training or services that address the needs of the target population.

(ix) The extent to which the proposed project involves the development or demonstration of innovative and effective strategies that build on, or are alternatives to, existing strategies.

(x) The extent to which the proposed project is innovative and likely to be more effective compared to other efforts to address a similar problem.

(xi) The likely utility of the resources (such as materials, processes, techniques, or data infrastructure) that will result from the proposed project, including the potential for effective use in a variety of conditions, populations, or settings.

(xii) The extent to which the resources, tools, and implementation lessons of the proposed project will be disseminated to the target population and local community in ways that will enable them and others (including practitioners, researchers, education leaders, and partners) to implement similar strategies.

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

(xiv) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially contributions toward improving teaching practice and student learning and 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 that demonstrate its impact for the target population in terms of breadth and depth of services.

(xvii) The extent to which the proposed project introduces an innovative approach, such as a modification of an evidence-based project component to serve different populations, an extension of an existing evidence-based project component, a unique composition of various project components to explore combined effects, or development of an emerging project component that needs further testing.

(xviii) The potential contribution of the proposed project to improve the provision of services, increase the number of high-quality personnel, or develop and implement effective practices to improve outcomes for the target population.

(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, measurable, and ambitious yet achievable within the project period, and aligned with the purposes of the grant program.

(ii) The extent to which the design of the proposed project demonstrates meaningful community and family engagement and input to ensure that the project is appropriate to successfully address the needs of the target population or other identified needs and will be used to inform continuous improvement strategies.

(iii) The quality of the logic model or other conceptual framework underlying the proposed project, including how inputs are related to outcomes.

(iv) The extent to which the proposed project's logic model or other conceptual framework was developed based on engagement of a broad range of community members and partners.

(v) The extent to which the proposed project includes specific, measurable targets, connected to strategies, activities, resources, outputs, and outcomes, and uses reliable data to measure progress and inform continuous improvement.

(vi) 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 enable successful achievement of project objectives.

(vii) The quality of the proposed demonstration design, such as qualitative and quantitative design, and procedures for documenting project activities and results for the target population.

(viii) 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 valid and reliable information about the effectiveness of the approach or strategies employed by the project.

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

(x) The extent to which the proposed project demonstrates that it is designed to build capacity and yield sustainable results that will extend beyond the project period.

(xi) The extent to which the design of the proposed project reflects the most recent and relevant knowledge and practices from research.

(xii) The extent to which the proposed project represents an exceptional approach to meeting program purposes and requirements and serving the target population.

(xiii) The extent to which the proposed project represents an exceptional approach to any absolute priority or absolute priorities used in the competition.

(xiv) The extent to which the proposed project will integrate or build on ideas, strategies, and efforts from similar external projects to improve relevant outcomes, using existing funding streams from other programs or policies supported by community, State, and Federal resources.

(xv) The extent to which the proposed project is informed by similar past projects implemented by the applicant or a partner with demonstrated results.

(xvi) The extent to which the proposed project will include coordination with other community, State, and Federal investments, as well as appropriate agencies and organizations providing similar services to the target population.

(xvii) 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.

(xviii) The extent to which the proposed project includes explicit plans for meaningful and ongoing community member and partner engagement, including their involvement in planning, implementing, and revising project activities for the target population.

(xix) The extent to which the proposed project includes plans for family involvement.

(xx) The extent to which performance feedback and formative data are integral to the design of the proposed project and will be used to inform continuous improvement.

(xxi) The extent to which the proposed project demonstrates that admissions, promotion, or participant selection decisions made under the grant are based on academic excellence and high standards, without consideration of race, color, religion, sex, national origin, or any proxies for these characteristics, except where a legally permissible exception applies and is expressly identified and justified in the application.

(xxii) The extent to which the applicant demonstrates that it has the resources to operate the project beyond the project period, including a multiyear financial and operating model and accompanying plan; the demonstrated commitment of any partners; demonstration of broad support from community members and partners (such as State educational agencies, educators, families, business and industry, community members, and State vocational rehabilitation agencies) that are critical to the project's long-term success; or a plan for capacity-building by leveraging one or more of these types of resources.

(xxiii) The extent to which there is a plan to incorporate the project purposes, activities, or benefits into the ongoing work of the applicant beyond the end of the project period.

(xxiv) The extent to which the proposed project will increase efficiency in the use of time, staff, money, or other resources in order to improve results and increase productivity.

(xxv) The extent to which the proposed project will integrate with, or build on, similar or related efforts in order to improve relevant outcomes, using non-Federal funds or resources.

(xxvi) The extent to which the proposed project demonstrates a rationale that is aligned with the purposes of the grant program.

(xxvii) The extent to which the proposed project represents implementation of the evidence cited in support of the proposed project with fidelity.

(xxviii) The extent to which the applicant plans to allocate a significant portion of its requested funding to the evidence-based project components.

(xxix) The strength of the commitment from key decision-makers at proposed implementation sites.

(xxx) The extent to which the proposed project is supported by promising evidence.

(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 one or more of the following factors:

(i) The extent to which the services to be provided by the proposed project were determined with input from the community to be served to ensure that they are appropriate and responsive to the needs of the target population.

(ii) The extent to which the proposed project is supported by the target population that it is intended to serve.

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge in relevant fields and evidence-based project components.

(iv) The likely benefit to the target population, as indicated by the logic model or other conceptual framework, of the services to be provided.

(v) The extent to which the training, professional development, or technical assistance services to be provided by the proposed project are of sufficient quality, intensity, and duration to build capacity in ways that lead to improvements in practice among the recipients of those services.

(vi) The extent to which the services to be provided by the proposed project are likely to provide long-term solutions 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 meaningful improvements in the achievement of students as measured against rigorous and relevant standards.

(viii) The likelihood that the services to be provided by the proposed project will lead to meaningful improvements in early childhood and family outcomes.

(ix) The likelihood that the services to be provided by the proposed project will lead to meaningful improvements in the skills and competencies necessary to gain employment in high-wage, high-growth, and high-demand jobs, careers, and industries or build capacity for independent living.

(x) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners, including those from the target population, to maximize the effectiveness of project services.

(xi) The extent to which the 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-Federal resources.

(xii) The extent to which the services to be provided by the proposed project are focused on the target population with the greatest needs, as demonstrated by the data relevant to the project.

(xiii) The extent to which the proposed project will prepare high-quality personnel to provide evidence-based practices to improve outcomes for the target population.

(e) *Quality of the 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 one or more of the following factors:

(i) The extent to which the project director or principal investigator, when hired, has the qualifications required for the project, including relevant training or experience in fields related to the objectives of the project and experience in designing, managing, or implementing similar projects for the target population.

(ii) The extent to which the key personnel in the project, when hired, have the qualifications or experiences required for the proposed project, including relevant training or experience in fields related to the objectives of the project and with the target population.

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

(iv) The extent to which the proposed planning, implementing, and evaluating project team are familiar with the assets, needs, and other contextual considerations of the proposed implementation sites.

(v) The extent to which the proposed planning, implementing, and evaluating project team are familiar with the assets, needs, and other contextual considerations of the proposed implementation sites.

(vi) The extent to which the proposed project demonstrates that hiring, promotion, and compensation decisions made under the grant will be based solely on merit and high standards, without consideration of race, color, religion, sex, national origin, or any proxies for these characteristics, except where a legally permissible exception applies and is expressly identified and justified in the application, such as for a religious organization or an entity undertaking lawful remedial measures.

(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 for the project, including facilities, equipment, supplies, and other resources, from the applicant.

(ii) The relevance and demonstrated commitment of specific roles and contributions 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, and the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(iv) The extent to which the costs are reasonable in relation to the number of persons to be served, the depth and intensity of services, and the anticipated results and benefits.

(v) The extent to which the costs of the proposed project would permit other entities to replicate the project.

(vi) The level of initial matching funds or other commitment from partners, indicating the likelihood for potential continued support of the project after Federal funding ends.

(vii) The potential for the purposes, activities, or benefits of the proposed project to be institutionalized into the ongoing practices and programs of the applicant, agency, or organization and continue after Federal funding ends.

(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 feasibility of the management plan to achieve project objectives and goals on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of plans for ensuring the use of quantitative and qualitative data, including meaningful community member and partner input, to inform continuous improvement in the operation of the proposed project.

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

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

(v) How the applicant will ensure that various perspectives, including those from the target population, are brought to bear in the design, implementation, operation, evaluation, and improvement of the proposed project, including those of families, educators, community-based organizations, 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 or other evidence-building.*

(1) The Secretary considers the quality of the evaluation or other evidence-building of the proposed project.

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

(i) The extent to which the methods of evaluation or other evidence-building are thorough, feasible, relevant, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation or other evidence-building are appropriate to the context within which the project operates and the target population of the proposed project.

(iii) The extent to which the methods of evaluation or other evidence-building are designed to measure the fidelity of implementation of the project.

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

(v) The extent to which the methods of evaluation or other evidence-building will provide guidance for quality assurance and continuous improvement.

(vi) The extent to which the methods of evaluation or other evidence-building will provide performance feedback and provide formative, diagnostic, or interim data that is a 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 and potential implementation in other settings.

(viii) The extent to which the methods of evaluation will, if well implemented, produce evidence about the effectiveness of the project on relevant outcomes that would meet strong evidence.

(ix) The extent to which the methods of evaluation will, if well implemented, produce evidence about the effectiveness of the project on relevant outcomes that would meet moderate or strong evidence.

(x) The extent to which the methods of evaluation will, if well implemented, produce evidence of effectiveness of the project on relevant outcomes that would meet promising evidence.

(xi) The extent to which the evaluation employs an appropriate analytic strategy to build evidence about the relationship between key project components, mediators, and outcomes and inform decisions on which project components to continue, revise, or discontinue.

(xii) The quality of the evaluation plan for measuring fidelity of implementation, including thresholds for acceptable implementation, to inform how implementation is associated with outcomes.

(xiii) The extent to which the evaluation plan includes a dissemination strategy that is likely to promote others' learning from the project.

(xiv) The extent to which the evaluator has the qualifications, including the relevant training, experience, and independence, required to conduct an evaluation of the proposed project, including experience conducting evaluations of similar methodology as proposed and with evaluations for the proposed population and setting.

(xv) The extent to which the proposed project plan includes sufficient resources to conduct the project evaluation effectively.

(xvi) The extent to which the evaluation will access and link high-quality administrative data from authoritative sources to improve evaluation quality and comprehensiveness.

(i) *Strategy to scale.*

(1) The Secretary considers the applicant's strategy to effectively scale the proposed project.

(2) In determining the applicant's strategy to effectively scale the proposed project, the Secretary considers one or more of the following factors:

(i) The quality of the strategies to reach scale by expanding the project to new populations or settings.

(ii) The applicant's capacity (such as qualified personnel, financial resources, or management capacity), together with any project partners, to bring the proposed project effectively to scale on a national or regional level during the grant period.

(iii) The applicant's capacity (such as qualified personnel, financial resources, or management capacity), together with any project partners, to further develop and bring the proposed project effectively to scale on a national level during the grant period, based on the findings of the proposed project.

(iv) The quality of the mechanisms the applicant will use to broadly disseminate information and resources on its project to support further development, adaptation, or replication by other entities to implement project components in additional settings or with other populations.

(v) The extent to which there is unmet demand for broader implementation of the project that is aligned with the proposed project.

(vi) The extent to which there is a market of potential entities that will commit resources toward implementation.

(vii) The quality of the strategies to scale that take into account and are responsive to previous barriers to expansion.

(viii) The quality of the plan to deliver project services more efficiently at scale and maintain effectiveness.

(ix) The quality of the plan to develop revenue sources that will make the project self-sustaining.

(x) The extent to which the project will create reusable data and evaluation tools and techniques that facilitate expansion and support continuous improvement.

■ 14. Amend § 75.220 in paragraph (b)(2) by removing ''Office of Finance and Operations (OFO)'' and adding in its place ''Department''.

■ 15. Amend § 75.222 by:

■ a. In the introductory text, removing the words ''in the **Federal Register**''.

■ b. Revising the note to read as follows:

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

* * * * *

Note 1 to § 75.222: To assure prompt consideration, an applicant submitting an unsolicited application should send the application, marked ''Unsolicited Application'' in the subject line, to *grants@ed.gov.*

■ 16. Amend § 75.224 in paragraph (c)(1) by removing the words ''in the **Federal Register**''.

■ 17. Add § 75.228 after § 75.227 to read as follows:

§ 75.228 What procedures does the Secretary use if the Secretary decides to give special consideration to applicants voluntarily electing to be more cost effective, including use of a lower indirect cost rate?

(a) If the Secretary determines that special consideration of applicants electing to use a lower indirect cost rate is appropriate, the Secretary may provide competitive preference to applicants that meet one or more of the conditions in paragraph (b) of this section.

(b) As used in this section, ''lower indirect cost rate'' means an applicant that meets one or more of the following conditions:

(1) The applicant proposes to use an indirect cost rate, as defined by §§ 75.560–75.564, that is lower than the applicant's approved negotiated indirect cost rate that they would be otherwise entitled to take under the specific grant program by the following percentage tiers:

(i) 5% or more;
(ii) 10% or more;
(iii) 20% or more;
(iv) 30% or more;
(v) 40% or more;
(vi) 50% or more; or
(vii) Voluntary election not to charge any indirect costs;

(2) Elect to use the *de minimis* indirect cost rate under 2 CFR 200.414(f) for competitions that do not require special indirect cost rates such as, but not limited to, Training (§ 75.562) and Restricted (§ 76.563) when the applicant's negotiated rate exceeds the *de minimis* rate.

(c) Applicants proposing a lower indirect cost rate must adhere to that percentage reduction of their approved negotiated indirect cost rate for the life of the grant.

(d) To be considered for competitive preference, applicants must include documentation in their application, acceptable to the Secretary, that verifies their approved indirect cost rate. As applicable, applicants must also clearly state the lower indirect cost rate percentage and the corresponding amount in the budget narrative.

(e) Applicants that do not have a current federally negotiated indirect cost rate agreement, to receive competitive preference, may—

(1) Elect to use the *de minimis* rate under 2 CFR 200.414(f), if the competition does not require a special indirect cost rate; or

(2) If an applicant later obtains a federally negotiated indirect cost rate agreement, certify to use only the lower indirect cost rate percentage, rather than the full indirect cost rate the applicant would otherwise be entitled to claim.

(f) For applicants with federally approved cost allocation plans—

(1) the competitive preference criteria in paragraph (b), will be evaluated on the basis of the allocated indirect costs that could have been charged to the award by the percentage tiers reduction of the elected lower indirect costs charge or election not to charge indirect costs.

(2) To be considered for competitive preference, applicants must include documentation in their application, acceptable to the Secretary, that verifies their approved cost allocation plan. Applicants must also clearly state the reduced indirect cost charge and the corresponding reduction percentage and amount in the budget narrative.

(g) The election to charge lower indirect costs may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

■ 18. Amend § 75.230 by adding a new paragraph (b) to read as follows:

§ 75.230 How the Department makes a grant.

(a) * * *

(b) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

■ 19. Amend § 75.251 by:

■ a. In paragraph (b)(2) removing the word ''contination'' and adding it its place ''continuation''.

■ b. Adding a new paragraph (d) to read as follows:

* * * * *

(d) If it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unspent balance carried forward from prior periods, exceeds the grantee's needs for that period, the Secretary may adjust the amounts awarded by deobligating the excess.

■ 20. Add § 75.252 after § 75.251 and before § 75.253 to read as follows:

§ 75.252 Frontloading of a multiyear project.

(a) The Secretary may, in approving a multi-year project, approve:

(1) Partial frontload funding for future budget periods of the project, beyond the initial budget period; or

(2) Full frontload funding for the entire project period for a multi-year project, but not to exceed the § 75.250 Maximum project period.

(b) A grantee may only draw down funds in accordance with its approved budget for that budget year and may not draw down funds in excess of that amount without prior approval.

(c) Either—

(1) A grantee must demonstrate, on an annual basis, that it has made substantial progress in achieving—

(i) The goals and objectives of the project; and

(ii) The performance targets in the grantee's approved application or targets established by the Secretary, if the Secretary established performance measurement requirements for the grant in the application notice; or

(2) Obtain the Secretary's approval for changes to the project that—

(i) Do not increase the amount of funds obligated to the project by the Secretary; and

(ii) Enable the grantee to achieve the goals and objectives of the project and meet the performance targets of the project, including targets established by the Secretary, if any, without changing the scope or objectives of the project;

(d) Submit all reports as required by § 75.118;

(e) Continue to meet all applicable eligibility requirements of the grant program;

(f) Maintain financial and administrative management systems that meet the requirements in 2 CFR 200.302 and 200.303; and

(g) Receive a determination from the Secretary that continuation of the project is in the best interest of the Federal Government.

■ 21. Revise § 75.253 to read as follows:

§ 75.253 Continuation of a multiyear project after the first budget period.

(a) *Continuation award.* A grantee, in order to receive a continuation award or be able to access previously frontloaded funds from the Secretary for a budget period after the first budget period of an approved multiyear project, must—

(1) Either—

(i) Demonstrate that it has made substantial progress in achieving—

(A) The goals and objectives of the project; and

(B) The performance targets in the grantee's approved application or targets established by the Secretary, if the Secretary established performance measurement requirements for the grant in the application notice; or

(ii) Obtain the Secretary's approval for changes to the project that—

(A) Do not increase the amount of funds obligated to the project by the Secretary; and

(B) Enable the grantee to achieve the goals and objectives of the project and meet the performance targets of the project, including targets established by the Secretary, if any, without changing the scope or objectives of the project;

(2) Submit all reports as required by § 75.118;

(3) Continue to meet all applicable eligibility requirements of the grant program;

(4) Maintain financial and administrative management systems that meet the requirements in 2 CFR 200.302 and 200.303; and

(5) Receive a determination from the Secretary that continuation of the project is in the best interest of the Federal Government.

(b) *Information considered in making a continuation award.* In determining whether the grantee has met the requirements described in paragraph (a) of this section, the Secretary may consider any relevant information. This includes grant applications and reports required by § 75.118, performance measures established under § 75.110, financial information required by 2 CFR part 200, and any other relevant information.

(c) *Funding for grant awards.* Subject to any applicable statutory requirements, in providing continued funding to existing grantees, the Secretary has discretion to determine the funds available for a program.

(d) *Budget period.* If the Secretary makes a continuation award under this section—

(1) The Secretary makes the award under §§ 75.231 through 75.236; and

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

(e) *Amount of continuation award.*

(1) Within the original project period of the grant and notwithstanding any requirements in 2 CFR part 200, a grantee may expend funds that have not been obligated at the end of a budget period for obligations in subsequent budget periods if—

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

(ii) The obligation is not otherwise prohibited by applicable statutes, regulations, or the conditions of an award.

(2) The Secretary may—

(i) Require the grantee to submit a written statement describing how the funds made available under paragraph (d)(1) of 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 (d)(2)(i) of this section and 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.

(4) A decision to reduce the amount of a continuation award under this paragraph (d) does not entitle a grantee to reconsideration under 2 CFR 200.342.

(5) When making a continuation award, the Secretary may issue a partial award, provide funding in installments, or delay the release of funds.

(f) *Timing to make a continuation award.* The Secretary may make a continuation award determination at any time within the fiscal or appropriation year of the program.

(g) *Decision not to make a continuation award.* The Secretary may decide not to continue an award if—

(1) A grantee fails to meet any of the requirements in paragraph (a) of this section; or

(2) A grantee fails to ensure that data submitted to the Department as a condition of the grant meet the definition of ''quality data'' in 34 CFR 77.1(c) and does not have a plan acceptable to the Secretary for addressing data-quality issues in the next budget period.

(h) *Request for reconsideration.* If the Secretary decides not to continue an award under this section, the Secretary will notify the grantee of that decision, the grounds on which it is based, and, consistent with 2 CFR 200.342, provide the grantee with an opportunity to request reconsideration of the decision.

(1) A request for reconsideration must—

(i) Be submitted in writing to the Department official identified in the notice denying the continuation award by the date specified in that notice; and

(ii) Set forth the grantee's basis for disagreeing with the Secretary's decision not to make a continuation award and include relevant supporting documentation.

(2) The Secretary will consider the request for reconsideration.

(i) *No-cost extension when a continuation award is not made.* If the Secretary decides not to make a continuation award under this section, 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.

(j) *A decision to reduce or not to make a continuation award does not constitute withholding.* A decision by the Secretary to reduce the amount of a continuation award under paragraph (d) of this section or to not make a continuation award under paragraph (e) of this section does not constitute a withholding under section 455 of GEPA (20 U.S.C. 1234d). This includes depriving the Office of Hearings and Appeals of jurisdiction to hear withholding cases.

■ 22. Amend § 75.261 by revising paragraph (a)(1) to read as follows:

§ 75.261 Extension of a project period.

(a) * * *

(1) The grantee meets the requirements for extension in 2 CFR 200.308(g)(2); and

* * * * *

§ 75.262 [Amended]

■ 23. Amend § 75.262 by removing the citation ''§ 75.200(b)(4) and (5)'' in paragraphs (a)(2) and (b), and adding in its place the citation ''§ 75.200(c)(1) and (2)''.

■ 24. Amend § 75.263 by revising the introductory paragraph to read as follows:

§ 75.263 Pre-award costs; waiver of approval.

A grantee may incur pre-award costs as specified in 2 CFR 200.308(g)(1) unless—

■ 25. Amend § 75.500 by adding a new paragraph (f) to read as follows:

* * * * *

(f) A grantee must:

(1) Ensure that hiring, admissions, promotions, and compensation practices under the grant are based on merit and high standards, without regard to race, color, religion, sex, national origin, or proxies thereof unless an appropriate exception applies (such as a religious organization or an organization engaged in remedial action).

(2) Ensure that the grantee's employment practices do not compel statements of belief in support or opposition to any political views as a condition of employment, admission, or project participation, unless an appropriate exception applies.

(3) Ensure that, where applicable, the grantee has policies protecting freedom of speech, inquiry, and press as specified and required by 34 CFR 75.500(a)–(e).

■ 26. Amend § 75.524 by revising paragraph (b) to read as follows:

§ 75.524 Conflict of interest: Purpose of § 75.525.

(a) * * *

(b) These conflict of interest regulations do not apply to a ''local government,'' or a ''State,'' as defined in 2 CFR 200.1.

* * * * *

■ 27. Amend § 75.562 by revising the introductory language of paragraph (c)(2) to read as follows:

§ 75.562 Indirect cost rates for educational training projects; exceptions.

* * * * *

(c) * * *

(1) * * *

(2) If the grantee does not have a federally recognized indirect cost rate agreement on the date on which the training grant is awarded, the grantee may elect to use the temporary indirect cost rate authorized under § 75.560(d) or a rate of 8 percent of the MTDC base. The de minimis rate may not be used on educational training programs.

(i) * * *

(ii) * * *

* * * * *

■ 28. Amend § 75.604 by revising paragraph (c) to read as follows:

§ 75.604 During the construction.

* * * * *

(c) If a revision to the timeline, budget, or approved final working specifications is required, the grantee must request prior written approval consistent with 2 CFR 200.308(f).

* * * * *

■ 29. Remove the undesignated ''Equipment and Supplies'' cross reference section after § 75.617.

■ 30. Remove the undesignated ''Other Requirements for Certain Projects'' Cross Reference after § 75.626.

■ 31. Remove and reserve § 75.684.

■ 32. Amend § 75.708 by revising paragraph (e) to read as follows:

§ 75.708 Subgrants.

* * * * *

(e) Grantees that are not allowed to make subgrants under paragraph (b) of this section are authorized to contract, as needed, for supplies, equipment, and other services, in accordance with 2 CFR part 200, subpart D (2 CFR 200.300 through 200.346).

■ 33. Remove the undesignated Reports cross reference following § 75.714 ''Subgrants, contracts, and other agreements with faith-based organizations''.

■ 34. Remove the undesignated ''Records Cross Reference'' after § 75.721.

■ 35. Remove and reserve § 75.741.

■ 36. Remove the undesignated cross reference following the heading for ''Subpart G''.

■ 37. Amend § 75.901 to read as follows:

§ 75.901 Suspension and termination.

* * * * *

(a) A grant may be terminated in part or its entirety as follows:

(1) For noncompliance by the grantee or subgrantee;

(2) For convenience of the Secretary or pass-through entity;

(3) By mutual agreement of the parties;

(4) Upon notification by the grantee or subgrantee; or

(5) Pursuant to additional terms and conditions.

(b) The Secretary may, but is not limited to, employ the following remedies for grants:

(1) 2 CFR 200.339 (Remedies for noncompliance).

(2) 2 CFR 200.340 (Termination).

(3) 2 CFR 200.341 (Notification of termination requirement).

(4) 2 CFR 200.342 (Opportunities to object, hearings and appeals).

(5) 2 CFR 200.343 (Effects of suspension and termination).

(6) 2 CFR 200.345 (Post-closeout adjustments and continuing responsibilities).

(7) Termination for Convenience.

(c) The Secretary may designate the Office of Administrative Law Judges to resolve disputes consistent with 34 CFR 81.3(b).

PART 76—STATE-ADMINISTERED FORMULA GRANT PROGRAMS

■ 38. The authority citation for part 76 continues to read as follows:

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

Section 76.101 also issued under 20 U.S.C. 1221e–3, 3474, and 7844(b).

Section 76.127 also issued under 48 U.S.C. 1469a.

Section 76.128 also issued under 48 U.S.C. 1469a.

Section 76.129 also issued under 48 U.S.C. 1469a.

Section 76.130 also issued under 48 U.S.C. 1469a.

Section 76.131 also issued under 48 U.S.C. 1469a.

Section 76.132 also issued under 48 U.S.C. 1469a.

Section 76.134 also issued under 48 U.S.C. 1469a.

Section 76.136 also issued under 48 U.S.C. 1469a.

Section 76.140 also issued under 20 U.S.C. 1221e–3, 1231g(a), and 3474.

Section 76.301 also issued under 20 U.S.C. 1221e–3, 3474, and 7846(b).

Section 76.401 also issued under 20 U.S.C. 1221e–3, 1231b–2, and 3474.

Section 76.500 also issued under 20 U.S.C. 1228a(c).

Section 76.709 also issued under 20 U.S.C. 1221e–3, 1225(b), and 3474.

Section 76.710 also issued under 20 U.S.C. 1221e–3, 1225(b), and 3474.

Section 76.720 also issued under 20 U.S.C. 1221e–3, 1231a, and 3474.

Section 76.740 also issued under 20 U.S.C. 1221e–3, 1232g, 1232h, and 3474.

Section 76.783 also issued under 20 U.S.C. 1231b–2.

Section 76.785 also issued under 20 U.S.C. 7221e.

Section 76.786 also issued under 20 U.S.C. 7221e.

Section 76.787 also issued under 20 U.S.C. 7221e.

Section 76.788 also issued under 20 U.S.C. 7221e.

Section 76.901 also issued under 20 U.S.C. 1234.

■ 39. Add § 76.3 after § 76.2 to read as follows:

If any provision of this part or its application to any person, act, or practice is held invalid, the remainder of the part or the application of its provisions to any person, act, or practice shall not be affected thereby.

■ 40. Amend § 76.50 by revising paragraph (d) to read as follows:

§ 76.50 Basic requirements for subgrants.

* * * * *

(d) Grantees, in cases where subgrants are prohibited by applicable statutes or regulations or the terms and conditions of a grant award, are authorized to contract, as needed, for supplies, equipment, and other services, in accordance with 2 CFR part 200, subpart D (2 CFR 200.300 through 200.346).

* * * * *

■ 41. Amend § 76.500 by adding a new paragraph (f) to read as follows:

* * * * *

(f) A grantee must:

(1) Ensure that hiring, admissions, promotions, and compensation practices under the grant are based on merit and qualification, without regard to race, color, religion, sex, national origin, or proxies thereof unless an appropriate exception applies such as a religious organization or an organization engaged in remedial action.

(2) Ensure that the grantee's employment practices do not compel statements of belief in support or opposition to any political views as a condition of employment, admission, or project participation, unless an appropriate exception applies.

(3) Ensure that that, where applicable, the grantee has policies protecting freedom of speech, inquiry, and press as specified and required by 34 CFR 75.500(a)–(e).

■ 42. Revise § 76.700 to read as follows:

§ 76.700 Compliance with the U.S. Constitution, statutes, regulations, stated institutional policies, and applications.

A State and a subgrantee shall comply with § 76.500, the State plan, applicable statutes, regulations, Executive orders, and approved applications, and shall use Federal funds in accordance with those statutes, regulations, Executive orders, plans, and applications.

■ 43. Amend § 76.720 by revising paragraph (b)(2) to read as follows:

§ 76.720 State reporting requirements.

* * * * *

(b) * * *

(2) The Secretary requires a State to report more frequently than annually, including reporting under 2 CFR 3474.10 and 2 CFR 200.208 (Specific conditions) and 2 CFR 3474.10 (Clarification regarding 2 CFR 200.208) or 2 CFR 200.302 Financial management and 200.303 Internal controls.

* * * * *

PART 77—DEFINITIONS THAT APPLY TO DEPARTMENT REGULATIONS

■ 44. The authority citation for part 77 continues to read as follows:

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

■ 45. Amend § 77.1 in paragraph (c) by:

■ a. Adding the definition of ''Evidence framework'';

■ b. Revising the definition of ''Experimental study'';

■ c. Adding the definition of Frontloading'';

■ d. Revising the definition of ''Moderate evidence'';

■ e. Revising the definition of ''National level'';

■ f. Revising the definition of ''Promising evidence'';

■ g. Revising the definition of ''Quasi-experimental design study'';

■ h. Revising the definition of ''Regional level'';

■ i. Revising the definition of ''Subgrant''; and

■ j. Revising the definition of ''Strong evidence''.

The revisions and additions read as follows:

§ 77.1 Definitions that apply to all Department programs.

* * * * *

(c) * * *

* * * * *

Evidence framework means an approach to providing a determination about whether a project component meets each aspect of the definition of strong evidence or moderate evidence, as applicable.

(a) An evidence framework must include each of the following:

(i) Whether or not a study is an experimental study or a quasi-experimental design study;

(ii) Whether or not a study shows a positive, statistically significant effect on student outcomes or other relevant outcomes;

(iii) Whether or not a study uses outcome measures that demonstrate validity and reliability, that do not give an unfair advantage to participants in one condition over another, and that are measured consistently for the groups or participants that are being compared;

(iv) Whether or not a study design is otherwise of high quality, including whether it minimizes factors outside the intervention that could affect student or other relevant outcomes (confounds) and whether random assignment (if used) was done with integrity; and

(v) Whether or not study implementation and analysis is appropriate, including whether groups or participants being compared demonstrate baseline equivalence on key individual and other relevant characteristics, whether differences in baseline equivalence are statistically controlled, and by considering the impact on the validity of the study of any changes to the sample over time.

(b) An evidence framework may be implemented or verified by one or more of the following:

(i) An organization with relevant expertise that has demonstrated to the Department that it has a high-quality, rigorous, transparent (*i.e.,* publicly accessible) process for determining each aspect identified in (a);

(ii) By peer reviewers with statistical expertise who apply an evidence framework consistent with each aspect identified in (a) in reviewing support for an applicant's assertion that relevant information is strong evidence or moderate evidence, as applicable; or

(iii) By the Department or peer reviewers with statistical expertise who affirm an applicant's assertion that relevant information is strong evidence or moderate evidence because it is supported by study ratings included in the What Works Clearinghouse in one or more of:

(1) a practice guide;

(2) an intervention report; or

(3) individual studies otherwise assessed to meet strong evidence or moderate evidence.

Experimental study means a study that is designed to compare outcomes between two groups (such as students) that are otherwise equivalent except for their assignment to a treatment group receiving a project component as compared with a control group that does not. Experimental studies can support claims of strong evidence. Randomized controlled trials and single-case design studies are specific types of experimental studies that meet this definition.

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Frontloading means the use of appropriated funds available for obligation in a particular fiscal year, in whole or in part, for future budget periods of a grant award.

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Moderate evidence means a project component that demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on at least one well-designed and well-implemented quasi-experimental study (moderate evidence as defined in 20 U.S.C. 7801(21)(A)(i)(II)).

National level means the level of scope or effectiveness of a project component is able to be effective in a wide variety of communities, including rural and urban areas, populations, and settings.

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Promising evidence means at least one well-designed and well-implemented correlational study with statistical controls for selection bias (promising evidence as defined in 20 U.S.C. 7801(21)(A)(i)(III)).

* * * * *

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. Cross-sectional group designs, comparative interrupted time series, difference-in-difference designs, and growth curve designs are specific types of quasi-experimental studies that meet this definition. This type of study can meet the definition of moderate evidence but not strong evidence.

Regional level means the level of scope or effectiveness of a project component is able to serve a variety of communities within a State or multiple States, including rural and urban areas. For an LEA-based project, to be considered a regional-level project, a project component must serve students in more than one LEA, unless the project component is implemented in a State in which the State educational agency is the sole educational agency for all schools.

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Subgrant means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual or any other form of legal agreement, but does not include procurement purchases, nor does it include any form of assistance that is excluded from the definitions of ''Grant or Award'' in this part (See 2 CFR 200.1, ''Subaward'').

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Strong evidence means a project component that demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on at least one well-designed and well-implemented experimental study (strong evidence as defined in 20 U.S.C. 7801(21)(A)(i)(I)).

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PART 79—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAMS AND ACTIVITIES

■ 46. Amend § 79.3 in paragraph (a) by removing ''in the **Federal Register**''.

■ 47. Amend § 79.6 in paragraph (a) by removing ''in the **Federal Register**''.

■ 48. Amend § 79.8 in paragraph (b)(2) by removing ''in the **Federal Register**''.

[FR Doc. 2026–17239 Filed 8–21–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–8786; Project Identifier MCAI–2025–01803–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2025–17–03, which applies to all Airbus Helicopters Model AS332L, AS332L1, AS332L2, and EC225LP helicopters. AD 2025–17–03 requires inspecting the emergency sea anchor and, depending on the result, replacing the emergency sea anchor. Since the FAA issued AD 2025–17–03, it has been determined that an additional inspection of an affected emergency sea anchor must be accomplished. This proposed AD would retain all of the requirements of AD 2025–17–03, would also require an additional inspection, and depending on the result, replacing the emergency sea anchor. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by October 8, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov*under Docket No. FAA–2026–8786; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI) any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find the EASA material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: David Enns, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4147; email: *david.enns@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under **ADDRESSES**. Include ''Docket No.