



United States  
General Accounting Office  
Washington, D.C. 20548

Human Resources Division

B-251218

December 9, 1992

The Honorable Edward M. Kennedy  
Chairman, Committee on Labor and  
Human Resources  
United States Senate



148126

The Honorable William D. Ford  
Chairman, Committee on Education and Labor  
House of Representatives

The Honorable Christopher J. Dodd  
United States Senate

The Honorable John F. Kerry  
United States Senate

The Honorable Joseph Lieberman  
United States Senate

The Honorable Barney Frank  
House of Representatives

In response to your requests, we have reviewed the procedures used in awarding a \$6 million discretionary grant by the Department of Education's Office of Educational Research and Improvement (OERI) to demonstrate the use of high technology to address education needs in critical subject matter areas. You expressed concerns that (1) the award was made for reasons other than merit and (2) the usual peer review process used in grant selection was not followed.

We did not attempt to determine the merit of individual proposals or of the final award decision. Rather, we examined the peer review process and the Secretary's authority in awarding discretionary grants. Our review included (1) interviewing Department of Education officials from OERI, the Office of Grants and Contracts, and the General Counsel; (2) examining laws, regulations, and procedures that apply to the Department's award of discretionary grants and how they were applied in this competition; and (3) interviewing persons who read and ranked applicant proposals that competed for the grant.

GAO/HRD-93-8R, Department of Education Grant Award

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We found that the peer review process was poorly managed. Grant proposal priorities were so broad as to allow vague applications. Reviewer comments on the highest ranked proposal were lost. Delays in (1) providing support for a mid-process decision to return to the original raw scores rather than use the standardized scores to rank proposals and (2) recreating the lost reviewer comments may have stopped completion of an award that the Assistant Secretary had approved. OERI's actions in constituting a second panel of reviewers to provide additional comment on the top proposals gave the erroneous impression that a second tier panel had been established and a new proposal was being recommended for funding. Finally, after considering the flaws in this competition's peer review process, the Assistant Secretary decided to obtain independent recommendations from her personal staff in helping her to determine which proposal to select. However, this informal process lacked safeguards to assure independence of reviews among the personal staff and the Assistant Secretary.

Notwithstanding the above, we conclude that the Assistant Secretary acted within her authority in recommending the winning proposal for the grant. The rules and regulations require that the Secretary (or the Secretary's designee) need only consider the results of a peer review, as one item to be considered. The Secretary has broad discretion in making these types of grant awards; grant awards are not governed by the same procedural rules found in the competitive contract process. The Assistant Secretary told us that she selected the Texas proposal because it was a new demonstration rather than an ongoing effort, and therefore better met the key priority stated in the competition announcement.

Enclosure I is the announcement and explanation of this competition. Enclosure II gives a chronology of events from competition announcement through grant award. Enclosures III and IV identify and give rankings for the top seven applications. Enclosure V provides the regulations relevant to the selection of Education's discretionary grants.

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Copies of this letter will be provided to the Secretary of Education and made available to others on request. This review was conducted under the direction of Linda Morra, Director, Education and Employment Issues, who may be reached at (202) 512-7014 if you have any questions.

*Lawrence H. Thompson*

Lawrence H. Thompson  
Assistant Comptroller General

Enclosures - 5

**DEPARTMENT OF EDUCATION**

(CFDA No. 84.215C)

**The Fund for Innovation in Education (FIE): Technology Education Program: Notice Inviting Applications for New Awards for Fiscal Year 1992**

**Purpose of the Program:** To provide grants for projects to develop materials for educational television and radio programming for use in elementary and secondary education, together with programs that use telecommunications and video resources for the instruction of public and private elementary and secondary school students and for related teacher training programs for public and private elementary and secondary school teachers. Telecommunications means the full range of technologies that can be used for educational instruction.

**Eligible Applicants:** State educational agencies, local educational agencies, institutions of higher education, private schools, and other public and private agencies, organizations and institutions or consortia of these agencies, organizations, and institutions.

**Deadline for Transmittal of Applications:** May 8, 1992.

**Deadline for Intergovernmental Review:** July 8, 1992.

**Applications Available:** March 24, 1992.

**Available Funds:** \$8,000,000 (est).

**Number of Awards:** 1.

**Project Period:** 24 months.

**Budget Period:** 24 months.

**Applicable Regulations:** The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

**SUPPLEMENTARY INFORMATION:** AMERICA 2000, the President's strategy for achieving the National Education Goals, calls for communities to set aside all traditional assumptions about schooling and utilize new approaches to produce extraordinary gains in student learning. The Secretary is interested in funding a project that would break the mold of conventional teaching strategies by demonstrating the use of technology to help teachers deliver instruction in an effective manner that results in student performance that equals or exceeds the performance of the best students worldwide.

In a January 1992 report the National Council on Education Standards and Testing, a congressionally mandated group, recommended the development of world-class national standards for what students should know and be able to do in mathematics, science, history, geography, and English. The Secretary is

interested in projects supporting the use of high technology to deliver improved instruction that will enable students to attain world-class standards in the five core disciplines.

The Secretary is also interested in projects that have potential to be disseminated by the National Diffusion Network (NDN). The NDN is a dissemination system through which exemplary education programs and processes are made available to interested school systems or other educational institutions around the country. In order to become eligible for dissemination by NDN, a project must be proven to be effective. Evidence of project effectiveness must be collected and presented to the Department's Program Effectiveness Panel (PEP). Projects that are judged effective by PEP become eligible to compete for dissemination funds from the NDN. Therefore, the Secretary encourages applicants who may be interested in having their projects disseminated by the NDN to include an evaluation plan that will assess the effectiveness and impact of project activities with emphasis upon changes in school practices and student performance.

**Priorities****Absolute Priority**

Under 34 CFR 75.108(c)(3), 20 U.S.C. 3153(b)(1), and Public Law 102-170, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only one application that meets this absolute priority:

One demonstration project which uses high technology to address specifically the educational needs in critical subject matter areas.

**Invitational Priority**

Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.108(c)(1), an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

A demonstration project that integrates high technology into the delivery of instructional services throughout the classrooms of a local public school district or private school or consortium of public school districts and/or private schools. The Secretary is interested in a project that adopts high standards for student achievement in English, history, geography, mathematics, and science and utilizes technology to help students attain those high standards. Applications may

include requests for the purchase of equipment which is necessary to accomplish program goals. The Secretary encourages applicants to include the following components in these proposed projects:

(a) Programs to train teachers how to use technology in student instruction.

(b) Training programs to ensure that teachers are prepared to teach at the level of the new high standards.

(c) Implementation of curricula that reflect high standards, through the use of high technology and exemplary instruction developed by content specialists from public and private education.

(d) Commitment to the project as evidenced by the contribution of financial resources by the applicant and any other participating organizations and plans to continue the project beyond the period of Federal support.

**Selection Criteria**

In evaluating applications for grants under this competition, the Secretary uses the selection criteria in 34 CFR 75.210(b). Under 34 CFR 75.210(c), the Secretary is authorized to distribute an additional 15 points among the criteria to bring the total to a maximum of 100 points. For this competition, the Secretary distributes the points as follows:

**Meeting the Purposes of the Authorizing Statute**

[34 CFR 75.210(b)(1)]. Ten points are added to this criterion for a possible total of 40 points.

**Extent of Need for the Project**

[34 CFR 75.210(b)(2)]. Five points are added to this criterion for a possible total of 25 points.

**For Applications or Information**

Contact: **Lana Levinson**, U.S. Department of Education, Fund for the Improvement and Reform of Schools and Teaching (FIRST) Office, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208-5524. Telephone (202) 219-1496. Deaf and hearing impaired individuals may call the Federal Relay Service at 1-800-877-6339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Authority: 20 U.S.C. 3151 and 3153.

Dated: March 5, 1992.

**Diane Ravitch**,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 92-3586 Filed 3-9-92; 8:45 am]

ED-92-020-01-0

CHRONOLOGY OF EVENTS

<u>Date (1992)</u>	<u>Event</u>
Mar. 10	The <u>Federal Register</u> announces a grant competition for one award for an estimated \$6 million. The absolute priority, to which the Secretary of Education will give "absolute preference" is: "One demonstration project which uses high technology to address specifically the educational needs in critical subject matter areas."
May 1	Education's Grants and Contracts Service approves the grant's technical review plan submitted by the Fund for Improvement and Reform of Schools and Teaching (FIRST), the program running this competition. As is customary in OERI grant competitions, standardized--rather than raw--scores will be used to rank proposals for funding recommendations.
May 8	The closing date for applications--102 proposals are received.
May 31	Seven three-person reader panels are selected. Of 21 readers--chosen for their expertise in technology, curriculum, and/or knowledge of teaching--2 are federal employees.
June 1	The 5-day panel review of proposals begins. The FIRST staff act as panel moderators.
June 8	FIRST submits raw scores from reader panels to Grants and Contracts to be standardized through application of a formula that seeks to counteract unwanted biases of "easy" or "tough" readers.
June 8-12	FIRST receives the standardized scores from Grants and Contracts. The Pennsylvania Model School Partnership proposal, fifth in raw scores, now is ranked number one. This change leads the FIRST staff and panel moderators to read all proposals that scored in the top seven by raw and standardized scores. A determination is made that the standardization process ranked the Pennsylvania proposal higher than it deserves.

June 18 The FIRST director recommends that the Assistant Secretary approve a proposal by the Connecticut State Department of Education's Project Conquest. This proposal had received the highest raw score and the third highest standardized score.

June 22-26 The Assistant Secretary expresses reservations about the Connecticut proposal and asks for additional information. The FIRST deputy director asks for advice from an Education staffer knowledgeable in technology. He proposes to have at least five reviewers read and rate the top seven proposals to enable the FIRST staff to make a final decision.

NOTE: In the draft version of the technical review plan, two tiers of readers were proposed. To make sure that the funds would be awarded before the end of the fiscal year--and thus avert loss of funding authority--plans for a second tier were dropped.

July 7 Three of the original readers are given the top seven proposals to read and score, just as they were asked to do for the first reading. Due to time constraints, these readers are selected mainly on the basis of their immediate accessibility.

July 14 The three second-time readers return their scores and comments. All score highest a proposal from the Massachusetts Corporation for Educational Telecommunications, which before had ranked second in raw and standardized scores. The FIRST deputy director and project officer read these comments but continue to support the Connecticut proposal.

NOTE: The FIRST staff say the second review never was intended to be a two-tier approach. They say it was intended only to provide more information on the Connecticut proposal, in terms of its own merit, and as it compared to other proposals, and to justify use of raw rather than standardized scores.

NOTE: The FIRST staff viewed with reservations the comments of one second-time reader because the reader (1) scored the Connecticut proposal (which had been in first place on raw scores) very low, (2) had a potential conflict of interest, and (3) was in a position to learn the scores registered for the top seven in the first reading.

- July 27           The FIRST director again recommends the Connecticut proposal to the Assistant Secretary for approval.
- August 10         Still expressing reservations, the Assistant Secretary approves the award to Connecticut, but holds the document until Grants and Contracts approves a revised technical review plan that allows the use of raw rather than standardized scores.
- Aug.11-Sept.4    Before the signed award can be issued, the FIRST staff must satisfy Grants and Contracts requirements that include providing (1) a rationale for changing from standardized to raw scores and (2) the reader comments on the winning proposal. These have been lost, and on August 19, the original readers of the Connecticut proposal are asked to recreate their comments.
- Sept. 8           Senator Kennedy's office asks Education's Office of Legislation and Congressional Affairs about the status of the competition.
- Sept. 9           The Office of Legislation and Congressional Affairs returns the call. Senator Kennedy's office questions the review process, stating that Massachusetts should have received the award. The Office of Legislation and Congressional Affairs says no details can be released until after the grant is awarded and apprises the Assistant Secretary of the concerns of Kennedy's office.
- Sept. 11          The Assistant Secretary's office briefs the Office of Legislation and Congressional Affairs, the Office of General Counsel, and Grants and Contracts on the status of the competition. The concerns of Kennedy's office are raised. The Assistant Secretary is advised that nothing illegal has occurred. She is reminded that in her considerations she need not be bound by the reader scores, which are just one factor for her consideration. The General Counsel emphasizes that the decision should not in any way be influenced by political concerns.
- The Assistant Secretary distributes copies of the top proposals to key staff for review.

- Sept. 14           The Assistant Secretary transmits to Grants and Contracts a memo requesting that the grant not be awarded before September 18, that is, until concerns over the competition are addressed.
- Sept. 17           The Office of Legislation and Congressional Affairs receives a call from Kennedy's office and again explains that no details can be released until the grant is awarded.
- Sept. 21           The Assistant Secretary holds a meeting with key staff who she has asked to read the top proposals. At the meeting, she asks staff individually to vote for their funding preference. One staff member votes to return the funds to Treasury. Six vote to fund a Texas proposal from the McKinney Independent School District.
- NOTE: The Assistant Secretary subsequently stressed the fact that it was important that her staff reached their recommendations independently, and staff interviewed said they did reach their choice independently. The process employed, however, lacked safeguards to assure independence. Before the meeting to vote, some formal meetings were held where staff discussed the proposals and their preferences. Also, some staff had meetings with the Assistant Secretary and discussed preferences prior to the meeting to vote.
- Sept. 22           The Assistant Secretary selects the Texas proposal for funding, subsequently explaining that this proposal was to fund an entirely new demonstration initiative rather than ongoing efforts and also better met the absolute priority stated in the competition announcement.
- Sept. 30           With some negotiation questions still remaining to be answered, Grants and Contracts awards the grant. A total of \$5,455,466 is obligated for a budget period of 24 months. Access to the money is denied until negotiation questions are answered satisfactorily.
- Oct. 15           Grants and Contracts receives satisfactory answers and makes the grant funds available for use.



BRIEF DESCRIPTION OF TOP RATED APPLICANTS  
WITH ADJUSTED STANDARD AND RAW SCORES

<u>Adjusted standard score</u>	<u>Raw score</u>	<u>Applicant and project</u>
(Overall rankings in parentheses)		
105.03 (1)	89 (5)	<u>Model Middle School Partnership, Synergistic Educational Technology Systems (SETS):</u> A partnership with seven participants principally in Pennsylvania to improve the performance of middle school students. A training plan for teachers will be developed, hardware and software will be purchased, and information will be disseminated to other interested sites.
90.25 (2)	98 (2)	<u>Massachusetts Corporation for Educational Telecommunications (MCET):</u> Using a fiber- optic network to be created that will link six Massachusetts schools with each other, and (via MCET's existing satellite telecommunications network) with schools in 16 states, this project aims to develop a "high performance learning system and a restructured school community: for the improvement of educational instruction in five key subject areas."
89.66 (3)	99 (1)	<u>Connecticut State Department of Education's Project Conquest: Connecticut's Quest for Unique and Exemplary Schools of Tomorrow:</u> Applicant proposes to devise a statewide network that will provide training for teachers; improve teacher preparation to incorporate technology, the goals, and the America 2000 strategy; employ a variety of technologies; disseminate information to other sites; and promote community awareness and participation.

- 87.79 (4)      96 (3)      Columbia (Missouri) Public Schools:  
"Learning through Connectivity" program  
would install a communication network  
districtwide in 26 schools, as well as  
implementing training and support  
activities at district and building  
levels.
- 87.11 (5)      88 (6)      Pennsylvania Higher Education Assistance  
Agency: Using an existing technology, the  
HiTECH project would link 42 school  
districts. Teams of 10-20 educators from  
each district would use planning and  
technology to alter curricula and  
instruction. During the next 4 years,  
these 42 districts would lead 504  
additional schools through application of  
high technology.
- 85.55 (6)      86 (7)      Mid-Continent (Aurora, Colorado) Regional  
Educational Laboratory: Using a new,  
research-based model of teaching that  
shifts responsibility for learning to the  
student, this project would have a direct  
impact on classrooms in 33 school  
districts--rural and urban--in six states.  
The project would use a technique of so-  
called "authentic assessment" as an  
alternative to standardized tests.
- 84.41 (7)      92 (4)      McKinney (Texas) Independent School  
District: A demonstration called the ACT  
Academy that seeks an experimental K-12  
school that uses technology for teaching  
all subjects; a community education center  
for parents, families, and community  
members that provides access to high  
technology; and a teacher-training center  
that will prepare the district's teachers  
to use high technology in their  
classrooms.

RANKINGS AND SCORES OF TOP SEVEN GRANT PROPOSALSFirst Reading:

## Adjusted Standard Scores:

1. Pennsylvania	105.03
2. Massachusetts	90.25
3. Connecticut	89.66
4. Missouri	87.79
5. PA Higher Ed	87.11
6. Colorado	85.55
7. Texas	84.41

## Raw Scores average:

## Raw Scores Individual:

1. Connecticut <sup>a</sup>	99	98, 99, 100
2. Massachusetts <sup>b</sup>	98	100, 98, 97
3. Missouri <sup>c</sup>	96	98, 91, 98
4. Texas <sup>d</sup>	92	89, 94, 93
5. Pennsylvania	89	89, 84, 93
6. PA Higher Ed	88	88, 94, 81
7. Colorado	86	88, 87, 82

Second Reading:

## Raw Scores average:

## Raw Scores Individual:

1. Massachusetts	93.67	92, 94, 95
2. Colorado	88	86, 88, 90
3. PA Higher Ed	87	90, 86, 85
4. Texas	86.67	82, 87, 91
5. Missouri	85	84, 82, 89
6. Connecticut	74.67	84, 91, 49
7. Pennsylvania	58.67	15, 86, 75

<sup>a</sup>Comments--but not scores--for Connecticut were lost. These are comments reconstructed from memory by original readers.

<sup>b</sup>One of the Massachusetts readers was one of the three second-round readers--and thus got to read Massachusetts again.

<sup>c</sup>Two of the Missouri readers were second-round readers--and thus got to read Missouri again.

<sup>d</sup>Two of the Texas readers were second-round readers--and thus got to read Texas again.

**EDUCATION DEPARTMENT  
GENERAL ADMINISTRATIVE REGULATIONS**

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## Office of the Secretary, Education

§ 75.210

## § 75.192 Dissemination.

If an applicant proposes to publish and disseminate curricula or instructional materials under a grant, the applicant shall include an assurance in its application that the curricula or materials will reach the populations for which the curricula or materials were developed.

(Authority: 20 U.S.C. 1231(c)(3))

## Subpart D—How Grants Are Made

## SELECTION OF NEW PROJECTS

## § 75.200 How applications for new grants are selected for funding.

(a) *Direct grant programs.* The Department administers two kinds of direct grant programs. A direct grant program is either a discretionary grant or a formula grant program.

(b) *Discretionary grant programs.* (1) A discretionary grant program is one that permits the Secretary to use discretionary judgment in selecting applications for funding.

**Cross-REFERENCE.** See § 75.219 Exceptions to the procedures under § 75.217.

(2) The Secretary uses selection criteria to evaluate the applications submitted for new grants under a discretionary grant program.

(3) If a program does not have regulations, the Secretary uses the selection criteria in § 75.210 to select grantees under the program.

(c) *Formula grant programs.* (1) A formula grant program is one that entitles certain applicants to receive grants if they meet the requirements of the program. Applicants do not compete with each other for the funds, and each grant is either for a set amount or for an amount determined under a formula.

(2) The Secretary applies the program statute and regulations to fund projects under a formula grant program.

(Authority: 20 U.S.C. 1221e-3(a)(1))

(45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, and amended at 52 FR 27803, July 24, 1987)

## § 75.201 How to use the selection criteria.

(a) *Unweighted criteria.* If the selection criteria for a program are not weighted, the Secretary evaluates each criterion equally.

(b) *Weighted criteria.* If the selection criteria for a program are weighted, the Secretary assigns in the program regulations a total number of points that an applicant may receive under all of the criteria.

(Authority: 20 U.S.C. 1221e-3(a)(1))

(45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, and amended at 52 FR 27803, July 24, 1987)

## §§ 75.202—75.206 [Reserved]

## § 75.210 Selection criteria for a discretionary grant program that does not have regulations.

(a) *How this section works.* (1) If a discretionary grant program does not have implementing regulations, the Secretary uses the criteria in this section to evaluate applications for new grants under the program.

(2) The maximum score for all of the criteria in this section is 100 points.

(3) Subject to paragraph (c) of this section, the maximum score for each criterion is indicated in parentheses with the criterion.

(b) *The criteria—*(1) *Meeting the purposes of the authorizing statute.* (30 points) The Secretary reviews each application to determine how well the project will meet the purpose of the statute that authorizes the program, including consideration of:

(i) The objectives of the project; and  
(ii) How the objectives of the project further the purposes of the authorizing statute.

(2) *Extent of need for the project.* (20 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the statute that authorizes the program, including consideration of:

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

## § 75.215

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including:

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(vi) For grants under a program that requires the applicant to provide an opportunity for participation of students enrolled in private schools, the quality of the applicant's plan to provide that opportunity.

(4) *Quality of key personnel.* (7 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including:

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i) (A) and (B) of this section will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B) of this section, the Secretary considers:

## 34 CFR Subtitle A (7-1-90 Edition)

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which:

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation:

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(c) *Weighting the criteria.* (15 points) The Secretary distributes an additional 15 points among the criteria listed in paragraph (b) of this section. The Secretary indicates in the application notice for the program how these 15 points are distributed.

(Approved by the Office of Management and Budget under control number 1880-0513)

(Authority: 20 U.S.C. 1221e-3(a)(1))

[52 FR 27803, July 24, 1987, as amended at 53 FR 49143, Dec. 6, 1988]

## SELECTION PROCEDURES

§ 75.215 How the Department selects a new project: purpose of §§ 75.216-75.222.

Sections 75.216-75.222 describe the process the Secretary uses to select applications for new grants. All of these sections apply to a discretionary grant program. However, only § 75.216 applies also to a formula grant program.

## Office of the Secretary, Education

## § 75.220

**CROSS-REFERENCE.** See § 75.200(b) Discretionary grant program, and (c) Formula grant program.

(Authority: 20 U.S.C. 1221e-3(a)(1))

**§ 75.216** Returning an application to the applicant.

(a) The Secretary returns an application to an applicant if:

- (1) The applicant is not eligible.
- (2) The applicant does not comply with all of the procedural rules that govern the submission of the application;
- (3) The application does not contain the information required under the program; or

(4) The proposed project cannot be funded under the authorizing statute or implementing regulations for the program.

(b) If the Secretary returns an application under this section, the Secretary includes a statement that explains why the application was returned.

(Authority: 20 U.S.C. 1221e-3(a)(1))

**§ 75.217** How the Secretary selects applications for new grants.

(a) The Secretary selects applications for new grants on the basis of the authorizing statute, the selection criteria, and any priorities or other requirements that have been published in the **FEDERAL REGISTER** and apply to the selection of those applications.

(b)(1) The Secretary may use experts to evaluate the applications submitted under a program.

(2) These experts may include persons who are not employees of the Federal Government.

(c) The Secretary prepares a rank order of the applications based solely on the evaluation of their quality according to the selection criteria.

(d) The Secretary then determines the order in which applications will be selected for grants. The Secretary considers the following in making these determinations:

- (1) The information in each application.
- (2) The rank ordering of the applications.
- (3) Any other information relevant to a criterion, priority, or other requirement that applies to the selection

of applications for new grants, including information concerning the applicant's use of funds under a previous award under the same Federal program.

(Authority: 20 U.S.C. 1221e-3(a)(1))

[52 FR 27804, July 24, 1987]

**§ 75.218** Applications not selected for funding.

If an application is not selected for funding, the Secretary informs the applicant why the application was not selected.

(Authority: 20 U.S.C. 1221e-3(a)(1))

**§ 75.219** Exceptions to the procedures under § 75.217.

The Secretary may select an application for funding without following the procedures in § 75.217 if:

(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; or

(b)(1) The application was evaluated under the preceding competition of the program;

(2) The application rated high enough to deserve selection under § 75.217; and

(3) The application was not selected for funding because the application was mishandled by the Department.

(Authority: 20 U.S.C. 1221e-3(a)(1))

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, and amended at 52 FR 27804, July 24, 1987]

**§ 75.220** Procedures the Department uses under § 75.219(a).

If the special circumstances of § 75.219(a) appear to exist for an application, the Secretary uses the following procedures:

(a) The Secretary assembles a board to review the application.

(b) The board consists of:

(1) A program officer of the program under which the applicant wants a grant;

(2) A Department grants officer; and

(3) A Department employee who is not a program officer of the program