

**DEPARTMENT OF EDUCATION**

RIN 1820 ZA30

**National Institute on Disability and Rehabilitation Research**

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice of proposed priorities and change to the application process.

**SUMMARY:** The Assistant Secretary for Special Education and Rehabilitative Services is providing notice of a proposed priority for the Alternative Financing Mechanisms Program (AFP) under title III of the Assistive Technology Act of 1998 (AT Act) that is administered by the National Institute on Disability and Rehabilitation Research (NIDRR). The Assistant Secretary is also providing notice of a proposed priority for the Access to Telework Fund Program (Telework) under section 303(b) of the Rehabilitation Act of 1973, as amended (Rehab Act), that is administered by the Rehabilitation Services Administration (RSA). In addition, the notice contains changes to the application process that NIDRR and RSA will use for these competitions.

**DATES:** We must receive your written comments on or before September 4, 2003.

**ADDRESSES:** Address all comments about this priority to Carol Cohen, U.S. Department of Education, 400 Maryland Avenue, SW., room 3420, Switzer Building, Washington, DC 20202-2645. Fax: (202) 205-8515. If you prefer to send your comments through the Internet, use the following address: [carol.cohen@ed.gov](mailto:carol.cohen@ed.gov).

**FOR FURTHER INFORMATION CONTACT:** Carol Cohen. Telephone: (202) 205-5666.

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205-4475 or via the Internet: [carol.cohen@ed.gov](mailto:carol.cohen@ed.gov).

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** During and after the comment period, you may inspect all public comments about these priorities in room 3420, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

**Invitation to Comment**

We invite you to submit comments regarding these proposed priorities. To ensure that your comments have maximum effect in developing the notice of final absolute priorities, we urge you to be specific about any recommended changes.

**Assistance to Individuals With Disabilities in Reviewing the Comments**

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

**Note:** This notice does not solicit applications. In any year in which we choose to use these proposed absolute priorities, we invite applications through a notice in the **Federal Register**.

**SUPPLEMENTARY INFORMATION:** The Assistant Secretary may use these priorities for competitions in fiscal year (FY) 2003 and later years.

**Eligibility for an AFP Grant**

States that receive or have received grants under section 101 of the AT Act are eligible for an AFP grant. Under section 3(a)(13)(A) of the AT Act, State means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**Eligibility for a Telework Grant**

States as defined in the AT Act and governing bodies of American Indian tribes located on Federal and State reservations consistent with section 7(19)(B) of the Rehab Act are eligible for a Telework grant. Consortia of States and American Indian tribes are also eligible for a Telework grant.

**Joint Administration of Grants**

States may jointly apply for and administer an AFP grant and a Telework grant. States that submit one application for the two priorities must meet the

requirements for each priority and will compete separately under each priority.

**Proposed Priority 1: Alternative Financing Mechanism Program**

**Note:** Public comment is limited to those portions of the proposed AFP priority not specifically addressed by the AT Act. We have provided citations to the AT Act where appropriate.

**Background**

The purpose of title III of the AT Act is to maximize independence and participation in society by individuals with disabilities through the establishment of the AFP. Title III authorizes a Federal program to pay a share of the cost of establishment or expansion, and administration of programs that fund alternatives to the traditional payment options of public assistance and self-financing so that individuals with disabilities can acquire assistive technology devices and services (hereinafter referred to as AT).

Most individuals with disabilities do not have the private financial resources to purchase the AT they need. Currently, major service programs such as Medicaid, Medicare, and vocational rehabilitation cannot meet the growing demand for AT. The AFP offers individuals with disabilities attractive options that significantly enhance their access to AT in a way that underscores independence and inclusion.

The Assistant Secretary may award one-year grants or cooperative agreements to States to establish or maintain an AFP to increase access to AT for individuals with disabilities. NIDRR made AFP grants to six States in FY 2000 and to 14 States in FY 2001. In addition, NIDRR funded one AFP Technical Assistance project to assist States to apply for AFP grants and to assist recipients to develop and implement the AFP program in their States.

On August 13, 2002, NIDRR published a notice in the **Federal Register** inviting comments on the AFP (67 FR 52838). NIDRR received 17 comments by the deadline. The proposed AFP priority contains provisions suggested by the commenters. In addition, in response to the comments, NIDRR is planning on making changes to its application process for AFP awards.

An AFP grantee may implement one or more types of alternative financing mechanisms to allow individuals with disabilities and their family members, guardians, advocates, and authorized representatives to purchase AT devices and services. The statute requires

grantees to place all funds that support their AFP grant, including those repaid during the life of the program, in a permanent and separate account (Sec. 303(b)(5)(A)).

The following is a discussion of important issues that an applicant for an AFP grant should consider in developing an application.

(1) *Nature of the Match:* As established in the Fiscal Year 2002 Appropriations bill that supercedes the AT Act's statutory requirement, the State:Federal match requirement ratio is 1:3 (Department of Education Appropriations Act, 2002, Public Law 107-116). Thus, the State match share is 25 percent.

In the past, the biggest hurdle to States submitting a fundable application for an AFP grant has been meeting the requirement in section 303(b)(1) to match the Federal award with cash. NIDRR received comments on this issue urging that "cash" be defined as broadly as possible, including allowing "in-kind" contributions to qualify as a match of the Federal funds. NIDRR has concluded that the statute does not allow for this interpretation. The statutory language is clear: the State matching funds must be cash. Thus, the match cannot be "in-kind" contributions such as personnel costs, rent, equipment or other program supports.

State matching funds must come from State, local or private sources (Sec. 303(b)(1)). State matching funds may not be other Federal or previously obligated State funds, or funds made available by a financial or lending institution for direct loans that are not maintained in the required permanent separate account. The proposed priority includes a provision establishing that applicants must identify the source of their matching funds.

The State matching funds cannot supplant funds that have been used to support AFP mechanisms (e.g., title I or existing title III funds)(Sec. 303(b)(4)). However, a State may use its AFP award to expand an existing AFP.

(2) *Permanence of the Program:* The AFP awards have a 12-month funding period (Sec. 303(b)(2)). However, the project period for an AFP remains in effect for as long as the program originally funded by the AFP award is in operation. NIDRR received comments asking for clarification of the statutory language that refers to the permanence of the AFP. The proposed priority includes a provision that addresses what is meant by a State's obligation to implement its AFP grant on a permanent basis. This obligation goes

well beyond a project's 12-month funding period.

(3) *Responsibilities of the Grantee During the First Budget Period:* During the first 12-month budget period, the statute requires a grantee to submit policies and procedures to NIDRR that will be used to administer the AFP grant (Sec. 305). The proposed AFP priority includes provisions specifying when during the first 12-month budget period these policies and procedures must be submitted to NIDRR. In addition, the proposed AFP priority includes provisions requiring the grantee to undertake two additional statutory activities during the first 12-month budget period: (1) depositing its matching funds and its Federal award funds into a permanent separate account (Sec. 303(b)(5)), and (2) entering into a contract with a community-based organization (CBO), ensuring that the CBO has entered into a contract with commercial lending institutions or organizations or State financing agencies (Sec. 304).

(4) *Closing out an AFP Grant with Funds Remaining:* The proposed AFP priority includes a provision that establishes how much a State must return to NIDRR when it terminates its AFP grant and how to address outstanding loans in that calculation. When the AFP grant ceases, voluntarily or involuntarily, as part of the grant closeout process, the grantee has 90 days after the end of the funding year to return the Federal share of the remaining funds.

(5) *Use and Control of Funds:* One of the assurances that applicants must submit involves the use and control of the AFP grant funds, including funds generated through interest-bearing accounts and investment income (Sec. 303(b)(6)). The proposed AFP priority includes a provision that clarifies that the assurance regarding the use and control of funds applies to all funds derived from the AFP grant including the original Federal award, the State matching funds, AFP funds generated by either interest bearing accounts or investments, and all principal and interest paid by AFP borrowers who are extended loans directly from the permanent separate account.

(6) *Contract with CBO:* Grantees are required to contract with a community-based organization (CBO) to administer the AFP grant (Sec. 304). NIDRR strongly encourages a State to identify this CBO in their application and include a letter of participation from the organization. Further, States are encouraged to take a competitive and inclusive approach to selecting the CBO.

(7) *Indirect Costs:* The statute provides that the percentage of funds made available through the grant that is used for indirect costs may not exceed 10 percent (Sec. 303(b)(7)). The proposed AFP priority includes a provision that requires the grantee to recalculate annually the maximum allowable indirect cost rate, which may not exceed 10 percent of the amount of funds in the permanent and separate account and the amount of loans outstanding from that account.

(8) *Eligibility of Employers:* NIDRR received comments requesting clarification whether employers are eligible to assist individuals with disabilities through an AFP grant. The proposed AFP priority includes language stating that an employer is eligible to serve as an authorized representative of an individual with a disability.

(9) *Responsibilities of Employers under the Americans with Disabilities Act (ADA):* NIDRR received comments on whether an AFP grant affects an employer's responsibility to provide reasonable accommodations to qualified employees with disabilities. An employer's obligations under the ADA are not affected by the existence of an AFP grant, which is a voluntary program for individuals with disabilities. However, there is nothing in the ADA or in the AT Act that would prohibit an individual with a disability from choosing to have an employer serve as an authorized representative to obtain AT on behalf of the employee by using AFP grant support even if the employer already has a responsibility under the ADA to provide the AT. At the same time, an employer may not require an employee to designate the employer as an authorized representative under the AFP grant nor may an employer require an employee to use the AFP grant to purchase AT.

(10) *Personal Grants:* NIDRR received comments inquiring whether an AFP grantee could provide direct financial assistance to qualified individuals for AT. The statutory language of the AFP is unequivocal: AFP funds cannot be used as outright grants to eligible individuals. Individuals who participate in an AFP grant are expected to pay for the purchase of the AT.

#### Proposed Priority

The purpose of these proposed requirements is to increase the funding for and provision of AT (Sec. 2(b)(1)(A)). The AFP will: (1) Achieve the program's short-term goal of purchasing AT through alternative financing mechanisms for individuals with disabilities, and other eligible parties;

and (2) achieve the program's long-term goals of establishing a nationwide network of permanent State AFPs that promote independence and choice.

States that receive or have received grants under section 101 of the AT Act are eligible to compete for an AFP (Section 303(a)). In its application, a State must identify and describe one or more of the following types of AFP programs that the State will implement:

- (1) A low-interest loan fund;
- (2) An interest buy-down program;
- (3) A revolving loan fund;
- (4) A loan guarantee or insurance program;
- (5) A program operated by a partnership among private entities for the purchase, lease, or other acquisition of AT devices or AT services; or
- (6) Another mechanism that meets the requirements of title III and is approved by the Secretary (Sec. 301(b)).

According to section 301(a) of the AT Act, the AFP is designed to allow individuals with disabilities and their family members, guardians, advocates, and authorized representatives to purchase AT. The terms "AT devices" and "AT services" are defined in section 3(a) of the AT Act. When family members, guardians, advocates, and authorized representatives (including employers who have been designated by an individual with a disability as an authorized representative) receive AFP support to purchase AT, the purchase must be on behalf of an individual with a disability, i.e., the AT that is purchased must be solely for the benefit of that individual.

In addition, an applicant must submit the following assurances:

(1) *Nature of the Match*: An assurance that the State will provide the non-Federal share (25 percent) of the cost of the AFP in cash, from State, local, or private sources (Sec. 303(b)(1)). An applicant must identify the amount of Federal funds the State is requesting and the amount of cash that the State is going to generate as a match as well as the source of the cash.

(2) *Permanence of the Program*: An assurance that the AFP will continue on a permanent basis (Section 303(b)(2)).

A State's obligation to implement the AFP program consistent with all of the requirements, including reporting requirements, continues throughout the project period until there are no longer any funds available to operate the AFP and all outstanding loans have been repaid.

If a State decides to terminate its AFP while there are still funds available to operate the program, the State must return the Federal share of the funds remaining in the permanent separate

account to NIDRR (e.g., 75 percent if the original State:Federal match was 1:3) except for funds being used for grant purposes, such as loan guarantees for outstanding loans. However, before closing out its grant, the State must also return the Federal share of any principal and interest remitted to it on outstanding loans and any other funds remaining in the permanent separate account, such as funds being used as loan guarantees for those loans.

(3) *Consumer Choice and Control*: An assurance that, and information describing the manner in which, the AFP will expand and emphasize consumer choice and control (Section 303(b)(3)).

(4) *Supplement Not Supplant*: An assurance that the funds made available through the grant to support the AFP will be used to supplement and not supplant other Federal, State, and local public funds expended to provide alternative financing mechanisms (Sec. 303 (b)(4)).

(5) *Permanent Separate Account*: An assurance that the State will ensure that (A) all funds that support the AFP, including funds repaid during the life of the program, will be placed in a permanent separate account and identified and accounted for separately from any other fund; (B) if the organization administering the program invests funds within this account, the organization will invest the funds in low-risk securities in which a regulated insurance company may invest under the law of the State; and (C) the organization will administer the funds with the same judgment and care that a person of prudence, discretion, and intelligence would exercise in the management of the financial affairs of such person (Section 303(b)(5)).

During the first 12-month budget period, a grantee must deposit its matching funds and its Federal award funds in the permanent and separate account.

(6) *Use and Control of Funds*: An assurance that (A) funds comprised of the principal and interest from the account described in paragraph (5) will be available to support the AFP; and (B) any interest or investment income that accrues on or derives from such funds after such funds have been placed under the control of the organization administering the AFP, but before such funds are distributed for purposes of supporting the program, will be the property of the organization administering the program (Section 303(b)(6)).

This assurance regarding the use and control of funds applies to all funds derived from the AFP including the

original Federal award, the State matching funds, AFP funds generated by either interest bearing accounts or investments, and all principal and interest paid by borrowers of the AFP who are extended loans from the permanent separate account.

(7) *Indirect Costs*: An assurance that the percentage of the funds made available through the grant that is used for indirect costs will not exceed 10 percent (Section 303(b)(7)).

For each 12-month budget period, grantees must recalculate their allowable indirect cost rate, which may not exceed 10 percent of the amount of funds in the permanent and separate account and any outstanding loans from that account.

(8) *Contract With a Community-Based Organization*: An assurance that the State will enter into a contract with a community-based organization (including a group of such organizations) that has individuals with disabilities involved in organizational decision making at all organizational levels, to administer the AFP. The contract will: (1) Include a provision requiring that the program funds, including the Federal and non-Federal shares of the cost of the program, be administered in a manner consistent with the provisions of title III; (2) include any provision the Secretary requires concerning oversight and evaluation necessary to protect Federal financial interests; and (3) require the community-based organization to enter into a contract, to expand opportunities under title III and facilitate administration of the AFP, with commercial lending institutions or organizations or State financing agencies (Section 304 (a) and (b)).

During the first 12-month budget period, a grantee must enter into the contract with a CBO and ensure that the CBO has entered into the contract with the commercial lending institutions or organizations or State financing agencies.

(9) *Administrative Policies and Procedures*: An assurance that the State and any community-based organization that enters into a contract with the State under title III, will submit to the Secretary the following policies and procedures for administration of the AFP: (1) A procedure to review and process in a timely manner requests for financial assistance for immediate and potential technology needs, including consideration of methods to reduce paperwork and duplication of effort, particularly relating to need, eligibility, and determination of the specific AT device or service to be financed through the program; (2) A policy and procedure

to ensure that access to the AFP shall be given to consumers regardless of type of disability, age, income level, location of residence in the State, or type of AT device or AT service for which financing is requested through the program; and (3) A procedure to ensure consumer-controlled oversight of the program (Section 305).

Grantees must submit the administrative policies and procedures required in this assurance within six months of the start of the grant.

(10) *Data Collection:* An assurance that the State will collect the following: (1) Information on the type of alternative financing mechanisms used by the State and the community-based organization with which each State entered into a contract, under the program (Section 307); (2) the amount of assistance given to consumers through the program (who shall be classified by age, type of disability, type of AT device or AT service financed through the program, geographic distribution within the State, gender, and whether the consumers are part of an underrepresented population or rural population) (Section 307); and (3) information on the program's short-term and long-term goals.

Grantees must enter the data requested in this assurance, and other data the Secretary may require, in the system developed by the Secretary. The Technical Assistance provider has developed a (voluntary) web-based data collection instrument to assist the AFP grantees for this purpose. For more information on the data collection system, products, and reports, see <http://www.resna.org/AFTAP/loan/index.html>. Grantees must enter the data elements contained in this form as well as specific information (to be determined) pertaining to the short-term and long-term goals.

Through the analysis of data collected under the following reporting requirements, the Secretary will assess grantee success in meeting the program's overall goals of: (1) Increasing access to alternative financing programs for the purchases of AT for individuals with disabilities; and (2) establishing a nationwide network of permanent State AFPs that promote independence and choice.

Performance measures used to determine whether the goals have been accomplished will include: (1) Number of loan applications; (2) number of loans; (3) amount and terms of each loan; (4) number of loan applications denied and the reasons for the denials; (5) number of individuals with disabilities who obtained AT; (6) purpose and type of the AT purchased;

(7) default rate and net losses; (8) number of States that have established new loan program or expanded existing loan programs; and (9) State loan capacity.

Grantee evaluation systems must be capable of collecting and analyzing this and any additional required information.

### **Proposed Priority 2: Access to Telework Fund**

#### *Eligibility for a Telework Grant*

State agencies from the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, are eligible for a Telework grant. For the purposes of this document, these entities will be referred to as States.

Governing bodies of American Indian tribes located on Federal and State reservations (and consortia of those governing bodies) consistent with section 7(19)(B) of the Rehab Act are also eligible for a Telework grant.

More than one agency within a State or tribe may receive a Telework grant, but there must be coordination and communication between these grantees.

#### *Background*

In February of 2001, the President introduced his *New Freedom Initiative* to help individuals with disabilities by increasing access to assistive technologies, expanding educational opportunities, increasing the ability of individuals with disabilities to integrate into the workforce, and promoting increased access into daily community life. In order to increase the participation of individuals with disabilities in the workforce, Telework was proposed as part of this initiative. Telework provides support for alternative financing mechanisms with the goal of expanding telework opportunities for individuals with disabilities.

Through the availability of telework and other alternative work options, barriers to employment such as inadequate transportation, fatigue, inaccessible work environments, and the need for personal assistance experienced by individuals with disabilities can be reduced or eliminated. While Telework does not relieve covered employers from their obligations under the Americans with Disabilities Act (ADA), it will provide individuals with disabilities an alternative mechanism to access computers and other needed equipment

not provided by an employer to enable them to establish telework and other alternative work environments. These work options will provide employment opportunities to many Americans who want or need a flexible work environment.

While computer technology and the Internet have tremendous potential to broaden telework options, including home-based self-employment, the computer and Internet revolution has not reached as many people with disabilities as the population without disabilities. Only 25 percent of individuals with disabilities own a computer, compared with 66 percent of U.S. adults without disabilities, and only 20 percent of individuals with disabilities have access to the Internet, compared with 40 percent of U.S. adults. The primary barrier to wider access to computer equipment is cost.

It is often very difficult for individuals with disabilities to save enough money to purchase computer and adaptive technology (e.g., screen readers, voice synthesizers, adaptive keyboards, and specialized software). Cash benefit programs do not provide sufficient funds for both living expenses and savings, and income support programs limit the amount of assets a person can accumulate. For a number of reasons, individuals with disabilities often find it difficult to access loans as a method to purchase necessary equipment. For example, they may have insufficient cash or collateral, lack an appropriate credit rating, or face attitudinal barriers. Telework addresses these barriers by assisting individuals with disabilities to obtain financing for computers and other equipment, so that they may work from home or other telework sites.

For the purposes of the proposed Telework priority, the term "telework" encompasses work that can be performed effectively from home or from other remote sites away from the office, such as work on the road or at a telework center. Successful applicants will develop programs that will enable individuals with disabilities to obtain computers and other equipment so that they can work as an employee or contractor or to become self-employed on a full-time or part-time basis from home or other remote sites.

On December 26, 2002 RSA published a notice of proposed priority and proposed application requirements in the **Federal Register** for Telework (67 Fed. Reg. 78790). RSA received 24 comments by the deadline. Twelve of the 24 commenters suggested allowing State grantees to jointly administer AFP and Telework, and six other

commenters suggested that AFP and Telework grantees collaborate closely.

We agree that it would be more efficient for AFP grantees that choose to apply for Telework to jointly apply for and administer the two grant programs. However, AFP grantees may also choose to separately apply for and administer a Telework grant.

In order to enable joint administration of the two programs, the Assistant Secretary has revised the December 26, 2002 proposed Telework priority to parallel the AFP statutory requirements. The major revision is that the application and program requirements contained in the December 26, 2002 proposed Telework priority are now addressed through a number of required assurances with accompanying timeframes for implementing the assurances.

Eligible State applicants for an AFP grant may apply for a Telework grant by submitting one application to jointly administer the two grant programs. These States must specify in their application the amount of their match that is devoted to each grant. However, section 303(b)(5)(A) of the AT Act requires that AFP funds be placed in a permanent separate account. Thus, while State grantees may jointly administer the AFP and Telework, the funds must be kept in permanent separate accounts.

There are two major differences between the AFP and the Telework. The match requirement for a Telework grant is 10 percent while the match requirement for an AFP grant is 25 percent.

The second difference between the AFP and Telework is that the two programs have different short-term and long-term goals. Telework will provide support to individuals with disabilities for the purpose of purchasing computers and other equipment, including adaptive equipment. Telework will: (1) achieve the program's short-term goal of increasing access to technology for disabled individuals through alternative financing mechanisms that are used to purchase computers and other equipment, including adaptive equipment, so that individuals with disabilities can telework from home or other remote sites; and (2) achieve the program's long-term goal of increasing employment opportunities and competitive employment outcomes for individuals with disabilities. The proposed priority would implement the Access to Telework Fund proposed by the President in his New Freedom Initiative.

Congress appropriated funds under section 303(b) of the Rehab Act to

provide RSA the funds necessary to administer Telework. The proposed priority supports this section by furthering the purposes of the Rehab Act, specifically by empowering individuals with disabilities to maximize employment.

#### Proposed Priority

In its application, a State or Indian tribe must identify and describe one or more of the following types of programs that the State will implement:

- (1) A low-interest loan fund;
- (2) An interest buy-down program;
- (3) A revolving loan fund;
- (4) A loan guarantee or insurance

program;

- (5) A program operated by a partnership among private entities for the purchase, lease, or other acquisition of computers and other equipment, including adaptive equipment;

- (6) Another mechanism that meets the requirements and intent of this program and is approved by the Secretary.

In addition, an applicant must submit the following assurances:

(1) *Nature of the Match*: An assurance that the State or Indian tribe will provide the non-Federal share (10 percent) of the cost of Telework in cash, from State or Indian tribe, local, or private sources. An applicant must identify the amount of Federal funds it is requesting and the amount of cash that the State or Indian tribe is going to generate as a match as well as the source of the cash.

(2) *Permanence of the Program*: An assurance that Telework will continue on a permanent basis.

A State or Indian tribe's obligation to implement Telework consistent with all of the requirements, including reporting requirements, continues throughout the project period until there are no longer any funds available to operate Telework and all outstanding loans have been repaid.

If a State or Indian tribe decides to terminate its Telework grant while there are still funds available to operate the program, the State or Indian tribe must immediately return the Federal share of the funds remaining in the permanent separate account to RSA (e.g., 90 percent if the original State or Indian tribe: Federal match was 1:9) except for funds being used for grant purposes, such as loan guarantees for outstanding loans. However, before closing out its grant, the State or Indian tribe must also return the Federal share of any principal and interest remitted to it on outstanding loans and any other funds remaining in the permanent separate account, such as funds being used as loan guarantees for those loans.

(3) *Consumer Choice and Control*: an assurance that, and information describing the manner in which, Telework will expand and emphasize consumer choice and control.

(4) *Supplement Not Supplant*: an assurance that the funds made available through the grant to support Telework will be used to supplement and not supplant other Federal, State or Indian tribe, and local public funds to support similar services to individuals with disabilities.

(5) *Permanent Separate Account*: an assurance that the State or Indian tribe will ensure that (A) all funds that support Telework, including funds repaid during the life of the program, will be placed in a permanent separate account and identified and accounted for separately from any other fund; (B) if the organization administering the program invests funds within this account, the organization will invest the funds in low-risk securities in which a regulated insurance company may invest under the law of the State; and (C) the organization will administer the funds with the same judgment and care that a person of prudence, discretion, and intelligence would exercise in the management of the financial affairs of such person.

During the first 12-month budget period, a grantee must deposit its matching funds and its Federal award funds in the permanent and separate account.

(6) *Use and Control of Funds*: an assurance that (A) funds comprised of the principal and interest from the account described in paragraph (5) will be available to support Telework; and (B) any interest or investment income that accrues on or derives from such funds after such funds have been placed under the control of the organization administering Telework, but before such funds are distributed for purposes of supporting the program, will be the property of the organization administering the program.

This assurance regarding the use and control of funds applies to all funds derived from Telework including the original Federal award, the State or Indian tribe matching funds, Telework funds generated by either interest bearing accounts or investments, and all principal and interest paid by borrowers of Telework who are extended loans from the permanent separate account.

(7) *Indirect Costs*: An assurance that the percentage of the funds made available through the grant that is used for indirect costs will not exceed 10 percent.

For each 12-month budget period, grantees must recalculate their

allowable indirect cost rate, which may not exceed 10 percent of the amount of funds in the permanent and separate account and any outstanding loans from that account.

(8) *Administrative Policies and Procedures*: An assurance that the State or Indian tribe will submit to the Secretary the following policies and procedures for administration of Telework: (1) A procedure to review and process in a timely manner requests for financial assistance for immediate and potential needs, including consideration of methods to reduce paperwork and duplication of effort, particularly relating to need, eligibility, and determination of the specific device or service to be financed through the program; (2) A policy and procedure to ensure that access to Telework shall be given to consumers regardless of type of disability, age, income level, location of residence in the State or Indian tribe, or type of device or service for which financing is requested through the program; and (3) A procedure to ensure consumer-controlled oversight of the program.

Grantees must submit the administrative policies and procedures required in this assurance within six months of the start of the grant.

(9) *Data Collection*: An assurance that the State or Indian tribe will collect the following: (A) Information on whether the program is achieving its short-term goal of increasing access to technology for disabled individuals through the provision of loans that must be used to purchase computers and other equipment, including adaptive equipment, so that individuals with disabilities can telework from home and other remote sites; and (B) Information on whether the program is achieving its long-term goal of increasing employment opportunities and competitive employment outcomes for individuals with disabilities.

Grantees must enter the data requested in this assurance, and other data the Secretary may require, in the system developed by the Secretary.

Through the analysis of data collected under the following reporting requirements, the Secretary will assess grantee success in meeting the program's overall goals of: (1) Increasing access to technology for disabled individuals; and (2) Increasing employment opportunities and competitive employment outcomes for individuals with disabilities.

Performance measures used to determine whether the goals have been accomplished will include: (1) Number of loan applications; (2) number of loans; (3) amount and terms of each

loan; (4) number of loan applications denied and the reasons for the denials; (5) the types of equipment financed, including the total number of each type of equipment financed; (6) number of individuals who obtained telework employment as a result of Telework loans; (7) default rate and net losses; and (8) the total financial contribution to the project, including the Federal share and non-Federal matching contributions, and the source of the non-Federal share.

Grantee evaluation systems must be capable of collecting and analyzing this and any additional information as required by the Secretary.

In addition, each State applicant must provide the following assurance:

*Contract with a Community-based Organization*: an assurance that the State (note: Indian tribes are exempt from this requirement) will enter into a contract with a community-based organization (including a group of such organizations) that has individuals with disabilities involved in organizational decision making at all organizational levels, to administer Telework. The contract will: (1) Include a provision requiring that the program funds, including the Federal and non-Federal shares of the cost of the program, be administered in a manner consistent with the provisions of this priority; (2) include any provision the Secretary requires concerning oversight and evaluation necessary to protect Federal financial interests; and (3) require the community-based organization to enter into a contract, to expand opportunities under this priority and facilitate administration of Telework, with commercial lending institutions or organizations or State financing agencies.

During the first 12-month budget period, a grantee must enter into the contract with a CBO and ensure that the CBO has entered into the contract with the commercial lending institutions or organizations or State financing agencies.

#### **Applicability of Education Department General Administrative Regulations (EDGAR) to AFP and Telework**

In general, EDGAR applies to these two grants except to the extent it is inconsistent with the purpose and intent of title III of the AT Act, section 303(b) of the Rehab Act, or the requirements in this notice. Specifically, grantees are exempt from section 80.21(i) regarding interest earned on advances and the addition method in section 80.25(g)(2) applies to program income rather than the deduction

method in section 80.25(g)(1). Also, sections 75.560–75.564 do not apply to the extent that these sections of EDGAR are inconsistent with the AFP and Telework requirement that indirect costs cannot exceed 10 percent. Finally, section 75.125, which requires applicants to submit a separate application for each program, does not apply to this competition.

#### **Changes in NIDRR's and RSA's Application Processes for AFP and Telework Awards**

Based upon public comments made in response to the earlier **Federal Register** notices for the AFP and Telework, NIDRR and RSA are planning on making changes to the application process for the grant awards. These revised application procedures will assist applicants to prepare fundable proposals, simplify the information that is required in the application, and streamline the application review process. NIDRR and RSA expect to fund all applications that meet the requirements set forth in the proposed priorities.

In order to promote fundable applications, NIDRR and RSA will provide applicants with technical assistance on their proposals beginning with the publication of this notice and up until the deadline for submission of applications. Prior to the application deadline, NIDRR and RSA will answer questions, review draft proposals, and provide applicants with feedback in order to assist them to submit a fundable application. In addition, NIDRR's AFP Technical Assistance project will provide assistance to all entities that are interested in applying for an AFP or Telework award.

The application process will be simplified by requiring applicants to submit a number of assurances, and a limited amount of information related to those assurances. NIDRR and RSA will not require applicants to provide details in their applications concerning the policies and procedures they will use to administer their AFP or Telework grant. These policies and procedures will be submitted by grantees to NIDRR or RSA within the first year of the grant.

NIDRR and RSA will use an internal application review process to determine whether all the necessary assurances and required program information have been submitted. This will ensure that the same standards that are used to provide applicants with information and feedback during the application period will be applied to evaluate applications for funding.

The Notice Inviting Applications that accompanies the final priorities will ask

each applicant to identify the amount of the Federal award for which it is applying and can qualify. That amount is based on the amount of matching funds to be provided by the applicant. The size of each award will depend on the total number of fundable applications that NIDRR and RSA receive and the requests for Federal funding that are included in those applications.

#### Electronic Access to This Document

You may review this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/legislation/FedRegister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

*Note:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: <http://www.access.gpo.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.224C, Alternative Financing Program and 84.235T, Access to Telework Fund Program.)

**Program Authority:** 29 U.S.C. 773(b) and 29 U.S.C. 3051-3056.

Dated: July 31, 2003.

**Robert H. Pasternack,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

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## DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.224C and 84.235T]

### Alternative Financing Mechanism Program and Access to Telework Fund Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2003

*Purpose of Program:* This notice invites applications for two programs: the Alternative Financing Mechanisms Program (AFP) under title III of the Assistive Technology Act of 1998 (AT Act) that is administered by the

National Institute on Disability and Rehabilitation Research (NIDRR) and the Access to Telework Fund Program (Telework) under section 303(b) of the Rehabilitation Act of 1973, as amended (Rehab Act), that is administered by the Rehabilitation Services Administration (RSA).

It is the policy of the Department of Education not to solicit applications before the publication of final priorities. However, in this case it is essential to solicit applications on the basis of the notice of proposed priority, definitions, and application and project requirements published elsewhere in this issue of the **Federal Register**, because the Department's authority to obligate these funds will expire on September 30, 2003. Applicants should base their applications on the proposed priority, definitions, and application and project requirements. If changes are made in the final notice in response to public comments or other considerations, applicants will be given an opportunity to revise or resubmit their applications.

**SUPPLEMENTARY INFORMATION:** Funds under these competitions will be used to support projects in FY 2003.

States may jointly apply for and administer an AFP grant and a Telework grant. These States must meet the requirements for each priority and will compete separately under each priority. Alternatively, States may apply for either the AFP or the Telework grant, or both, to be administered separately. In addition, Indian tribes are eligible to apply for Telework grants.

#### Priorities

##### *Absolute Priority 1—Alternative Financing Mechanism Program (84.224C)*

For FY 2003, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet the priority, definitions, and application and project requirements.

The AFP will award grants to States to pay for the Federal share of the cost of the establishment and administration of, or the expansion and administration of, an AFP featuring one or more alternative financing mechanisms to allow individuals with disabilities and their family members, guardians, advocates, and authorized representatives to purchase AT devices and AT services.

*Eligible Applicants:* States that receive or have received grants under section 101 of the AT Act are eligible for an AFP grant. Under section 3(a)(13)(A) of the AT Act, State means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

*Applicable Regulations:* The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 80, 81, 82, and 85.

#### Selection Criteria

In evaluating an application for a new grant under this competition, we will determine if an applicant has submitted the required assurances.

##### *Absolute Priority 2—Access to Telework Fund Program (84.235T)*

For FY 2003, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet the priority, definitions, and application and project requirements.

The Access to Telework Fund Program will award grants to States and Indian Tribes to pay for the Federal share of the cost of the establishment and administration of an Access to Telework Fund featuring one or more alternative financing mechanisms to allow individuals with disabilities access to computers and other needed equipment not provided by an employer to enable them to telework from home or other remote sites.

*Eligible Applicants:* States as defined in the AT Act and governing bodies of American Indian tribes located on Federal and State reservations consistent with section 7(19)(B) of the Rehab Act are eligible for a Telework grant. Consortia of States and American Indian tribes are also eligible for a Telework grant.

*Applicable Regulations:* The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 80, 81, 82, and 85

#### Selection Criteria

In evaluating an application for a new grant under this competition, we will determine if an applicant has submitted the required assurances.