Region VIII

(Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

Administration for Children, Youth and Families, OHDS/DHHS, Federal Office Bldg., Room 908, 1916 Stout Street, Denver, Colorado 80294.

Mr. David Chapa, Regional Program Director, (303) 844–3106.

Region IX

(Arizona, California, Hawaii, Nevada, American Samoa, Guam, Commonwealth of the Northern Mariana Islands, and the Pacific Trust Territories)

Administration for Children, Youth and Families, OHDS/DHHS, Federal Building, Room 143, 50 United Nations Plaza, San Francisco, California 94102.

Mr. Roy Fleischer, Regional Program Director, (415) 556–6153.

Region X

(Alaska, Idaho, Oregon, Washington)

Administration for Children, Youth and Families, OHDS/DHHS, Arcade Plaza Building, 1321 2nd Avenue, Seattle, Washington 98101.

Mr. William Hayden, Regional Program Director, (206) 442–0838.

American Indian Programs Branch

Ms. Pecita Lonewolf, Chief, American Indian Programs Branch, Head Start Bureau, ACYF, OHDS/DHHS, Donohoe Building, Room 5831 (P.O. Box 1182) Washington, D.C. 20013, (202) 755–7715.

Migrant Programs Branch

Ms. Josephine Reifsnyder, Acting Chief, Migrant Program Branch, Head Start Bureau, ACYF, OHDS/DHHS, Donohoe Building, Room 5825 (P.O. Box 1182) Washington, D.C. 20013, (202) 755–8065.

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federal register

Thursday
July 12, 1984

Part III

Department of Health and Human Services

Office of Human Development Services

Head Start Program; Notice of Availability of FY 1984 Funds for Training and Technical Assistance Program

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Program Announcement No. 13600-842]

Head Start Program; Availability of FY 1982 Funds for Training and Technical Assistance Program

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS), Department of Health and Human Services (HHS).

ACTION: Announcement of availability of FY 1984 funds for the Head Start Training and Technical Assistance Program.

SUMMARY: The Head Start Bureau of the Administration for Children, Youth and Families (ACYF), OHDS, announces that competing applications will be accepted for new Regional, Sub-Regional and American Indian and Migrant Programs Resource Support Grants. The purpose of these grants will be to provide training and technical assistance (T/TA) to local Head Start grantees and to assist them in the management and provision of services. Resource Support Grants will be awarded and administered by the ten ACYF/HDS Regional Offices and the American Indian and Migrant Programs Branches. Resource Support Grants will be awarded to successful applicants to serve local Head Start programs throughout a Region, within a Sub-Regional area (i.e., programs located in one or more States) or to serve American Indian and Migrant Head Start programs.

DATE: The closing date for receipt of applications is August 27, 1984.

FOR FURTHER INFORMATION CONTACT: ACYF Regional Offices and American Indian Programs Branch and the Migrant Programs Branch at the addresses listed in Appendix III to this Announcement.

SUPPLEMENTARY INFORMATION: The Head Start program is designed to provide comprehensive developmental services primarily to low income preschool children, age three to the age of compulsory school attendance, and their families. To aid enrolled children to obtain their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. The Head Start Act was originally enacted in 1965. The current Head Start Act was enacted by Subchapter B of Chapter 8 of Title VI of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35. The Act is codified at 42 U.S.C. 9831 et seq. The Head Start regulations are published at 45 CFR Parts 1301-1305.

Section 648 of the Head Start Act authorizes the Secretary of Health and Human Services to provide directly or through grants or other arrangements: (1) Technical assistance to communities in developing, conducting, and administering Head Start programs, and (2) training for specialized or other personnel needed in connection with Head Start programs.

Training is an educational activity or event which is designed to impart knowledge and understanding or to increase the development of skills. Such training activities may be in the form of assembled events such as workshops, seminars, or programs or self-instructional activities. Some training is designed for newly hired employees with a focus on base level knowledge and core capability. Other training activities are more advanced and geared to the on-going instructional and information needs of more experienced staff.

Technical assistance is a problem solving event generally utilizing the services of an expert. Such services may be provided on-site, by telephone or through other communications. These services address a specific problem or set of problems and are intended to assist the consumer with immediate resolution or an approach to resolving a given problem or set of problems.

Prior to Fiscal Year 1982, the Administration for Children, Youth and Families (ACYF) awarded a number of training and technical assistance (T/TA) contracts to public and private organizations to provide T/TA to Head Start grantees and delegate agencies. In addition, approximately twenty percent of all grantees were given direct funding to enable them to obtain their own training and/or technical assistance service.

Beginning in Fiscal Year 1982, in an effort to decentralize the Head Start T/TA delivery system and make it more responsive to local grantee needs, the number of grantees directly funded was expanded and awards for State-wide T/TA grants replaced most of the contracts. One of the priority objectives of the State-wide T/TA grantees was preparation of more Head Start grantees for assuming responsibility for, and control of, T/TA resources through direct funding.

On reviewing our experience in this area, it is our belief that local programs are now better able to plan for and acquire much of their own T/TA services from resources in their communities. Therefore, of the total amount ($25,000,000) available for Head Start T/TA in Fiscal Year 1984, ACYF plans to award approximately $13,500,000 directly to Head Start grantees. Those funds will be awarded through the ten HHS/HDS Regional Offices and the American Indian and Migrant Programs Branches as part of the regular application process for Head Start grants.

An interim Final Notice pormulgating a change in the methods the Head Start Bureau, ACYF/HDS, uses to provide Head Start T/TA funds in support of local grantees was published in the **Federal Register** on April 25, 1984 (49 FR 17820). A Final Notice regarding the award of T/TA funds directly to local Head Start grantee is published elsewhere in this issue of the **Federal Register.**

Under this program announcement, approximately $5,500,000 will be available for Regional, Sub-Regional, or American Indian and Migrant Programs Resource Support Grant awards. It is expected that these grants will provide T/TA services to those relatively few grantees that are not funded directly. It is expected that these grants will also assist other grantees in making effective use of the funds they receive, i.e., assisting grantees in designing pre-service and in-service training activities, identifying other T/TA resources such as trainers or consultants, clustering T/TA services among grantees, and disseminating information pertaining to each of the Head Start component areas.

Program Goals and Objectives

The overall goal or objective of all T/TA arranged or provided by the Resource Support Grantees will be to assist local Head Start programs to manage their own T/TA activities. It is expected that such T/TA services to local Head Start programs will ultimately result in:

1. Increased knowledge and skills necessary for competent performance of staff of local Head Start programs in disciplines of the component areas to which they are assigned;

2. An improved capacity of local programs to design and conduct their own training programs;

3. A cadre of personnel employed in Head Start programs who have appropriate skills to do training and provide technical assistance services to their own or other Head Start programs;

4. A subsequent reduction in funds obligated to engage third party T/TA providers. As the capability within local programs to effectively manage and access their own T/TA services is increased, there will be a decreasing need for funds to be used to support third-party providers such as the Resource Support Grantees; and

5. Improved performance and services provided by local Head Start grantees.

Eligible Applicants

Public or private non-profit and "for profit" organizations may apply for financial assistance under this announcement, including:

• Organizations formed especially for this purpose (such as a consortium of Head Start associations);

• Institutions of higher education; and

• Existing non-profit and "for profit" providers of Head Start training and technical assistance.

Applicants must be organizations which are located within the geographical areas to be served by the grant.

Available Funds

In order to continue our progress in providing more direct funding of T/TA to local Head Start grantees the amounts available for Resource Support Grants would generally become lower over time. For example, in FY 1985 we anticipate providing a larger portion of our T/TA resources to local Head Start grantees than in FY 1984, thereby resulting in somewhat lower funds being available to Resource Supports Grants in FY 1985.

The Administration for Children, Youth and Families expects to award approximately $5,500,000 in FY 1984 for Head Start Resource Support Grants. Generally, the project period for these grants will be for two years. Those Resource Support Grants that are continued in FY 1985 will be refunded as non-competing continuations with the possibility of somewhat reduced funding. Decisions for FY 1985 will be on a case-by-case basis, in consideration of the needs of the local Head Start grantees.

Support for FY 1985 will also depend on funds available; Resource Support Grantees' satisfactory performance on the project for which the award was made; and the best interests of the Government.

Appendix II is a table of the amounts available from the FY 1984 allocations by regions and the American Indian and Migrant programs.

Recipient Share of the Project

Recipients are not required to provide a non-Federal share or in-kind contributions. However, in-kind contributions are encouraged.

Program Priorities

Each Resource Support Grantee will be responsible for providing T/TA services or obtaining such services through other means, i.e., brokering T/TA services. Each grantee must give priority for such T/TA services in following order to:

1. Requests for services from "High Risk" and other grantees that have not received direct funding to enable them to obtain T/TA services.

2. Assist local programs in negotiating Child Development Associate (CDA) training packages with local colleges and universities; and arranging for academic or continuing education credits.

3. Provide support to directly funded grantees, especially new expansion grantees, to help them effectively maximize the use of their T/TA funds. This may include providing specific T/TA support in areas identified in program compliance reviews.

4. Help local Head Start programs to identify individuals who can provide T/TA within the geographic area served by the Regional, Sub-Regional or American Indian and Migrant Resource Support Grant. Help local Head Start programs match identified needs with appropriate individuals and sites and brokering an assistance relationship. In many cases this may involve payment of an honorarium by the Resource Support Grantee and may also require reimbursement for travel and/or per diem to persons who have completed T/TA assignments.

In addition to addressing the above mentioned priorities, Resource Support Grantees may arrange for a nember of other activities or services depending on assessments and requests of the local programs. Such activities may include:

1. Collecting, disseminating and communicating information pertaining to all Head Start programs.

2. Assisting grantees in designing pre-service and in-service training activities related to each of the Head Start component areas.

3. Planning and conducting Regional/Sub-Regional workshops and seminars.

4. Coordinating with other Head Start T/TA projects, e.g., Resource Access Projects (RAPs), Public Health Service and Indian Health Service dental agreements, and Bilingual/Multi-cultural Resource Centers.

5. Identifying and engaging State/local government agencies as active participants in addressing T/TA needs of local Head Start programs.

6. Identifying and fostering increased utilization of other public, private and voluntary sector resources.

General Instructions

Training and technical assistance are considered key factors in implementing and maintaining Head Start program quality and performance.

Training and/or technical assistance may be given to any Head Start program for the purpose of conforming with Head Start regulations and policies or for other purposes depending on needs at the local level and national priorities. The determination that particular areas of the program require improvement is made by comparing actual program operation with Federal regulations and policies that govern the Head Start program. For this, the results of the compliance reviews are often helpful.

Prospective Resource Support Grantees should assess needs and reflect in their application the needs expressed by local Head Start programs within their designated geographic area as a basis for planned training and/or technical assistance activities.

The scope of the training and technical assistance (T/TA) efforts may include content related to all the Head Start program components and administration. Regional Offices have in the past used, and to a varying extent in different regions still may use, some or all of the following tools and methods to identify T/TA needs: The Program and Administrative Self-Assessment/Validation (SAVI's) or other assessment tools; routine validations; In-depth validations; audits; general program reviews; per-reviews; Program Information Reports (PIR) and Performance Indicators. In addition, T/TA may be provided in major National and Regional/American Indian/Migrant ACYF program emphases and pertinent Regional, multi-State and State Head Start Association emphases. Major subject areas for Resource Support Grantees' Head Start training and technical assistance are:

• Education;

• Parent Involvement;

• Social Services;

• Health (medical, nutrition, and mental health);

• Staff Training for Career Advancement; and

• Management and Administration (Management and administration include systems for the management of needs assessments, program planning, program improvement, personnel administration, fiscal management, program funding, organizational structure and compliance with regulations and Head Start policies.)

In addition, the Resource Support Grantee should take full advantage of the resources and expertise available form other ACYF grants and contracts, and should coordinate as necessary with those contractors or grantees. Specifically, the Regional Support Grantee should coordinate with

Resource Access Projects for handicapped services; Bilingual/Multicultural Resource Centers; the National Child Development Associate (CDA) grantee; and the Public Health Service and Indian Health Service for dental health T/TA. These contractors and grantees are available to provide leadership, materials, advice and, in most cases, both training and orientation for the staff of the Resource Support Grantee and direct T/TA for local Head Start programs.

The Application Process

Availability of Forms

Application for a financial assistance award under the Head Start Training and Technical Assistance Program must be submitted on the standard forms provided for this purpose. Application kits which include the forms and other information may be obtained by writing or calling the Regional Office or the American Indian and Migrant Programs Branches contact listed in Appendix III of this Program Announcement. Pre-application conferences will be scheduled for prospective grantees. Attendance at these conferences is not required in order to apply for a grant. (See Appendix I.)

Application Submission

At a minimum, one signed original and two copies of the application are required. However, an additional three copies would be helpful in expediting the review process. Applications, including all attachments, must be submitted as follows:

a. Applications for Regional and Sub-Regional Resource Support Grants must be submitted to the appropriate HDS Regional Office of Financial Operations (OFO), (see Appendix IV for list of Regional OFOs).

b. Applications for the American Indian and Migrant Resource support Grants must be submitted to Mary White, OHDS Grants and Contracts Management Division, North Building, Room 1296, 330 Independence Ave., SW, Washington, D.C. 20201

Notification Under Executive Order 12372

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Each State has established a State Single Point of Contact (SPOC) to fulfill the requirements of Executive Order 12372. Applicants must submit required material to their SPOC's to obtain their comments for consideration by OHDS as part of the award process. Applicants should contact their SPOC or State Process as soon as possible to alert them of the prospective application and receive specific instructions regarding the process. Required material should be sent to the SPOC as early as possible so that their comments can be included in the application submittal. If an applicant received the comments subsequent to the submittal of an application to OHDS, the applicant should forward them immediately to the OHDS Receiving Office as indicated in Appendix IV of this announcement. OHDS will notify the State of any application received which has no indication that the State process had an opportunity to review it.

OHDS must obligate the funds for these awards by September 30, 1984. Therefore, the required 60 day comment period for State process review and recommendation will end on September 13, 1984 in order for OHDS to receive, consider and accommodate SPOC input.

For convenience, an applicant certification form and a list of SPOC's is included as Appendix V of this announcement.

Application Consideration

Applications which are complete and conform to the requirements of this program announcement are subject to a competitive review and evaluation by qualified persons from the Administration for Children, Youth and Families, and other consumer representatives.

The results of the competitive review will be taken into consideration by the respective Regional Program Directors and Chiefs of the American Indian and Migrant Programs Branches. Following consultations between the Regional Program Directors, the American Indian and Migrant Programs Branch Chiefs, and the Associate Commissioner of the Head Start Bureau, the Associate Commissioner of the Head Start Bureau will recommend applicants to be funded. The Commissioner of ACYF will approve the final selection of applicants to be funded.

After the Commissioner has reached a decision either to approve or not to fund competing applications, unsuccessful applicants will be notified in writing of this decision. Successful applicants will be notified through the issuance of a Notice of Financial Assistance Awarded which sets forth the amount of funds awarded, the budget period for which support is given, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Application

Competing applications for financial assistance will be reviewed and evaluated against the following criteria:

I. Understanding: Extent to which the project objectives support or are capable of achieving the progam objectives and priorities as described by the program announcement—10 points.

II. Technical Approach: Extent to which the application demonstrates an ability to apply the appropriate training methodology to different audiences for different purposes; knowledge of the use of various training and technical assistance techniques and their application to Head Start program staff and parents, and ability to satisfy the requirements and standards of the program priorities—25 points.

III. CDA Services: Extent to which the applicant shows capacity for assisting local programs in negotiating CDA training packages with local college(s) and universities, and arranging for academic or continuing education credits—20 points.

IV. Grantee Capability: Extent to which the applicant has or will have adequate facilities and resources and demonstrates familiarity with needs assessment, training and resource identification in the areas to be served—10 points.

V. Staff Capability: Extent to which the applicant's staff are shown to be qualified, experienced in, and familiar with the work to be performed and the programs to be served; and extent to which professional personnel are shown to be available to the applicant at the anticipated time of award—25 points.

VI. Cost: Extent to which the estimated cost to the Government is reasonable considering the anticipated results—10 points

Closing Date for Receipt of Application

The closing date for receipt of all applications under this Program Announcement is August 27, 1984.

Mailed applications. Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent by first class mail, postmarked on or before the deadline date, and received in time to be considered during the competitive review and evaluation process. (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the

U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

Applications submitted by other means. Applications submitted by any means except through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

Late applications. Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

(Catalog of Federal Domestic Assistance Program Number 13.600, Head Start)

Dated: July 3, 1984.

Joseph Mottola,

Acting Commissioner, Administration for Children, Youth and Families.

Approved: July 6, 1984.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Appendix I

Regional Preapplication Conference for Prospective Applicants

Each ACYF Regional Office, and the American Indian Programs Branch and Migrant Programs Branch will schedule a conference for interested applicants within approximately two weeks after the date this announcement appears in the **Federal Register**. There will be one conference in each Regional office city, and one conference in Washington, D.C. for the American Indian Programs Branch and Migrant Programs Branch. At this conference, ACYF staff will answer questions concerning the announcement. It is not necessary to attend the conference to submit a grant application. Any prospective applicant, including prospective American Indian and Migrant applicants, may attend the conference in any of the eleven cities.

It is recommended that interested organizations secure a copy of the application kit before the conference, if possible. Application kits are available from offices listed in Appendix III. The number of application kits available at the conferences may be limited.

Contract the office of the ACYF Regional Program Director or the Branch Chiefs of the American Indian and Migrant Programs, for the exact time, date and place of the conference for the Region (or American Indian and Migrant Programs) in which you are interested in submitting an application. (See Appendix III.)

APPENDIX II

Region and State	Number of resource support grantees	Approximate amount of fiscal year 1984 grant (dollars)	Duration of fiscal year 1984 grant (months)	Total number of Head Start grantees	Number of grantees to receive all T/TA services through RSG
I. Boston: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	1	189,000	12	87	10
II. New York: New Jersey, New York (New York City) (NW NYS) (SE NYS), Puerto Rico, Virgin Islands	1	827,800	12	73	11
III. Philadelphia: Delaware, Dist. of Col., Maryland, Pennsylvania, Virginia, West Virginia	1	551,700	12	127	7
IV. Atlanta:					
Area No. 1: Kentucky, N.C., Tenn	1	525,500	12	106	0
Area No. 2: Alabama, Miss	1	462,500	12	55	0
Area No. 3: S.C., Florida, Georgia	1	450,300	12	60	0
V. Chicago: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin	1	180,000	12	200	0
IV. Dallas: Arkansas, Louisiana, New Mexico, Oklahoma, Texas	1	500,000	12	148	0
VII. Kansas City: Iowa, Kansas, Missouri, Nebraska	1	269,100	12	64	0
VIII. Denver: Colorado, Montana, N. Dakota, S. Dakota, Utah, Wyoming	1	250,000	12	56	0
IX. San Francisco:					
Area No. 1: Arizona, California, Hawaii, Nevada	1	260,200	12	86	0
Area No. 2: Outer Pacific	1	148,700	12	8	7
X. Seattle:					
Area No. 1: Alaska, Washington	1	122,900	12	26	0
Area No. 2: Idaho	1	68,200	12	8	0
Area No. 3: Oregon	1	124,400	12	19	0
American Indian Program:					
Area No. 1: Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming	1	130,000	12	43	12
Area No. 2: Florida, Minnesota, Mississippi, Nebraska, New Mexico, New York, North Carolina, North Dakota, Oklahoma, South Dakota, Wisconsin	1	184,000	12	51	17
Migrant Program Nationwide	1	186,500	12	23	0

Appendix III

Administration for Children, Youth and Families Regional Office and American Indian and Migrant Programs Branches addresses.

Region I

(Connecticut, Maine, Massachusetts, New Hampshire, Vermont, Rhode Island)

Administration for Children, Youth and Families, OHDS/DHHS, Federal Building, Room 2000, Government Center, Boston, Massachusetts 02203.

Mr. Richard Stirling, Regional Program Director, (617) 223–6450.

Region II

(New York, New Jersey, Puerto Rico, Virgin Islands)

Administration for Children, Youth and Families, OHDS/DHHS, Federal Building, Room 4149, 26 Federal Plaza, New York, New York 10278.

Mr. Dennis Couglin, Regional Program Director, (212) 264–3472.

Region III

(Delaware, Washington, D.C., Maryland, Pennsylvania, Virginia, West Virginia)

Administration for Children, Youth and Families, OHDS/DHHS, 3535 Market Street, (P.O. Box 13716), Philadelphia, Pennsylvania 19101.

Mr. Alvin Pearis, Regional Program Director, (215) 596–0356.

Region IV

(Alabama, Florida, Georgia, Kentucky, Mississippi;, North Carolina, South Carolina, Tennessee)

Administration for Children, Youth and Families, OHDS/DHHS, 101 Marietta Tower, Suite 903, Atlanta, Georgia 30323.

Mr. John Jordan, Regional Program Director, (404) 221–2134.

Region V

(Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

Administration for Children, Youth and Families, OHDS/DHHS, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606.

Mr. German White, Regional Program Director, (312) 353-6503.

Region VI

(Arkansas, Louisiana, New Mexico. Oklahoma, Texas)

Administration for Children, Youth and Families, OHDS/DHHS, 1200 Main Tower Building, 20th Floor, Dallas, Texas 75202.

Mr. Tommy Sullivan, Regional Program Director, (214) 767-2976.

Region VII

(Iowa, Kansas, Missouri, Nebraska)

Administration for Children, Youth and Families, OHDS/DHHS, Federal Building, 3rd Floor, 601 East 12th Street, Kanasa City, Missouri 64106.

Mr. Hilton Baines, Regional Program Director, (816) 374-5401.

Region VIII

(Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

Administration for Children, Youth and Families, OHDS/DHHS, Federal Office Bldg., Room 908, 1916 Stout Street, Denver, Colorado 80294.

Mr. David Chapa, Regional Program Director, (303) 844-3106.

Region IX

(Arizona, California, Hawaii, Nevada, American Samoa, Guam, Commonwealth of the Northern Mariana Islands, and the Pacific Trust Territories)

Administration for Children, Youth and Families, OHDS/DHHS, Federal Building, Room 143, 50 United Nations Plaza, San Francisco, California 94102.

Mr. Roy Fleischer, Regional Program Director, (415) 556-6153.

Region X

(Alaska, Idaho, Oregon, Washington)

Administration for Children, Youth and Families, OHDS/DHHS, Arcade Plaza Building, 1321 2nd Avenue, Seattle, Washington 98101.

Mr. William Hayden, Regional Program Director, (206) 442-0838.

American Indian Programs Branch

Ms. Pecita Lonewolf, Chief, American Indian Programs Branch, Head Start Bureau, ACYF, OHDS/DHHS, Donohoe Building, Room 5831 (P.O. Box 1182) Washington, D.C. 20013, (202) 755-7715.

Migrant Programs Branch

Ms. Josephine Reifsnyder, Acting Chief, Migrant Program Branch, Head Start Bureau, ACYF, OHDS/DHHS, Donohoe Building, Room 5825, P.O. Box 1182 Washington, D.C. 20013, (202) 755-8065.

Appendix IV

Directors, OHDS, Office of Fiscal Operations, Regions I-X and OHDS Grants and Contracts, American Indian and Migrant Programs Branches.

Region I

Mr. St. Clair Phillips, Director, OFO/HDS, JFK Federal Building, Room 200, Boston, Massachusetts 02203.

Region II

Mr. Nicholas Cordasco, Director, OFO/HDS, Federal Building, 26 Federal Plaza, New York, New York 10007.

Region III

Mr. William Chesser, Director, OFO/HDS, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101.

Region IV

Mr. Ed Shulz, Acting Director, OFO/HDS, 101 Marietta Tower, Atlanta Georgia 30323.

Region V

Mr. Russell Armstrong, Director, OFO/HDS, 300 South Wacker Drive, Chicago, Illinois 60606.

Region VI

Mr. Marvin Layne, Director, OFO/HDS, 1200 Main Tower, Dallas, Texas 75202.

Region VII

Mr. William Howard, Director, OFO/HDS, 601 East 12th Street, Kansas City, Missouri 64106.

Region VIII

Mr. Masaru Yoshimura, Director, OFO/HDS, 1961 Stout Street, Room 7440, Denver, Colorado 80202.

Region IX

Mr. Al Huerta, Director, OFO/HDS, 50 United Nations Plaza, San Francisco, California 94102.

Region X

Mr. Garry Griffith, Director, OFO/HDS, 1312 Second Avenue, Mail Stop 813, Seattle, Washington 98101.

American Indian and Migrant Programs Branches

Ms. Mary White, Office of Human Development Services, Grants and Contracts Management Division, North Building, Room 1296, 330 Independence Avenue, SW., Washington, D.C. 20201.

Appendix V

Executive Order 12372 Applicant Certification

Organization Name

☐ has

☐ has not

submitted this application to the State Single Point of Contact.

Date submitted: ____________

Authorized Official Signature

Date ____________

Executive Order 12372—State Single Points of Contact

Alabama

Mr. William Wallace, Director, Dept. of Economic and Community, Affairs, State Capitol, Montgomery, Alabama 36130, 205/832-6400

Alaska

Mr. Jay Hogan, Associate Director, Office of Management and Budget, Division of Governmental, Coordination, Pouch AW, Juneau, Alaska 99811, 907/465-3562

Arkansas

Mr. Sid Willbanks, Suite 412, 1515 Building, 1515 W. 7th Street, Little Rock, Arkansas 72201, 501/371-2345

Arizona

Mr. Larry Landry, Executive Director, Office of Economic Planning and Development, 4th Floor, Capitol Towers, Room 505, Phoenix, Arizona 85007, 602/255-5371

California

Mr. Huston Carlyle, Office of Planning and Research, 1400 10th Street, #156, Sacramento, California 95814, 916/445-4831

Colorado

Mr. Kenneth Tort, Executive Director, Office of Planning and Budget, 102 State Capitol, Denver, Colorado 80203, 303/866-2156

Connecticut

Mr. Horace Brown, Acting Under Secretary, Office of Policy and Managment, Comprehensive Planning Division, 80 Washington Street, Hartford, Connecticut 06106, 203/566-2555

Delaware

Ms. Marna C. Whittington, State Budget Director, Townsend Building, PO Box 1401, Dover, Delaware 19901, 302/736 4204

District of Columbia

Ms. Pauline Schneider, Director, Office of Intergovernmental Relations, District Building, Room 416, Washington, D.C. 20004, 202/727-6266

Florida

Mr. Steve St. Amand, Office of Planning and Budgeting, Executive Office of the Governor, The Capitol, Tallahassee, Florida 32301, 904/488-8114

Georgia

Mr. Irving Mitchell, Exeucitve Assistant, State Capitol, Room 201, Atlanta, Georgia 30334, 404/656-6870

Hawaii

Mr. Frank Skrivanek, Deputy Director, Department of Planning and Economic, Development, P.O. Box 2359, Honolulu, Hawaii 96804, Honolulu, Hawaii 96804, 808/548-4619

Idaho

Mr. Steven H. Woodall, CPA, Senior Controller, Division of Financial Management, State House, Boise, Idaho 83720, 208/334-2881

Illinois

Mr. Richard McClure, Assistant to the Governor, 207 State Capitol, Springfield, Illinois 62706, 217/782-9357

Indiana

Ms. Judith Palmer, Director, State Budget Agency, Rm. 212, S, State House, Indianapolis, Indiana 46204, 317/232-5612

Iowa

Dr. Edward Stanek, Director, Office of Planning and Programming, 523 E. 12th, Des Moines, Iowa 50319, 515/281-6483

Kansas

Mr. Lynn Muchmore, Director, Office of the Budget, Department of Administration, 263 E. Capitol Street, Topeka, Kansas 66001, 913/296-2436

Kentucky

Mr. Bob Leonard, Manager, Kentucky State Clearinghouse for Local Government, Second Floor, Capital PLaza Tower, Frankfort, Kentucky 40601, 502/564-2382

Louisiana

Mr. Wallace L. Walker, Executive Director, State Planning Office, Capitol Annex, P.O. Box 44426, Baton Rouge, Louisiana 70804, 504/342-7410

Maine

Mr. Richard Barringer, Director, State Planning Office, State House, Augusta, Maine 14333, 207/289-3261

Maryland

Ms. Constance Lieder, Secretary, Department of State Planning, 301 W. Preston Street, Baltimore, Maryland 21201, 301/383-2450

Massachusetts

Mr. Al Raine, Director, Governor's Office of Economic, Development, State House, Rm. 109, Boston, Massachusetts 02202, 617/727-1130

Michigan

Mr. Phil Jourdan, Director, Department of Management and Budget, P.O. Box 30028, Lansing, Michigan 48909, 517/373-1004

Minnesota

Mr. Tom Harren, Department of Energy, Planning and Development, 101 Capitol Square, 550 Cedar Street, St. Paul Minnesota 55101, 612/296-3698

Mississippi

Ms. Libby Smith, Governor's Office of Policy and Planning, 3304 Walter Sillers Building, Jackson, Mississippi 39202, 601/354-7018

Missouri

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Thursday
July 12, 1984

Part IV

Department of Education

34 CFR Parts 624 and 628

Institutional Aid Programs; Endowment Grant Program; Final Regulations With Comments Invited

DEPARTMENT OF EDUCATION

34 CFR Parts 624 and 628

Institutional Aid Programs; Endowment Grant Program

AGENCY: Department of Education.

ACTION: Final regulations with comments invited.

SUMMARY: The Secretary issues final regulations to amend the Institutional Aid Programs General Provisions. The Secretary also issues final regulations for the Endowment Grant Program and invites comments on how the regulations might be improved. The regulations are necessary to implement the Endowment Grant Program, authorized by section 333 of Title III of the Higher Education Act of 1965 (HEA), as amended by the Challenge Grant Amendments of 1983, Pub. L. 98–95.

EFFECTIVE DATES: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments, with the exception of § 628.30 through § 628.33 and § 628.47. Sections 628.30 through 628.33 and § 628.47 will become effective following the Education Department's submission and the Office of Management and Budget's (OMB) approval of reporting requirements contained in those sections under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

DATE: Comments must be post-marked on or before September 30, 1984.

ADDRESS: Comments should be addressed to Mr. Thomas Keyes, Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Keyes, (202) 245–2384.

SUPPLEMENTARY INFORMATION:

A. Background

The Endowment Grant Program is one of four programs authorized by Title III of the HEA and known collectively as the Institutional Aid Programs. The other three are the Strengthening, Special Needs, and Challenge Grant Programs. They provide financial assistance: (1) To help eligible institutions of higher education solve problems that threaten their ability to survive; and (2) to stabilize their management and fiscal operations so that they may achieve self-sufficiency.

Under the Endowment Grant Program, the Secretary awards grants to eligible institutions of higher education: (1) To establish or increase endowment funds; (2) to provide additional incentives for fund-raising; and (3) to foster their increased independence and self-sufficiency. Grantees must match the Federal grant funds dollar-for-dollar. The Federal grant and the institutional match is called the "endowment fund corpus." Institutions must invest and may not spend the endowment fund corpus for the 20 year grant period. Afterwards, the institution may use the endowment fund corpus for any educational purpose.

In general, a grantee may spend up to 50 percent of endowment fund income earned prior to the date of each proposed expenditure. Endowment fund income is the value of the endowment fund minus the endowment fund corpus. A grantee may use that 50 percent portion of endowment fund income to defray any expenses necessary to operate the institution. A grantee must invest the other 50 percent portion of endowment fund income for the 20 year grant period. Afterward, the grantee may use all income for any educational purpose.

In the preamble to the proposed regulations, 49 FR 8184, 8185, the Secretary indicated that he recognized that it may be difficult for institutions selected to receive endowment grants to raise their required matching funds during the application and selection period. Accordingly, the Administration has submitted proposed legislation to the Congress to permit funds appropriated for the Endowment Grant Program to remain available until expended. The Congress has not yet acted on this proposal. Section 628.41(b) of the regulations includes the eighteen month fund-raising period included in § 628.41(b) of the proposed regulations in anticipation of congressional approval of the Administration request.

B. Summary of Comments, Responses, and Changes

The Secretary published a notice of proposed rulemaking for the Endowment Grant Program in the **Federal Register** on March 5, 1984 (49 FR 8184–8190) and allowed 40 days for interested persons to comment. Eighty-six individuals, institutions, groups or associations commented.

A summary of the comments and the Secretary's response to them is contained in the Appendix following the regulations.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Invitation To Comment

Although the Secretary publishes these regulations as final, the Secretary invites further comments on ways to improve them. The Secretary recognizes that limitations on available data and a strict timetable which must be met in order for a competition to be conducted in this fiscal year have constrained commenters' ability to assess the effect of the various factors in the selection criteria and priorities (§ 628.31 and § 628.32) that the Secretary will use in evaluating applications. The Secretary agrees with several commenters that the factors are complex and that their interactions are difficult to predict.

The Secretary, then, publishes these regulations as final with the intent of carefully reviewing the effects of the selection criteria and priorities on the basis of data submitted by fiscal year 1984 applicants and comments submitted by interested persons.

Interested persons may send comments to the address given at the beginning of this document until September 30, 1984. The Secretary will consider all of these comments if the regulations are revised for future competitions.

All comments submitted in response to these regulations will be available for public inspection during and after the comment period in Room 3045, Regional Office Building 3, 7th and D Streets SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Paperwork Reduction Act of 1980

Information collection requirements contained in these regulations (§ 628.30 through § 628.33 and § 628.47) must be approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and must be assigned an OMB control number. Information collection requirements contained in these regulations at § 628.30 through § 628.33 and § 628.47 will become effective after the Education Department's submission and OMB's approval.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require submission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the absence of any comments on this matter and the Department's own review, the Secretary has determined that the regulations in this document do not require information that is already being gathered by or is available from any other agency or authority of the United States.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

List of Subjects in 34 CFR Parts 624 and 628

Colleges and universities, Education, Grant Programs—Education.

(Catalog of Federal Domestic Assistance Number 84.031 Institutional Aid Programs)

Dated: July 6, 1984.

T.H. Bell,

Secretary of Education.

The Secretary amends Part 624 and adds a new Part 628 to Title 34 of the Code of Federal Regulations as follows:

PART 624—INSTITUTIONAL AID PROGRAMS—GENERAL PROVISIONS

1. In § 624.1, paragraph (b)(4) is added to read as follows:

§ 624.1 Institutional Aid Programs.

* * * * *

(b) * * *

(4) The Endowment Grant Program (34 CFR Part 628).

* * * * *

2. In § 624.5, paragraph (c) is revised to read as follows:

§ 624.5 Regulations that apply to the Institutional Aid Programs.

* * * * *

(c) The regulations in 34 CFR Parts 625, 626, 627, or 628, as applicable.

* * * * *

3. Section 624.10 is revised to read as follows:

§ 624.10 Types of grants.

The Secretary awards three principal types of grants under the Institutional Aid Programs:

(a) Planning grants, as described in § 624.11.

(b) Development grants, as described in § 624.12.

(c) Endowment grants, as described in § 628.10.

(20 U.S.C. 1057, 1059, 1060, 1062, 1064 and 1065a)

4. A new Part 628 is added to read as follows:

PART 628—ENDOWMENT GRANT PROGRAM

Subpart A—General

Authority: Secs. 333 and 341–347 of Title III of the Higher Education Act of 1965 (20 U.S.C. 1065a, 1066–1069c) unless otherwise noted.

Subpart A—General

§ 628.1 What are the purposes of the Endowment Grant Program?

The Endowment Grant Program provides endowment grants, which must be matched dollar-for-dollar, to eligible institutions of higher education to—

(a) Establish or increase endowment funds;

(b) Provide additional incentives to promote fund-raising activities; and

(c) Foster increased independence and self-sufficiency at those institutions.

(20 U.S.C. 1065a)

§ 628.2 Which institutions of higher education are eligible to apply for an endowment grant?

An institution of higher education, including a branch campus, is eligible to apply for an endowment grant if it qualifies as an eligible institution as defined in 34 CFR 627.2 (a)(1), (b) or (d) of the Challenge Grant Program regulations.

(20 U.S.C. 1065a)

§ 628.3 Under what conditions may an eligible institution designate a foundation as the recipient of an endowment grant?

An eligible institution may designate a foundation, which was established for the purpose of raising money for that institution, as the recipient of an endowment grant if—

(a) The institution assures the Secretary in its application that the foundation is legally authorized to receive the endowment fund corpus and to administer the endowment fund in accordance with the regulations in this part;

(b) The foundation agrees to administer the endowment fund in accordance with the regulations in this part; and

(c) The institution agrees to be liable for any violation by the foundation of any applicable regulation, including any violation resulting in monetary liability.

(20 U.S.C. 1065a(a)(6))

§ 628.4 How often is an institution eligible to receive an endowment grant?

(a) Subject to the limitations in paragraphs (b) and (c) of this section, an eligible institution may receive an endowment grant even if it has previously received an endowment grant in another fiscal year.

(b) An institution may receive an endowment grant in no more than two fiscal years out of any five consecutive fiscal years.

(c) An institution may not receive an endowment grant if, at the time the Secretary selects it to receive a grant, it is still obtaining funds to match a previous endowment grant.

(20 U.S.C. 1065a(a)(4)(B))

§ 628.5 What regulations apply to the Endowment Grant Program?

(a) The following regulations apply to the Endowment Grant Program:

(1) The regulations in 34 CFR 624.1 through 624.3, 624.6, 624.10, 624.20, 624.22, and 624.40.

(2) The regulations in 34 CFR 625.2, 626.2, and 627.2.

(3) The regulations in this Part 628.

(b)(1) The following regulations in the Education Department General Administrative Regulations (EDGAR) apply to the Endowment Grant Program:

(i) The regulations in 34 CFR 74.62(h).

(ii) The regulations in 34 CFR 74.80 through 74.85.

(iii) The regulations in 34 CFR 75.100 through 75.102, and 75.217.

(iv) The regulations in 34 CFR Part 78.

(2) Except as specifically indicated in paragraph (b)(1) of this section, the Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74 through 77 and Part 79 do not apply.

(20 U.S.C. 1065a)

§ 628.6 What definitions apply to the Endowment Grant Program?

In addition to the definitions in 34 CFR 624.6, the following definitions apply to the regulations in this part:

"Endowment fund" means a fund which excludes real estate and which is established by State law, by an institution of higher education, or by a foundation that is exempt from taxation and is maintained for the purpose of generating income for the support of the institution of higher education. The principal or corpus of the fund may not be spent. "Endowment fund" includes "quasi-endowment fund".

"Endowment fund corpus" means an amount equal to the endowment grant or grants awarded under this part plus matching funds provided by the institution equal to the amount of the grant or grants.

"Endowment fund income" means an amount equal to the market value of the endowment fund established under the grant minus the endowment fund corpus.

"Institution of higher education" means an institution of higher education as defined in section 1201 of the Higher Education Act as modified by sections 312 and 322 of the HEA.

"Quasi-endowment fund" means a fund which the governing board of an institution or foundation establishes to function as an endowment in that the principal is to be retained and invested. However, the entire principal and income may be spent at any time at the discretion of the governing board.

(20 U.S.C. 1065a)

Subpart B—What Type of Grant Does the Secretary Award Under the Endowment Grant Program?

§ 628.10 What are the characteristics of an endowment grant?

Each endowment grant awarded by the Secretary under this part—

(a) Must be matched dollar-for-dollar and invested by an institution;

(b) May range from $50,000 to $250,000 in fiscal year 1984, and from $50,000 to $500,000 in subsequent fiscal years; and

(c) May cover a grant period of up to twenty years.

(20 U.S.C. 1065a)

Subpart C—How Does an Eligible Institution Apply for an Endowment Grant?

§ 628.20 What shall an applicant include in an application for an endowment grant?

(a) An applicant shall state in its application the amount of the endowment grant it is requesting and shall include information sufficient for the Secretary to—

(1) Evaluate the application under the selection criteria set forth in § 628.31 and the priorities set forth in § 628.32; and

(2) Determine whether the applicant will administer the endowment grant in accordance with the regulations in this part.

(b) An applicant shall include a long-range plan containing the elements required in 34 CFR 624.22 if, at the closing date established by the Secretary for submission of endowment grant applications, the applicant is not—

(1) A recipient of a development grant under the Strengthening, Special Needs, or Challenge Grant Programs;

(2) An applicant for a development grant under the Strengthening or Special Needs Programs; or

(3) An applicant for a Strengthening Program planning grant solely to develop an application for a development grant.

(20 U.S.C. 1065a)

Subpart D—How Does the Secretary Award an Endowment Grant?

§ 628.30 How does the Secretary evaluate an application for an endowment grant?

(a)(1) The Secretary reviews a long-range plan under § 628.20(b) to determine whether the plan—

(i) Contains all elements required in 34 CFR 624.22;

(ii) If implemented, would lead to self-sufficiency of the institution;

(iii) Identifies the major problems or deficiencies that prevent the applicant institution from becoming self-sufficient; and

(iv) Proposes effective strategies to overcome each problem or deficiency.

(2) The Secretary does not evaluate an application for an endowment grant from an institution identified in § 628.20(b) unless the applicant's long-range plan satisfies all of the criteria in paragraph (a)(1) of this section.

(b) In evaluating an application for an endowment grant, the Secretary—

(1) Judges the application using the selection criteria in § 628.31 and the priorities in § 628.32;

(2) Gives, for each criterion and priority, a score up to the maximum possible points in parentheses following the description of that criterion or priority; and

(3) Gives up to 130 total points, 90 points maximum for the criteria in § 628.31, and 40 points maximum for the priorities in § 628.32.

(c) In selecting recipients for grants, the Secretary follows the procedures in 34 CFR 75.217 of the Education Department General Administrative Regulations.

(20 U.S.C. 1065a)

§ 628.31 What selection criteria does the Secretary use in evaluating an application for an endowment grant?

In evaluating an application for an endowment grant, the Secretary uses the following three criteria:

(a) The Secretary measures the applicant's past efforts to build or maintain its existing endowment and quasi-endowment funds by the dollar and relative increase in market value to the applicant's existing endowment and quasi-endowment funds over the applicant's four fiscal years preceding the year of application using the formulas set forth in paragraphs (a)(1) through (a)(5) of this section.

(1) In measuring an applicant's dollar increase in its endowment and quasi-endowment funds, the Secretary—

(i) Subtracts from an amount equal to the market value of the applicant's endowment and quasi-endowment funds at the end of the four-year period described in paragraph (a) of this section an amount equal to the market value of the applicant's endowment and quasi-endowment funds at the beginning of that four-year period; and

(ii) Divides the result obtained in paragraph (a)(1)(i) of this section by the applicant's full-time equivalent enrollment at the end of the four-year period.

(2) The Secretary awards points on a sliding scale giving 10 points to applicants with the highest dollar increase as calculated in paragraph (a)(1) of this section and no points to applicants with the lowest dollar increase.

(3) In measuring an applicant's relative increase in market value of its endowment and quasi-endowment funds, the Secretary—

(i) Divides an amount equal to the market value of the applicant's endowment and quasi-endowment funds at the beginning of the four-year period described in paragraph (a) of this section by the applicant's full-time equivalent enrollment at the end of the four-year period.

(ii) Adds $50 to the amount obtained in paragraph (a)(3)(i) of this section.

(iii) Divides the result obtained in paragraph (a)(1)(ii) of this section by the amount obtained in paragraph (a)(3)(ii) of this section.

(4)(i) If the change in endowment per full-time equivalent student for the four-year period under paragraph (a)(3) of this section is $50 or more, the Secretary awards points on a sliding scale giving 15 points to applicants with a relative increase of 100 percent or more and no points to applicants that have had a relative decrease of more than 20 percent.

(ii) If the change in endowment per full-time equivalent student for the four-year period under paragraph (a)(3) of this section is less than $50, the Secretary awards points on a sliding scale giving 15 points to applicants with a relative increase of 100 percent or more and no points to applicants that have had no relative increase.

(5) In measuring the applicant's past effort, the Secretary—

(i) Excludes real estate from being considered as part of the applicant's existing endowment or quasi-endowment fund; and

(ii) Includes an endowment or quasi-endowment fund operated by a foundation if the foundation is tax-exempt and was established for the purpose of raising money for the institution.

(b) The Secretary considers the degree of proposed nongovernmental matching funds. (Total: 15 points maximum for the highest proposed percentage)

(1) The Secretary measures the degree to which an applicant proposes to match the grant with funds from sources other than a State or local government—giving up to 15 points to applicants proposing to obtain the largest percentage of matching funds from those nongovermental sources.

(2) If an applicant is applying for an endowment grant for the first time, the Secretary multiplies the maximum number of points (i.e., 15 points) on this criterion times the following fraction:

$$\frac{\text{Amount of matching funds proposed from nongovernmental sources}}{\text{Total proposed amount of matching funds}}$$

(3) If an applicant has previously received an endowment grant, the Secretary uses the following formula in awarding points under this criterion:

$$\frac{\text{Amount of matching funds proposed from nongovernmental sources}}{\text{Total proposed amount of matching funds}} \times \frac{\text{Amount of matching funds from nongovernmental sources actually raised under previous endowment grant}}{\text{Amount of matching funds proposed to be raised from nongovernmental sources under the previous endowment grant}} \times 15 \text{ points} = \text{Points on this criterion}$$

(c) The Secretary considers the need for an endowment grant as measured by the applicant's lack of resources.

(1) The Secretary gives up to 50 points to applicants with the least resources as measured, at the end of the applicant's fiscal year preceding the year it applies for an endowment grant, by revenue per full-time equivalent student it receives from the sum of the following—

(i) Federal, State and local government appropriations;

(ii) Unrestricted Federal, State and local government grants and contracts;

(iii) Eighty percent of tuition and fees; and

(iv) Unrestricted and restricted "endowment income".

(2) In measuring the applicant's resources, the Secretary—

(i) Defines the factors in paragraph (c)(1)(i) through (iv) as they are defined in the Education Department Higher Education General Information Survey of Financial Statistics.

(ii) Excludes real estate from being considered as part of the applicant's existing endowment or quasi-endowment fund.

(20 U.S.C. 1065a)

§ 628.32 What funding priorities does the Secretary use in evaluating an application for an endowment grant?

In evaluating an endowment grant application, the Secretary uses the following two priorities:

(a) *Recipient of Strengthening or Special Needs Program grant.* (Total: 20 points) The Secretary gives 20 points to each applicant that, on October 1 of the fiscal year in which the applicant is applying for an endowment grant, is a recipient of a development or planning grant under the Strengthening or Special Needs Programs.

(b) *Need for an endowment grant as measured by the lack of endowment funds.* (Total: 20 points)

(1) The Secretary gives up 20 total points to an applicant with the greatest need for an endowment grant under this part, as measured by the applicant's lack of endowment funds.

(2) The Secretary gives up to 20 points to the applicant with the lowest market value, at the end of the applicant's fiscal year preceding the year it applies for an endowment grant, of its existing endowment and quasi-endowment fund in relation to the number of full-time equivalent students enrolled at the institution in the fall of the year preceding the year it applies for an endowment grant.

(3) In measuring the applicant's need for an endowment grant, the Secretary excludes real estate from being considered as part of the applicant's existing endowment or quasi-endowment fund.

(20 U.S.C. 1065a)

§ 628.33 What amount of available funds under the Endowment Grant Program does the Secretary award to certain types of institutions?

With funds transferred from the Special Needs Program to the Endowment Grant Program, the Secretary awards endowment grants so that the amounts required (under 34 CFR 626.31 (a) and (b) of the Special Needs Program regulations) to be awarded to junior or community colleges and to institutions with special needs that have historically served substantial numbers of black students are so awarded.

(20 U.S.C. 1065a, 1069c)

Subpart E—What Conditions Must a Grantee Meet Under the Endowment Grant Program?

§ 628.40 What are the restrictions on the amount of an endowment grant?

(a) In order to receive an endowment grant, an institution must raise at least $50,000 in matching funds and qualify for at least a $50,000 grant under paragraph (c) of this section.

(b) If an institution obtains at least $50,000 in matching funds and raises all the nongovernmental funds it proposed to raise in its application, the institution may receive a grant equal to the total amount of matching funds it raises up to the maximum grant amount of $250,000 in fiscal year 1984 and $500,000 in future fiscal years.

(c) If an institution does not raise all the nongovernmental funds it proposed to raise in its application, the Secretary reduces its maximum grant by multiplying the grant amount requested by the following fraction:

$$\frac{\text{Amount of matching funds raised from nongovernmental funds}}{\text{Amount of matching funds proposed to be raised from nongovernmental funds.}}$$

(20 U.S.C. 1065a)

§ 628.41 What are the obligations of an institution that the Secretary selects to receive an endowment grant?

(a) An institution that the Secretary selects to receive an endowment grant shall—

(1) Enter into an agreement with the Secretary to administer the endowment grant;

(2) Establish an endowment fund independent of any other endowment fund established by or for that institution;

(3) Deposit its matching funds in the endowment fund established under this part;

(4) Upon receipt, immediately deposit the grant funds into the endowment fund established under this part; and

(5) Within fifteen working days after receiving the grant funds, invest the endowment fund corpus.

(b) Before the Secretary disburses grant funds and not later than eighteen months after being notified that it has been selected to receive a grant, an institution shall—

(1) Match dollar-for-dollar, with cash or low-risk securities, the endowment grant funds to be received under this part;

(2) Certify to the Secretary—

(i) The source, kind and amount of the eligible matching funds;

(ii) That the matching funds are eligible under paragraph (b)(1) of this section and § 628.42; and

(3) Have a certified public accountant or other licensed public accountant, who is not an employee of the institution, certify that the data contained in the application is accurate.

(c)(1) For the purpose of paragraph (b)(1) of this section, "cash" may include cash on hand, certificates of deposit and money market funds; and

(2) A negotiable security, to be considered as part of the institution's match—

(i) Must be low-risk as required in § 628.43; and

(ii) Must be assessed at its market value as of the end of the trading day on the date the institution deposits the security into the endowment fund established under this part.

(20 U.S.C. 1065a)

§ 628.42 What may a grantee not use to match an endowment grant?

To match an endowment grant, a grantee may not use—

(a) A pledge of funds or securities;

(b) Deferred gifts such as a charitable remainder annuity trust or unitrust;

(c) Any Federal funds;

(d) Any borrowed funds; or

(e) The corpus or income of an endowment fund or quasi-endowment fund existing at the closing date established by the Secretary for submission of eligibility requests under the Endowment Grant Program. This includes the corpus or income of an endowment or quasi-endowment fund established by a foundation if the foundation is tax-exempt and was established for the purpose of raising money for the institution.

(20 U.S.C. 1065a)

§ 628.43 What investment standards shall a grantee follow?

(a) A grantee shall invest, for the duration of the grant period, the endowment fund established under this part in savings accounts or in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located.

(b) When investing the endowment fund, the grantee shall exercise the judgment and care, under the circumstances, that a person of prudence, discretion and intelligence would exercise in the management of his or her own financial affairs.

(c) An institution may invest its endowment fund in savings accounts permitted under paragraph (a) of this section such as—

(1) A federally insured bank savings account;

(2) A comparable interest bearing account offered by a bank; or

(3) A money market fund.

(d) An institution may invest its endowment fund in low-risk securities permitted under paragraph (a) of this section such as—

(1) Certificates of deposit;

(2) Mutual funds;

(3) Stocks; or

(4) Bonds.

(e) An institution may not invest its endowment fund in real estate.

(20 U.S.C. 1065a)

§ 628.44 When and for what purposes may a grantee use the endowment fund corpus?

(a)(1) During the grant period, a grantee may not withdraw or spend any part of the endowment fund corpus.

(2) If, during the grant period, a grantee withdraws or spends all or part of the endowment fund corpus, it must repay to the Secretary an amount equal of 50 percent of the amount withdrawn or spent plus the income earned on that amount.

(b) At the end of the grant period, the institution may use the endowment fund corpus for any educational purpose.

(20 U.S.C. 1065a)

§ 628.45 How much endowment fund income may a grantee use and for what purposes?

(a) During the endowment grant period, a grantee—

(1) May withdraw and spend up to 50 percent of the total aggregate endowment fund income earned prior to the date of expenditure;

(2) May spend the endowment fund income for—

(i) Costs necessary to operate the institution, including general operating and maintenance costs;

(ii) Costs to administer and manage the endowment fund; and

(iii) Costs associated with buying and selling securities, such as stockbroker commissions and fees to "load" mutual funds;

(3) May not use endowment fund income for—

(i) A school or department of divinity or any religious worship or sectarian activity;

(ii) An activity that is inconsistent with a State plan for desegregation of higher education applicable to the grantee; or

(iii) An activity that is inconsistent with a State plan of higher education applicable to the grantee; and

(4) May not withdraw or spend the remaining 50 percent of the endowment fund income.

(b) Notwithstanding paragraph (a)(1) of this section, the Secretary may permit a grantee that requests to spend more than 50 percent of the total aggregate endowment fund income to do so if the grantee demonstrates that the expenditure is necessary because of—

(1) A financial emergency such as a pending insolvency or temporary liquidity problem;

(2) A situation threatening the existence of the institution such as destruction due to a natural disaster or arson; or

(3) Another unusual occurrence or demanding circumstance, such as a judgment against the institution for which the institution would be liable.

(c) If, during the granting period, a grantee spends more endowment fund income or uses it for purposes other than permitted under paragraphs (a) or (b) of this section, it shall repay to the Secretary an amount equal to 50 percent of the amount improperly spent.

(d) At the end of the grant period, the institution may use all of the endowment fund income for any educational purpose.

(20 U.S.C. 1065a and 1069b)

§ 628.46 How shall a grantee calculate the amount of endowment fund income that it may withdraw and spend?

A grantee shall calculate the amount of endowment fund income that it may withdraw and spend at a particular time as follows:

(a) On each date that the grantee plans a withdrawal of income, it must—

(1) Determine the value of endowment fund income by subtracting the endowment fund corpus from the current market value of the endowment fund on that date; and

(2) Calculate the amount of endowment fund income previously withdrawn from the endowment fund.

(b) If the value of endowment fund income in the endowment fund exceeds the aggregate amount of previously withdrawn endowment fund income, the grantee may withdraw and spend up to 50 percent of that excess fund income.

(20 U.S.C. 1065a)

§ 628.47 What shall a grantee record and report?

A grantee shall—

(a) Keep records of—

(1) The source, kind and amount of matching funds;

(2) The type and amount of investments of the endowment fund;

(3) The amount of endowment fund income; and

(4) The amount and purpose of expenditures of endowment fund income;

(b) Retain each year's records for a minimum of five years after the grant period ends;

(c) Allow the Secretary access to information that the Secretary judges necessary to audit or examine the records required in paragraph (a) of this section;

(d) Carry out the audit required in 34 CFR 74.62(h);

(e) Provide to the Secretary a copy of the external or internal audit to be performed at least every two years under 34 CFR 74.61(h); and

(f) Submit reports on a timely basis that are requested by the Secretary.

(20 U.S.C. 1065a; 1232f)

§ 628.48 What happens if a grantee fails to administer the endowment grant in accordance with applicable regulations?

(a) The Secretary may, after giving the grantee notice and an opportunity for a hearing, terminate an endowment grant if the grantee—

(1) Spends any portion of the endowment fund income permitted to be spent in § 628.45;

(2) Spends endowment fund income in violation of § 628.45(a))(3) (i) through (iii);

(3) Fails to invest the endowment fund in accordance with the investment standards set forth in § 628.43; or

(4) Fails to meet the requirements in § 628.41.

(b) If the Secretary terminates a grant under paragraph (a) of this section, the grantee must return to the Secretary an amount equal to the sum of the original endowment grant or grants plus the income earned on that sum.

(20 U.S.C. 1065a)

[Note.— This Appendix will not appear in the Code of Federal Regulations.]

Appendix A—Summary of Comments and Responses

The Secretary summarizes below the public comments and his responses to them, including any substantive changes in the final regulations. Comments and responses appear in the same sequential order as the provisions in the final regulations. Parentheses surround those section numbers that appeared in the proposed regulations but have now been renumbered, retitled, or deleted in these final regulations.

The Secretary has also made various technical and editorial changes in the final regulations.

General Comments

A great number of comments concerned statutory requirements. These comments addressed: the definition of "endowment fund"; the awarding of extra points to current grantees under the Strengthening or Special Needs Program; a priority for the *need* for endowment which contrasts with points being given to applicants which have historically shown strong *effort* in building or maintaining endowment funds; the absence of a set-aside of funds or preference in selecting grantees based on geographic regions; the penalty for institutions which use part of the endowment corpus; the cap on the amount of endowment fund income which may be spent by the grantee; and the maximum grant award of $250,000 in fiscal year 1984.

Other commenters made suggestions that are not authorized under the statute. These included: A restriction that the maximum grant award to public grantees be one-half the maximum to private grantees; that private institutions or Historically Black Colleges and Universities should be given preference or more points under the selection criteria; that priority be given to all past grantees or to all present and past eligible institutions; that 50–70% of the funds be set aside for private colleges; that grantees be required to raise more than one matching dollar for every Federal dollar; that small institutions should not be allowed to spend any endowment fund income from the program.

Response. No change is made in the regulations. The provisions referred to by the commenters are statutory requirements and the other suggestions from commenters are not authorized under the statute. Thus, the suggested changes may not be accomplished by regulations.

Comment. One commenter suggested that the regulations particularly the selection criteria and investment procedures—be simplified because the burden of processing paper has increased and personnel at institutions of higher education have decreased.

Response. No change is made in the regulations. The Secretary believes that these provisions are necessary as currently worded. If interested parties have specific recommendations for further simplification, they should send their comments to the address given at the beginning of these regulations. The Secretary will consider those comments if he revises the regulations for future competitions.

Comment. Two commenters urged that the final regulations be printed as soon as possible to allow for sufficient time to prepare an application and to obtain matching funds.

Response. No change is made in the regulations. The Secretary intends to allow sufficient time for both of these tasks.

Comments Responding To Secretary's Request

In the notice of proposed rulemaking, the Secretary requested comments on two specific topics. The first related to whether the Secretary should establish interim fund-raising goals so that the Secretary would not have to wait until the entire fund-raising period expired before awarding unmatched endowment grant funds to other institutions. The second concerned a tie-breaking mechanism in the awarding of grants. Numerous comments were received on these two topics.

1. Interim Fund-Raising Goals

Comment. Many comments were made on whether a provision should be added to the final regulations which would establish interim fund-raising goals to avoid situations where the entire fund-raising period must expire before unmatched funds could be awarded to other institutions. Fourteen commenters were against adding such a provision.

They stated that fund-raising often involves a "bandwagon" phenomenon. One donor gives and that motivates a peer to give. This takes time and often means that most donations are received in the latter part of a campaign. Also, fund-raising involves "peak periods." If a peak period falls at the end of the 18-month fund-raising period, an institution, for example, may show zero for 16 months and then $200,000 in the next two months.

Eight commenters favored the setting of interim fund-raising goals. They believed that interim goals would be an incentive toward early fund-raising efforts. A grantee would know of these interim goals at the beginning of the fund-raising period and that would force institutions to plan well. If the grantees could not raise all proposed matching funds by the date agreed upon, it would be fair and equitable to award the funds to the next institution on the rank-order list.

One commenter wanted early announcement of interim fund-raising goals and another wanted the goals to be set late in the fund-raising period. Another commenter thought that quarterly reports on fund-raising efforts should be evaluated in addition to evaluating the amount of matching funds on hand after a certain period.

Response. No change is made in the regulations. The Secretary has decided against establishing interim fund-raising goals. The Secretary agrees with the commenters that fund-raising is not an exact science and that momentum often increases as fund-raising deadlines approach. For these reasons, it is virtually impossible for the Secretary to know for certain whether an institution will meet its fund-raising goals before the final deadline. The Secretary believes it would be arbitrary, then, to set interim fund-raising goals.

2. How the Secretary Breaks Ties

Comment. The Secretary received many comments regarding procedures for breaking ties among applicants. Twelve commenters favored the first procedure (proposed § 628.30(d)) of giving the most points to institutions which raise more matching funds before the Secretary selects grantees. Two commenters favored this procedure on the condition that the Secretary give more time for fund-raising. Three commenters favored the second procedure, described in the preamble to the proposed regulations, of adding one dollar to the reported amount of endowment funds and dividing that amount by the full-time equivalent student enrollment. This procedure avoids ties where institutions report zero current endowment. Fourteen commenters favored the Third procedure, described in the preamble to the proposed regulations, of selecting the institutions with the lowest education and general expenditures per full-time equivalent undergraduate student. Fifteen commenters proposed that preference be given to those institutions with the largest percentage of students receiving Pell Grants. Two commenters suggested that funds simply be split among institutions in a tie. One commenter suggested preference should be given to the institution with the best fund-raising ability proven over the last five years and another said preference should be given to institutions with a balanced budget.

Response. A change is made in the regulations. The Secretary intends to avoid ties by raising the maximum number of criteria and priority points from 100 to 130 and by carrying out calculations of applicant scores to a number of decimal places when assigning points under the selection criteria and priorities in §§ 628.31 and 628.32. Thus, the Secretary has deleted the tie-breaking procedure that was in § 628.30(d) of the proposed regulations.

Other Comments and Responses and Changes

Section 628.2 Eligibility.

Comment. One commenter asked for help in understanding the eligibility requirements for the Endowment Grant Program (§ 628.2).

Response. No change is made in the regulations. An institution of higher education is eligible to apply for a grant under the Endowment Grant Program if it qualifies as an eligible institution as defined in 34 CFR 627.2(a)(1), (b), or (d) of the Challenge Grant Program regulations. Those regulations, in turn, allow an institution to apply for a grant if it qualifies as an eligible institution under the Strengthening Program (34 CFR 625.2) or Special Needs Program (34 CFR 626.2). In effect, this means that an institution that can qualify as an eligible institution under the Strengthening or Special Needs Programs can qualify for the Endowment Grant Program.

Section 628.4 Frequency of Awards.

Comment. One commenter asked how to determine the five-year period during which an institution may not receive an endowment grant in more than two fiscal years.

Response. No change is made in the regulations. If an institution receives an endowment grant, it may receive only one additional grant in the next four years. If it receives a second grant, the five-year period covers the four preceding years and four subsequent years or any combination of five years with the year of the award included.

Comment. One commenter asked whether a grantee may receive an endowment grant while still obtaining funds to match a prior endowment grant.

Response. A change is made in the regulations. Under § 628.4(c), the Secretary will not award an endowment grant to an institution which, at the time it is selected to receive the grant, is still obtaining funds to match a previous endowment grant.

The Secretary will not award another grant because the Secretary believes that an institution is not likely to be able to match another grant since it is still obtaining funds to match a previous endowment grant.

Section 628.6 Definitions.

Comment. One commenter asked for a definition of "institution of higher education."

Response. A change is made in the regulations. The definition of "institution of higher education" is contained in section 1201 of the Higher Education Act as modified by sections 312 and 322 of the Higher Education Act. The Secretary now refers to that definition in the final regulations.

Comment. One commenter asked whether "endowment fund" refers only to funds which have been designated by their donors as endowed and whose principal may not be used for any purpose other than generating income.

Response. A change is made in the regulations. The Secretary agrees with the commenter that endowment funds are funds designated by a donor as endowed and whose prinicpal may not be spent. Accordingly, the Secretary has incorporated that concept in the definition of endowment fund in § 628.6.

The Secretary also specifies that "endowment fund" includes a "quasi-endowment fund"—a fund that the governing board of an institution designates to be retained and invested, but a fund that may be spent at any time at the discretion of the governing board. The Secretary has included a "quasi-endowment fund" as part of the definition of "endowment fund" because quasi-endowment funds are essentially funds functioning as an endowment.

Comment. Two commenters asked whether all interest-earning funds of the college or designated foundation are to be counted in calculating need in §628.32(b) and in calculating effort in § 628.31(a). The commenters also asked whether all interest-earning funds are ineligible as matching funds under § 628.42(e).

Response. Changes are made in the regulations. As already explained, the Secretary has included "quasi-endowment funds" as part of the definition of "endowment fund." This—as well as attendant changes to include "quasi-endowment" in § 628.32(b)(2) and § 628.31(a) and (c)—should make it clear that applicants are to include only endowment and quasi-endowment funds, not all interest-bearing funds, in calculating their need and effort figures. In addition, the Secretary has added the provision that endowment and quasi-endowment funds that an institution possesses at the deadline date for receipt of eligibility requests do not qualify as eligible matching funds under § 628.42(e). The Secretary bases these changes on the fact that since the definition of "endowment fund" includes "quasi-endowment funds," it would be inconsistent not to have them included when applicants calculate their need and effort figures in § 628.32(b)(2) and § 628.31 (a) and (c).

Comment. One commenter suggested that the definition of "endowment fund" exclude borrowed funds since borrowed funds are a feature of some endowment funds and also since the Secretary excludes borrowed funds as eligible for matching in § 628.42(d).

Response. No change is made in the regulations. Under § 628.31(a), the Secretary measures an applicant's past effort to build or maintain its endowment and quasi-endowment fund. Under § 628.32(c) and § 628.32(b), the Secretary measures the applicant's need for an endowment grant. If borrowed funds are part of an institution's endowment fund or quasi-endowment fund, it is proper for the Secretary to include them in these measurements. On the other hand, the Secretary does not allow a grantee to use borrowed funds to match the grant because that would jeopardize an endowment fund established under this program.

Comment. One commenter suggested that the definition of "endowment fund" include deferred gifts such as a charitable remainder annuity trust or a charitable remainder unitrust.

Response. No change is made in the regulation. Standard accounting practice prohibits these funds from being available to the institution or designated foundation. Thus, the Secretary does not consider these funds to be part of an endowment or quasi-endowment fund. Applicants, then, are not to report deferred gifts as part of an endowment or quasi-endowment fund in calculating need under § 628.31(c) and § 628.32(b) or calculating past effort under § 628.31(a).

Section 628.10 Grant Period/Type of Grant.

Comment. Two commenters suggested that the grant period be less than 20 years so that institutional officers would have more immediate incentive for starting an endowment. One commenter suggested that the grant period be terminated at twenty years or whenever the grantee has increased the corpus by an amount equal to the endowment grant. Three commenters asked whether the duration actually will be 20 years or something less.

Response. No change is made in the regulations. While the statute stipulates that the grant period "shall not be more than 20 years," the Secretary plans on awarding grants—at least at the beginning of this program—for 20 years' duration. This is a reasonable period in which to build an endowment and it is a duration very similar to that required by philanthropic foundations conducting similar endowment-building programs.

Section 628.10 Grant Amount and Number of Awards.

Comment. A number of comments concerned how the Secretary will determine the amount of each award and the number of awards. Two commenters were concerned that the Secretary would award a lesser amount of money than requested by an applicant. The commenters thought that a reduction should not be applied because each applicant should be able to itself assess its fund-raising capability and should be able also to at least try to reach matching funds equal to the request for Federal funds. Another commenter stated that, if the Department did initially reduce the requested amount, it should not reduce it below 50% because anything less would weaken incentives to donors. Another commenter suggested that the Secretary devise a formula using the need priority to determine the initial size of the award if it was going to be less than the initial request. Another commenter suggested that reductions should be based on the institution's track record in fund-raising and its plan for obtaining matching funds.

Three commenters wanted awards to be smaller so that the number of grantees would be larger. Twelve commenters wanted larger awards and fewer grantees—provided that the fund-raising period would be extended to 36 months and applicants be allowed to raise their matching funds in increments.

One commenter stated that there should be consequences for the institution that, in response to the selection criteria in § 628.31(b), proposes to raise a certain percentage of matching funds from nongovernmental sources but fails to meet that percentage. Otherwise, applicants will be tempted to propose a very high percentage of matching funds from nongovernmental sources simply because higher points are given for doing so. While the commenter did not suggest that one of the "consequences" should be related to how the Secretary determines the award amount, it is logical to so relate it. That is why the comment is placed here.

Response. A change is made in the regulations. Section 333 of the authorizing statute and § 628.10 of the regulations provide that each endowment grant may range from $50,000 to $250,000 in fiscal year 1984 and from $50,000 to $500,000 in subsequent fiscal years. The Secretary has added § 628.40 in which he clarifies that a grantee will receive an award equal to the amount it requests and matches, provided that it raises at least $50,000 in matching funds and provided that it raises all the nongovernmental matching funds it proposed to raise in its application. If an institution does not raise all the nongovernmental matching funds it proposed to raise in its application, the Secretary will reduce the grant amount by multiplying the grant amount requested for funding by the following fraction:

$$\frac{\text{Amount of matching funds raised from nongovernmental sources}}{\text{Amount of matching funds proposed to be raised from nongovernmental sources}}$$

Example 1. A grantee requests $200,000 and proposes to raise $180,000 matching funds from nongovernmental sources—sources other than a State or local government—and $20,000 from the State government. It actually raises the $200,000 matching funds of which $180,000 is from nongovernmental sources while $20,000 is from the State government. The Secretary awards the full requested amount—$200,000.

Example. 2. A grantee requests $200,000 and proposes to raise $180,000 matching funds from nongovernmental sources and $20,000 from the State government. It actually raises $150,000 matching funds of which $75,000 is from nongovernmental sources and $75,000 is from the State government. To determine the amount to be awarded, the Secretary multiplies the grant amount requested ($200,000) by the following fraction:

$$\frac{\text{\$75,000 (the amount of matching funds raised from nongovernmental sources)}}{\text{\$180,000 (the amount of funds proposed to be raised from nongovernmental sources).}}$$

In this example,

$$\$200{,}000 \times \frac{\$75{,}000}{\$180{,}000} = \text{\$83,333 (the amount to be awarded.)}$$

Example. 3. A grantee requests $200,000 and proposes to raise $190,000 from nongovernmental sources and $10,000 from the State government. It actually raises $60,000 matching funds of which $54,000 is from nongovernmental sources and $6,000 is from the State government. To determine the amount to be awarded, the Secretary multiplies the grant amount requested by the following fraction:

$$\frac{\text{\$54,000 (the amount of matching funds raised from nongovernmental sources)}}{\text{\$190,000 (the amount of funds proposed to be raised from nongovernmental sources).}}$$

In this example,

$$\$200{,}000 \times \frac{\$54{,}000}{\$190{,}000} = \text{\$56,842 (the amount to be awarded.)}$$

The Secretary agrees with the commenter who stated that there should be "consequences" for the institution that fails to raise the amount of nongovernmental matching funds it proposes to raise in its application. The formula, explained above, for reducing the grant amount is equitable because an applicant has received extra points based on its proposing to raise a certain amount of nongovernmental matching funds. If it does not raise those funds, it is reasonable to reduce the amount to be awarded. It would be unfair to deny a lower ranked applicant from receiving funds if the higher ranked applicant that received the grant fails to raise the nongovernmental matching funds it proposed to raise.

Regarding the number of grants to be made, the Secretary cannot realistically regulate such a matter. Rather, the number of grants to be awarded will result from the annual amount of Endowment Grant Program funds available and the Secretary's application of the formula in § 628.40(b).

Section 628.20(b) Long-Range Plan.

Comment. While no specific commenter questioned which applicant had to submit a long-range plan with its application for an endowment grant, two omissions were made in the proposed regulations (§ 628.20(b)).

Response. A change is made in the regulations. The Secretary inadvertently omitted from the proposed regulations the provision that an applicant for a Strengthening Program planning grant that is designed solely to develop an application for a development grant need not send a long-range plan with its application. There would be no need to do so because this type of applicant would already have submitted a long-range plan with its planning grant application. This provision is now included in § 628.20(b)(3). Also, the Secretary omitted stating that institutions shall include a long-range plan if, "at the closing date for submission of endowment grant applications," they do not fall into one of three categories described in § 628.20(b) (1) through (3). The Secretary adds this time qualifier in § 628.20(b) because the rule does not make sense if applicants do not fall into one of those three categories *before* submitting an application for an endowment grant. The Secretary also deletes from the proposed regulations (§ 628.20(b)) the provision that an applicant shall include a long-range plan if it is not already an applicant under the Challenge Grant Program. Since no new awards are anticipated under the Challenge Grant Program, there is no need for this proposed provision.

Section 628.30(b) Selection Criteria.

Comment. One commenter wanted a criterion to be added for assessing the capacity of the applicant institution, or a designated foundation, to manage the Federal funds.

Response. No change is made in the regulations. While the other statutory selection criteria and priorities are objective and relatively easy to measure, this would not be true for a "capacity to manage" criterion. Thus, the Secretary has not added this as a criterion for evaluating applications.

Comment. Several commenters wanted an additional selection criterion by which more points would be given to applicants with high percentages of students from low-income backgrounds or with a high number of students and a high percentage of the total enrollment of students being recipients of Pell Grants.

Response. No change is made in the regulations. Commenters essentially wanted the Secretary to consider the need of the institutions as seen by certain characteristics of the student body. The Secretary agrees with the commenters that the selection criteria should measure the applicants' relative need for an endowment grant. The Secretary, however, has decided for two reasons not to look at the characteristics of the student body when measuring the need for an endowment grant. First, the Secretary already looks at characteristics of the student body when determining eligibility under §§ 625.2 and 626.2 of the Institutional Aid Programs regulations. Second, the Secretary thinks that measuring applicants' relative lack of resources under the added criterion in § 628.31(c) is a better measure of need for an endowment grant than looking further at characteristics of the student body.

Section 628.30(b) Dividing Applications Among Comparable Institutions.

Comment. Several commenters were concerned about the procedure described in § 628.30(b)(2) of the proposed rules where the Secretary would place each application into one of four categories—2- or 4-year public or 2- or 4-year private institutions. Three commenters were concerned about the fairness of dividing the applications before ascribing points under the priorities and selection criteria. The result might be that there would be an informal setaside for each type of institution or an institution might receive a grant because few applications were received in one of the four categories. One commenter was concerned how funds would be distributed among the four categories and another suggested even further subgrouping among the four categories of institutions. One commenter questioned how the lists from the four categories of institutions would be combined into a single rank order list.

Response. A change is made in the regulations. The requirement that the Secretary divides the applications into four categories is deleted from these final regulations. The Secretary believes this procedure is unnecessary and possibly would result in the unfortunate and unintended consequence of an application being funded solely because few applications were received from a certain type of institution.

Section 628.31(a) Effort Criterion.

Comment. Several commenters focused on the fact that the effort criterion in § 628.31(a) contrasts with the need priority in § 628.32(b). Commenters thought that there was something wrong with this, something "inherently contradictory," or that earning points under one factor precluded earning points under the other.

Response. No change is made in the regulations. The Secretary agrees that these two factors are somewhat contradictory, but they are consistent with the statute and cannot be changed. In addition, the two are relative factors. Receiving points under one does not necessarily preclude receiving points under the other. Rather, in most cases, receiving points under one will influence only the relative possible points under the other. The Secretary, then, will look at both factors in a balance determined by the overall possible points for each.

Comment. Several commenters suggested that past effort be measured by the increase in the market value of endowment funds as well as from gifts or additions due to donations. One commenter suggested that the criterion also include the effort to build quasi-endowment funds since these funds function as endowment in the sense that the board of trustees designates that they are to be retained and invested. One commenter suggested that the increase in the existing endowment fund be divided by the full-time equivalent enrollment since enrollment influences the capacity to raise endowment funds.

Response. A change is made in the regulations. The Secretary agrees with the commenters and, therefore, will include the increase in market value of the endowment fund as part of an institution's past effort as well as the increase in quasi-endowment funds. To better account for the varying size of institutions, the Secretary will also divide the increase by the full-time equivalent enrollment. The Secretary will, then, measure the applicant's effort by the dollar increase per full-time equivalent student and relative increase per full-time equivalent student (not just from gifts or donations as in the proposed regulations) in the market value of its endowment and quasi-endowment funds for the institution's four fiscal years preceding the year of application. This measure is broader than that which was contained in the proposed regulations and the Secretary believes it more thoroughly measures the effort both to build and to maintain endowment funds.

Comment. One commenter thought the fifteen-point maximum for effort was too high and four commenters thought this criterion should receive more possible points.

Response. A change is made in the regulations. The Secretary has raised the maximum on this criterion from 15 to 25 points. This puts a bit more emphasis on the past effort that an applicant has put forth in building and maintaining its endowment while balancing that effort against the need for endowment funds as seen in §§ 628.31(c) and 628.32(b)

Comment. Three commenters wanted more clarity on how points would be applied under the effort criterion. One suggested that point tables be published and another wanted to know the dates of the five-year period for measuring effort.

Response. A change is made in the regulations. The regulations, as written, make it clear that the criterion is a relative one. The highest points, therefore, are given to institutions that have had the greatest success in increasing the market value of their endowment and quasi-endowment funds over the measurement period. Further specifics on how points will be given cannot accurately be established now becaue of a lack of adequate data. The Secretary now uses a four-year measurement period, instead of the proposed five-year period, because more accurate data will be available for that period. the Secretary has also changed the four-year period for measuring effort to the institution's four fiscal years preceding the calendar year in which it applies for an endowment grant, rather than a measurement period beginning and ending on December 31 of different calendar years. Realizing that the fiscal years of institutions vary and realizing that institutions prepare their financial reports at the end of their particular fiscal year periods, the Secretary believes this new provision will considerably reduce regulatory burden on applicants.

Comment. One commenter suggested that the criterion not measure percentage increase of endowment funds as in § 628.31(a)(3) of the proposed regulations. Very large percentage increases would be possible through a relatively small dollar increase if the starting figure is small. Also, there is no way to calculate a percentage increase if the institution had no endowment at the start of the five-year period.

Response. A change is made in the regulations. The Secretary agrees with the commenter's suggestion not to measure a percentage increase of the applicant's endowment funds because a straight percentage increase unfairly benefits the institution starting out with a relatively small market value of endowment funds and also because of the mathematical problem of dividing a number by zero. Thus, the Secretary has substituted a measure of relative increase in the market value of endowment for the measure of percentage increase which was in § 628.31(a)(3) of the proposed regulations. By using a proportion, in § 628.31(a)(2) of these final regulations, establishing by adding $50 to the denominator of the equation, the mathematical perturbations referred to by the commenter are appropriately dampened. Thus, in order to receive the maximum points on this criterion, an institution with no endowment at the beginning of the measurement period would need to raise at least $50 per full-time equivalent student enrolled at the institution before the end of the measurement period.

The Secretary believes this proportion also takes into account, more precisely than the percentage increase of endowment funds in the proposed regulations, the rightful expectation that institutions which start the measurement period with existing endowment funds and, presumably, with a more established fund-raising capacity should be able to raise more funds with a comparable degree of effort than those institutions which start with zero endowment funds. The Secretary has chosen to add $50 rather than $5 or $100, for example, to the denominator in § 628.31(a)(2)(i) because, from an analysis of data on endowments in the Higher Education General Information Survey (HEGIS), he believes the $50 (per full-time equivalent student) amount is a reasonable increase to expect in the measurement period for an institution that is just beginning its endowment-building effort.

The Secretary has chosen to give no points to an institution if the market value of its existing endowment or quasi-endowment fund has declined by more than 20% during the four-year measurement period. Again based on an analysis of HEGIS data, the Secretary believes that it is fair to award some minimal points to institutions which have had a 20% or less decline in endowment over the four-year period because an average of a 5% per annum decrease can be interpreted as "maintaining" its endowment fund. Since endowment funds are invested for long-term gains, it is not unusual that stock market fluctuations would cause a range of 0–5% decline in a year or up to 20% in the four-year measurement period. The Secretary believes, however, that a decline of more than 20% over the measurement period is a sign that the effort to maintain endowment funds has not brought significant enough results to merit the applicant's receiving of points under this effort criterion.

Section 628.31(b) Nongovernmental Matching Funds.

Comment. One commenter was not clear on the meaning of "nongovernmental." Another questioned whether this criterion was meant to discourage the use of State or local government funds as matching funds.

Response. A change is made in the regulations. It is clear from § 628.42(c) that Federal funds are not eligible as matching funds. The language in § 628.31(b)(1) has been changed slightly to show that "nongovernmental matching funds" are funds which are obtained from sources other than a State or local government.

Applicants should note that State or local government funds may be used as matching funds. However, under this selection criterion which is consistent with section 333(f)(3)(B) of the Higher

Education Act, the Secretary rewards applicants that are proposing to obtain matching funds from sources other than a State or local government.

Comment. One commenter stated that there should be consequences for the institution which proposes to raise a certain percentage of matching funds from nongovernmental sources but fails to meet that percentage. Otherwise, applicants will be tempted to propose a very high percentage of matching funds from nongovernmental sources simply because higher points are given for doing so.

Response. A change is made in the regulations. The Secretary agrees with the commenter that consequences should follow if an institution does not raise the nongovernmental funds that it proposes to raise. The Secretary has already explained the procedure he will use in reducing the amount of the grant if the grantee is not able to raise the nongovernmental matching funds it proposed in its application.

Additionally, the final regulations contain a change in the way points are awarded under this criterion to an applicant that has previously received an endowment grant. Under § 628.31(b)(3), the Secretary now awards points to a prior endowment program grantee by using the following formula:

$$\frac{\text{Amount of matching funds proposed from nongovernmental sources}}{\text{Total proposed amount of matching funds}} \times \frac{\text{Amount of matching funds from nongovernmental sources actually raised under previous endowment grant}}{\text{Amount of matching funds proposed to be raised from nongovernmental sources under the previous endowment grant}} \times 15 \text{ points} = \text{points on this criterion}$$

Example: Institution A proposes to raise $250,000 in matching money of which $50,000 will be from their State appropriation and $200,000 will be from nongovernmental sources. They received a previous Federal endowment grant in which they proposed to raise $100,000 from nongovernmental sources but they were only able to raise $50,000 in matching funds from nongovernmental sources.

Their score on this criterion would be:

$$\frac{\$200{,}000}{\$250{,}000} \times \frac{\$50{,}000}{\$100{,}000} \times 15 = .8 \times .5 \times 15 = 6 \text{ points}$$

If the institution had not previously received an endownment grant, its score on this criterion would be:

$$\frac{\$200{,}000}{\$250{,}000} \times 1 \times 15 = .8 \times 1 \times 15 = 12 \text{ points}$$

The Secretary believes that the added provisions in § 628.31(b)(3) and in § 628.40(b)(2) now reinforce the intent of the criterion—that more points should be given to institutions that propose to raise and actually do raise a higher percentage of matching funds from sources other than a State or local government.

Comment. One commenter suggested an additional measure under this criterion. An applicant would calculate the average annual amount of nongovernmental funds it had raised during the four-year period preceding the year of application as a percentage of the proposed nongovernmental matching funds. Highest points would be given to the institution with the highest percentage.

Response. No change is made in the regulations. The Secretary believes that the revised criterion is sufficient to deal with this issue.

Comment. Three commenters suggested that there be more specific criteria by which the plan for obtaining nongovernmental matching funds is to be judged and that possible points should be specifically ascribed to this plan. One commenter questioned how judgments about the plan can be made objectively and equitably.

Response. A change is made in the regulations. The Secretary has deleted the requirement (contained in § 628.31(b) of the proposed regulations) for a narrative plan describing how the applicant proposes to raise nongovernmental matching funds. The Secretary agrees with the last commenter in believing that to judge the plan fairly would have been extremely difficult, if not impossible. The newly worded measurement of this criterion is much more objective than judging how an institution plans to obtain matching funds from sources other than a State or local government.

Comment. One commenter suggested that a plan for obtaining matching funds should be required of all applicants—regardless of what percentage of matching funds they propose to obtain from nongovernmental sources and what percentage they propose to obtain from State or local government sources.

Response. No change is made in the regulations. The Secretary is not requiring a plan on how applicants will go about raising matching funds because he has established selection criteria and priorities in §§ 628.31 and 628.32 which are much more objective and result-oriented than a plan. Also he has established in § 628.40 that the amount of the grant will be reduced from that requested if the grantee does not raise the amount of matching funds from nongovernmental sources that it proposed to raise. Again, this procedure is result-oriented. How applicants go about raising the matching funds is their decision. In selecting the grantees and determining the grant amount, the Secretary has developed a more objective, quantifiable procedure than the evaluation of a written plan.

Comment. Several commenters had questions about the Secretary's using the "percentage of private matching funds in hand at the time of application"—a factor which was contained in § 628.31(b)(2)(i) of the proposed regulations. One thought the factor was unclear or ambiguous; another thought the factor needed further clarification on what is meant by "in hand." Another commenter wanted a cutoff date five to ten days before the closing date for calculating the amount of nongovernmental funds in hand.

Response. A change is made in the regulations. This factor has been deleted as a separate measurement under this criterion. In addition to some of the confusion surrounding this factor as exhibited by the comments, the Secretary believes that using the factor places undue emphasis on one aspect of obtaining nongovernmental matching funds—speed. A measurement of speed in fund-raising might be appropriate for institutions that already have large endowments and strong fund-raising capacity but it is not appropriate for the institutions eligible under this program. Thus, the factor has been deleted.

Section 628.31(c) Need for Endowment Grant as Measured by the Applicant's Lack of Resources—Additional Criterion.

Comment. Eight commenters suggested that the Secretary should measure an applicant's need for an endowment grant by taking the applicant's annual unrestricted income from endowment, State, local and Federal sources and dividing that figure by the institution's full-time equivalent enrollment. These commenters contended that the annual unrestricted income figure will more accurately measure an institution's need for endowment monies because it would give points for the absence of revenue that could subsititute for endowment income. One commenter suggested that the Secretary also measure reliance on external funding and indebtedness as a negative need indicator. One commenter thought the percentage of full-time equivalent students receving Pell Grants should be considered under this criterion. One commenter thought that institutions with zero endowment should receive zero points. Another commenter stated that too much or too little endowment per full-time equivalent student will hurt the objectives of the program. Another proposed that more points be deducted from the institution which had a higher percentage of gifts in relation to the annual budget or a higher percentage of mortgages or loans in relation to the annual budget.

Response. A change is made in the regulations. The Secretary agrees that measuring only an institution's existing endowment and quasi-endowment is not a sufficient measure of need for future endowment. Since endowment is important to institutions not only for the revenue it generates but also for the strength it provides as a resource in case of emergencies, the Secretary has decided to include an additional selection criterion in § 628.31(c) regarding the need for an endowment grant as measured by the applicant's lack of resources. The Secretary gives up to fifty points to the applicants showing the least of the following resources at the end of the applicant's fiscal year preceding the year they apply for an endowment grant:

(a) Revenue per full-time equivalent student from Federal, State and local government appropriations;

(b) Revenue per full-time equivalent student from unrestricted Federal, State and local government grants and contracts;

(c) Eighty percent of the revenue per full-time equivalent student from tuition and fees; and

(d) Revenue per full-time equivalent student from unrestricted and restricted "endowment income" as defined in the HEGIS.

In developing this additional criterion, the Secretary carefully considered all suggestions of commenters. It was obvious from the many suggestions that "need for an endowment" could be measured in a variety of ways. The Secretary has accepted some factors suggested by the commenters and rejected others. In doing so, the Secretary understands that factors which have not been included in § 628.31(c) such as the number or percentage of Pell Grant recipients or the ratio of gifts to the institution's annual budget do have merit and, perhaps, would have measured need for an endowment just as well as the factors which the Secretary finally chose. Based on the analysis of data available from the Higher Education General Information Survey, the Secretary believes, however, that measuring applicants by their lack of revenue in the four categories under this criterion is a fair and reasonable indicator of the relative need of an institution for an endowment grant. Taken together with the other historical quantitative factors requested from applicants under §§ 628.31(a) and 628.32(b), these four factors provide a combination of effective indicators of relative need for an endowment grant.

The choice of those particular four factors was made on logical grounds as well as on practical grounds. The factors represent the most common sources of revenue available to all institutions of higher education for conducting operations. Taken together, they are a gross index of dependency on income. Also, these factors are readily available to institutions and institutions annually submit this data to the Department in the Higher Education General Information Survey of Financial Statistics. Thus, the applicants' burden in completing the application form will be considerably reduced since the Secretary intends to merely have applicants make corrections, if any, to the data which they already submitted.

While the entire amount of revenue is calculated under three factors, the Secretary calculates only 80% of the revenue from tuition and fees. The basic reason for not calculating the entire tuition and fees revenue is that revenue from tuition and fees, particularly in this decade of declining enrollment, tends to fluctuate at many institutions. The Secretary believes that using 80% of tuition and fee revenues is more appropriate given the uncertainty of this volatile funding source.

Section 628.32(a) Priority to Current Strengthening or Special Needs Grantees.

Comment. In addition to several commenters objecting to any priority being given to specific current grantees or wanting the priority to be given to more than just current Strengthening Program or Special Needs grantees, five commenters suggested that the possible points be reduced from 20 to 10, 5, or less. They argued that 20 points may eliminate applicants which are not current Strengthening and Special Needs grantees from being competitive.

Response. No change is made in the regulations. The statute requires that, in selecting new grantees, "priority" be given to these current grantees. The statute is silent as to other current or past grantees. The Secretary awards 20 points, rather than any less, because this gives priority, but not absolute priority.

Comment. One commenter questioned whether an institution will receive the priority points if it has already applied for a Strengthening Program grant this year.

Response. A change is made in the regulations. The Secretary now gives 20 points to each endowment grant applicant that, *as of October 1* of the *fiscal year* in which it applies for an endowment grant, is a recipient of a Strengthening or Special Needs Program planning or development grant. The Secretary has changed the date which triggers the priority from the date contained in the proposed regulations (i.e., the closing date for receipt of endowment grant applications) because that date was subject to change each year. Applicants need to know, for planning purposes, whether or not their application will receive the 20 points under this priority. Thus, the Secretary has changed the date for triggering the priority to a fixed one, October 1, the beginning of the fiscal year in which an applicant applies for an endowment grant.

Section 628.32(b) Priority for Need.

Comment. Two commenters were concerned because the number of full-time equivalent students was to be computed on December 31 and, technically, many institutions do not have students enrolled on that date One commenter thought that the market value of endowment and quasi-endowment funds should be computed, not on a specific date such as December 31, but at the end of the applicant's fiscal year.

Response. A change is made in the regulations. The Secretary will measure the market value at the end of the applicant's fiscal year preceding the calendar year in which it applies for an endowment grant. The Secretary will also measure full-time equivalent enrollment as of the fall of the year preceding the year an applicant applies for an endowment grant. This will be less burdensome and less costly for the applicant.

Comment. One commenter wanted to make sure that "unclassified" students—students not enrolled in a degree program or vocational/technical program were to be included in computing the full-time equivalent enrollment of the institution.

Response. No change is made in the regulations. In computing the full-time equivalent enrollment, institutions are to include all of their students: part-time and full-time, classified and unclassified, undergraduate and graduate students.

Comment. One commenter suggested that a table be published in the regulations showing how the points will be ascribed to the different endowment dollar figures per full-time equivalent student.

Response. No change is made in the regulations. The regulations make it clear that the priority is a relative one. The most points are given to institutions which have the greatest need for endowment. Further specifics relating to how points will be ascribed cannot—because of lack of adequate data—be established now.

Section 628.33 Set-Asides.

Comment. One commenter asked whether the set-asides referred to in § 628.33 (pertaining to junior or community colleges and to institutions with special needs that have historically served substantial numbers of Black students) are a minimum or a maximum for funding the pertinent types of institutions. If a minimum, how will equitable consideration be assured for other types of institutions?

Response. No change is made in the regulations. The set-asides referred to in § 628.33 are a minimum amount set aside for the two groups of institutions and are required by statute. The Secretary believes the most equitable consideration is given to all types of institutions by devising quantitative selection criteria and priorities based on the statute authorizing the program. This has been accomplished in these final regulations.

Comment. One commenter wanted an increase in that part of the set-aside for the Historically Black Colleges and Universities which might be met with monies transferred from the Special Needs Program to the Endowment Grant Program without reducing current or future awards for Historically Black Colleges and Universities under the Special Needs Program.

Response. No change is made in the regulations. The set-aside in § 628.33 is established in the authorizing statute. An increase in the amount of the set-aside could only be accomplished through an amendment to the legislation, not a change in regulations. These final regulations for the Endowment Grant Program do not affect the amounts of current or future Special Needs awards for Historically Black Colleges and Universities.

Section 628.41 Establishing the Endowment Fund.

Comment. One commenter asked what precisely was meant by the regulations requiring that an endowment fund established under this program be "independent of any other endowment fund." Does it mean that the new endowment fund has to be managed by a different agency? Does it mean that the endowment fund established by this program could not be invested with a pre-existing endowment fund? Does it mean that the endowment fund established by this program could not be invested together with a pre-existing one so long as separate accounting procedures are utilized?

Response. No change is made in the regulations. In § 628.41(a)(1) the phrase "independent of" simply means that the fund balance must be separately indentified at all times and must be separately accounted for. The institution's endowment fund under this part and an independent endowment fund may be invested in the same securities and may be managed by the same management agency.

Section 628.41(b) Matching Funds.

Comment. Eight commenters were concerned about a starting date for obtaining matching funds. They realized that an institution must obtain matching funds before the end of an eighteen-month period after it has been notified that is has been selected to receive a grant, but they wondered whether there was a starting date for obtaining matching funds. One commenter stated that if there is no starting date, then this approach does not encourage a concerted fund-raising effort on the part of applicants.

Response. No change is made in regulations. The Secretary is purposely not setting a beginning date for applicants to obtain matching funds because there is no need to do so. Applicants selected for a grant may use matching funds obtained on any date prior to the end of the eighteen-month period prescribed in § 628.41(b), provided that the funds are eligible for matching under §§ 628.41 and 628.42. This approach gives applicants maximum flexibility in determining how, when and from what sources they will obtain matching funds.

Comment. One commenter saw a negative aspect in institutions possibly having their eighteen-month period for obtaining matching funds occur at different times. The commenter thought that that would differently affect end-of-the-year fund-raising campaigns which most institutions conduct. Thus, if a first selected institution was informed of selection in September but was unable to raise more than half of the required matching funds, the next ranked "alternate" institution might hear of its selection eighteen months later, for example, in March of another year. The commenter claimed that one institution's eighteen-month period would, then, correspond to peak fund-raising periods better than another institution's.

Response. No change is made in the regulations. The Secretary intends to select all grantees at one time and, thus, start the eighteen-month period at the same time for all grantees. While there may be some validity to alleging that "alternate" grantees may have a fund-raising period which does not correspond to peak end-of-the-year fund-raising campaigns, the Secretary believes that the positive aspect of each institution having a reasonable period to obtain matching funds far outweighs this negative aspect.

Comment. Many comments were received concerning the ending date of the period for obtaining matching funds. Four commenters favored an ending date eighteen months after an applicant is notified that it has been selected to receive a grant. Three commenters favored an ending date after twenty-four months and twenty commenters favored an ending date after thirty-six months. One commenter wanted an ending date after sixty months with one-half of the requested amount, if successfully matched, awarded in the first eighteen months and the second half awarded in a second eighteen-month period. Most commenters thought that the ending date should come after twenty-four or thirty-six months because it will take that long for small, eligible colleges to raise $250,000.

Response. No change is made in the regulations. The Secretary believes that an ending date for obtaining matching funds which falls eighteen months after notification of selection is a reasonable one. This is particularly so given that there is no starting date for obtaining matching funds. Also, the Secretary believes that, as the life of this program proceeds, grantees will get accustomed to award cycle deadlines and will, thus, be better prepared to obtain matching funds in a shorter period of time. Further, if an institution does not believe that it can raise $250,000 matching funds in the time allotted, it should request a smaller grant amount.

Comment. Many commenters suggested that applicants be allowed to obtain their matching funds in increments and that the Secretary disburse the Federal funds in increments if an applicant did not have all of its matching funds at the time it is selected to receive a grant. Additionally, many of these same commenters suggested that the Secretary award grant monies, equal to matching funds, to those grantees which—at the end of eighteen months—obtained only a portion of the proposed matching funds. One commenter suggested that the Secretary disburse grant funds in increments of $10,000 after the mimimum of $50,000. Another commenter suggested that the Secretary disburse Federal funds every six months based on whatever amount of matching funds the grantee obtains in that six-month period.

Response. No change is made in the regulations. However, the following explanation may be useful. Section 628.41(b) clearly allows grantees to obtain matching funds in increments over an eighteen-month period and the Secretary intends to disburse Federal funds in increments during this period. The Secretary has not yet determined whether the increments will consist of a pre-announced dollar amount or will be based on matching funds obtained within a certain time period. The Secretary has prescribed, however, in § 628.40(b), how grant amounts will be determined.

Comment. One commenter stated that a grantee should be required to certify to the Secretary not just the amount of matching funds but also that the matching funds are not funds prohibited in § 628.42.

Response. A change is made in the regulations. The Secretary agrees with the commenter that this certification is a proper check to see that grantees match with eligible cash or low-risk securities. Accordingly, new language has been added in § 628.41(b)(2). The Secretary also adds the provision that a grantee must certify the "source" and "kind" of matching funds, in addition to the "amount." The Secretary must have this information if he is to determine whether matching funds are eligible under §§ 628.41 and 628.42.

Comment. One commenter suggested that matching funds should be "new" in the sense that applicants should be required to obtain them after a given date. Another commenter disagreed with the previous comment. This commenter thought that gifts which were received at any time in the past should be eligible as matching funds.

Response. No change is made in the regulations. The authorizing statute does not require that applicants must raise matching funds after a certain date. The program's three purposes are to provide grants in order: (1) to establish or increase endowment funds at eligible institutions, (2) to provide additional incentives to promote fund-raising activities, and (3) to foster increased independence and self-sufficiency at eligible institutions. To require "new funds" would unduly emphasize the fund-raising purpose of the statute over the other two purposes. The Secretary prefers that the grantee has maximum flexibility in determining how, when, and from what sources it will obtain matching funds.

Comment. Several commenters were concerned that, because much of the data to be requested in the application form is to be quantified, steps should be taken to see that that data is accurate.

Response. A change is made in the regulations. Under § 628.41(b)(3), the Secretary now requires those selected to receive a grant to have a certified public accountant or other licenced public accountant who is not an employee of the institution attest to the accurancy of the data contained in the application.

Comment. Several commenters were concerned about what kinds of funds are *ineligible* as matching funds. One commenter agreed that applicants should *not* be allowed to use borrowed funds or currently existing endowment funds as matching funds. One commenter wondered whether pledges could be used to match the grant. Another commenter suggested that tuition monies should be ineligible because an institution that could spare tuition monies for the purpose of endowment was not as needy as it should be to qualify for endowment funds. One commenter suggested that deferred gifts—such as a charitable remainder annuity trust or unitrust—should be ineligible and another commenter suggested that deferred gifts should be eligible as matching funds. One commenter wondered whether interest-bearing funds outside of endowment or quasi-endowment funds are ineligible. One commenter suggested that monies which came from previous donors should be ineligible. Another commenter said that monies which came from *within* the institution—e.g., monies from tuition, from the bookstore, from cost-cutting measures—should be ineligible. In effect, this commenter suggested that only monies raised from fund-raising outside of the college or university should be eligible as matching funds. One commenter thought that the Secretary might be saying that all interest-bearing funds are ineligible as matching.

Response. A change is made in the regulations. The Secretary has revised the proposed regulations (§ 628.41(e)) and made a separate section, § 628.42, to clarify what a grantee may not use to match the grant funds.

By including quasi-endowment funds as part of the definition of "endowment fund," the Secretary has clarified that quasi-endowment funds may not be used as matching. These are funds which the institution's board of trustees has determined should be retained and invested, and thus, they are funds functioning as endowment funds.

The Secretary will not allow pledges to be used for matching purposes. As a pre-condition to grant funds being disbursed, a grantee must deposit matching funds in a newly established endowment fund and certify to the amount and eligibility of the match. It is impossible for the grantee to complete this pre-condition if all it has is a pledge of cash or low-risk securities. The grantee must have in its legal possession, or that of a designated recipient foundation, cash or low-risk securities equal to the amount of Federal funds to be disbursed at any given time.

The Secretary also will not allow deferred gifts—such as a charitable remainder annuity trust or unitrust—to be used as matching funds because these deferred gifts are not available to the institution.

Regarding other interest-bearing funds which are *not* endowment or quasi-endowment funds—the Secretary allows these funds to be used as matching. Similarly, funds from tuition, from previous donors, and from within the institution are eligible to be used as matching so long as they are not pledges, Federal funds, borrowed funds, or endowment or quasi-endowment funds existing at the closing date established by the Secretary for submission of eligibility requests for the Endowment Grant Program.

The Secretary intends to limit ineligible matches to only five categories. By doing so, the Secretary believes that the three purposes of the statute, stated elsewhere in these responses, will be well-served. Also, this approach correctly puts the responsibility of determining which funds should be invested for 20 years squarely on officials at the applicant institution. Decision-makers at the applicant institution are best in a position to judge how to obtain matching funds and which eligible funds to use as matching.

Section 628.45 Use of Endowment Fund Income.

Comment. One commenter agreed with the rule allowing a grantee to withdraw and expend 50% of the total aggregate endowment fund income. Another commenter was unclear on what could or could not be done with the other half of endowment fund income.

Response. A change is made in the regulations. Section 628.45(a)(4) makes explicit what was implicit in the proposed regulations, namely, that for the duration of the grant period, an institution may not withdraw and expend 50% of the total aggregate endowment fund income. It must stay with the endowment fund and be invested.

Section 628.44(a)(1) and section 628.45(a) Cost to administer and manage the endowment fund.

Comment. One commenter pointed to an inconsistency, in that the statute prohibits a grantee from withdrawing or spending any of the endowment fund corpus and yet the proposed rules in § 628.43(a)(2) allowed a grantee to use the corpus for costs involved in purchasing securities such as stock broker commissions and fees to "load" mutual funds. Another commenter asked which administrative and management costs a grantee could pay for with endowment fund income. Another commenter asked why endowment fund income used to pay for some costs associated with administering or managing the endowment fund were to be considered withdrawn and spent funds and some were not.

Response. A change is made in the regulations. The Secretary agrees with the first commenter and grantees will be prohibited from using the endowment fund corpus to pay the costs associated with the purchase or sale of securities. A grantee may, however, use the 50% portion of endowment fund income that under § 628.45(a)(1) it may withdraw to pay for these costs as well as for the costs of managing and administrating the fund. Of course, the grantee must pay for these costs itself if the costs are incurred before the endowment fund established under this program produces sufficient income.

The Secretary has also deleted (§ 628.44(a)(2) (i) and (ii)) the requirement that income used to pay for investment costs was not to be considered withdrawn and spent but income was to be considered withdrawn and spent if used to pay for costs associated with withdrawing income. The Secretary now considers income used to pay costs associated with the purchase and sale of securities to be withdrawn and spent. This change reduces the bookkeeping burden on grantees and is more in keeping with standard accounting practice.

Section 628.46 Calculating Spendable Endowment Fund Income.

Comment. One commenter wanted a simpler way to calculate the 50% portion of endowment fund income that a grantee may use.

Response. No change is made in the regulations. The statutory limitation regarding expenditure of endowment fund income does not permit a simpler calculation process. A full explanation follows of how to calculate spendable income.

Unless the Secretary makes an exception, a grantee may withdraw and spend 50 percent of the total aggregate endowment fund income earned prior to the date of expenditure. The grantee must calculate the maximum amount of endowment fund income that may be withdrawn and spent at a particular time as follows:

A. Determine the current market value of the endowment fund for the projected date of withdrawal.

B. Determine the amount of endowment fund income for the date of withdrawal by subtracting the endowment fund corpus from the current market value of the endowment fund.

C. Determine the amount of endowment fund income previously withdrawn and spent.

D. Compare the preceding two amounts and determine if the amount of endowment fund income in the endowment fund at the projected date of withdrawal exceeds the aggregate amount of income previously withdrawn.

E. If the amount of endowment fund income in the endowment fund exceeds the aggregate amount of endowment fund income previously withdrawn, the grantee may withdraw and spend one half of the excess.

Examples

i. Institution A has an endowment fund equal to $300,000 on the date of the planned withdrawal. Its endowment fund corpus was $225,000. It never previously withdrew or spent any endowment fund income.

Institution A has endowment fund income of $75,000 ($300,000—$225,000). It may withdraw up to 50 percent of that amount, $37,500, because it never previously withdrew any endowment fund income.

ii. Institution B has an endowment fund with a current market value of $500,000 on the date of the planned withdrawal. Its endowment fund corpus was $300,000. It previously spent $10,000, $50,000 and $25,000.

Institution B, thus, has an endowment fund income of $200,000 ($500,000—$300,000). It previously withdrew and spent $85,000 of fund income ($10,000 + $50,000 + $25,000). The current value of the endowment fund income exceeds the amount previously spent by $115,000 ($200,000—$85,000). Thus, institution B may withdraw and spend up to $57,500 (50% of $115,000).

Institution B withdraws the $57,500. It may not withdraw or spend additional endowment fund income until endowment fund income in the fund on the date of planned withdrawal exceeds $142,500 ($85,000 + $57,500) and if it does, it may withdraw and spend only up to 50 percent of that excess.

iii. Institution C has an endowment fund consisting of money market funds and low-risk stock. The value of the fund on the planned date of withdrawal is $600,000. The endowment fund corpus is $400,000. It previously withdrew $190,000.

Institution C sells $5,000 of the stock, incurring a brokerage fee of $200. The institution may use the other $4,800 for other legitimate expenses. As a result of a decrease in the value of its stock, the next time institution C wishes to withdraw and spend endowment fund income, the value of its funds is $580,000. Thus, its endowment fund income is $180,000. The amount of endowment fund income it previously withdrew and spent equals $195,000 ($190,000 + $5,000). Thus institution C's endowment fund income does not exceed the amount of income it previously withdrew and spent ($180,000 versus $195,000) and it may not withdraw any endowment fund income. Further, it may not withdraw any income until, on the planned date of withdrawal, that income exceeds $195,000 or, put another way, until the value of its endowment fund exceeds $595,000.

As can be seen from these examples, the key to determining whether and how much endowment fund income may be withdrawn and spent is to keep a running total of the aggregate amount of endowment income withdrawn and spent.

Section 628.47 Reports.

Comment. One commenter suggested that the Department devise a reporting form which allows a grantee to report facts about *all* endowment grants it receives in future years, not just about one grant. The commenter thought this would simplify review of data.

Response. No change is made in the regulations. While the Secretary will take this suggestion under review in developing a report form, this is not a proper matter for Department regulations.

Comment. One commenter questioned whether the restriction in the statute and regulations limiting the amount of income an institution or foundation can spend will result in a foundation losing its tax exempt status. Under section 333 of the HEA and § 628.45(a) (§ 625.44(a)), an institution may spend not more than 50% of the total aggregate endowment fund income earned prior to the date of expenditure.

Response. No change is made in the regulations. The question was discussed with a representative of the Internal Revenue Service. The Secretary was informed that an institution may be able to structure its foundation in such a manner so that the foundation would qualify as a tax exempt organization even though the foundation is limited to spending not more than 50 percent of its endowment fund income. Thus, it may be advisable for an institution that wishes to establish a foundation to operate its endowment fund under the Endowment Grant Program to consult with a tax attorney, accountant or other expert in the area of tax exempt organizations.

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