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Dated: October 1, 1987.

Jack R. Stokvis,

*General Deputy Assistant Secretary for
Community Planning and Development.*

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Wednesday
October 14, 1987

Part III

Commission on Education of the Deaf

Second Set of Draft Recommendations;
Notice

COMMISSION ON EDUCATION OF THE DEAF

Second Set of Draft Recommendations; Comment Solicitation

AGENCY: Commission on Education of the Deaf.

ACTION: Notice of draft recommendations.

SUMMARY: This notice contains a second set of draft recommendations on which the Commission on Education of the Deaf (Commission) solicits public comment. This set addresses comprehensive service centers and training programs; adult and continuing education; the Department of Education (ED) liaison officer to Gallaudet University (GU), the National Technical Institute for the Deaf (NTID) and the regional programs; program evaluation of GU and NTID; ED's Captioned Films Program; Kendall Demonstration Elementary School and the Model Secondary School for the Deaf; minority and deaf-blind education; language acquisition; early intervention; educational technology; professional certification; educational interpreters; American Sign Language; and employment of deaf persons at GU and NTID. In this notice, the Commission reprints, in amended form, its previous draft recommendation on GU's and NTID's research, development, and evaluation activities. It is also investigating the need for a clearinghouse.

DATE: To be accepted for consideration, comments must be in writing, refer to specific recommendations, and be received in the Commission office on or before November 13, 1987.

ADDRESS: Written comments should be sent to the Commission on Education of the Deaf, GSA Regional Office Building, Room 6646, 7th and D Streets SW., Washington, DC 20407. For further information, contact Pat Johanson, Staff Director, or Robert J. Mather, Staff Counsel, (202) 453-4353 (TDD) or (202) 453-4684 (Voice). These are not toll free numbers.

SUPPLEMENTARY INFORMATION: In this notice, the Commission publishes the second of two sets of draft recommendations for written public input. The first set, published on August 28, 1987, addressed "appropriate education" under the Education of the Handicapped Act (EHA), parents' right to be informed about educational options, early identification of hearing impairment in infants and young children, the Regional Postsecondary Education Programs for the Deaf

(RPEPD), student admission policies and research and dissemination activities at Gallaudet University (GU) and the National Technical Institute for the Deaf (NTID), and television captioning services.¹

Clearinghouse

The Commission at its September meeting decided not to make any draft recommendations on the advisability and feasibility of establishing a national clearinghouse on deafness. Many people have noted a continuing problem in the dissemination and availability of information and materials in the field. Many national organizations provide clearinghouse services, for example: Alexander Graham Bell Association of the Deaf, American Deafness and Rehabilitation Association, American Society for Deaf Children, Gallaudet University, the National Association of the Deaf, Self-Help for Hard of Hearing People, Conference of Educational Administrators Serving the Deaf, Convention of American Instructors of the Deaf, Council on Education of the Deaf, and others.

The EHA Amendments of 1986 authorized two national clearinghouses, one on the education of handicapped children and youth and the other on postsecondary education for handicapped individuals.² In light of this information, the Commission asks whether new free-standing clearinghouses should be established or whether the current clearinghouses should be strengthened.

Previous Draft Recommendation on GU and NTID

In response to further inquiry about the previous draft recommendation on direct appropriations to GU and NTID for research, development, and evaluation activities,³ the Commission decided to reprint this recommendation, along with further information, as *Draft Recommendation 21*. The Commission clarifies its intent that this recommendation applies to GU's pre-college programs (the Model Secondary School for the Deaf (MSSD) and the Kendall Demonstration Elementary School (KDES)), in addition to the other programs. The period for comment on this recommendation is extended to November 13, 1987.

As with the first set, the second set of draft recommendations was developed in part from public input received in response to the Notice of Inquiry and

from public meetings held on the status of educational programs.⁴ Approximately 4,000 responses were received from over 450 organizations, parents, educators, specialists, and consumers.

Established by the Education of the Deaf Act of 1986,⁵ the Commission is directed to study infant, early childhood, elementary, secondary, postsecondary, adult, and continuing education programs for persons who are deaf. It must also study federally assisted programs relating to instructional media and captioning services. It must submit to Congress and to the President, no later than February 4, 1988, a final report of its study together with recommendations, including specific proposals for legislation, as the Commission deems advisable.

The Commission requests all interested persons and organizations to submit written comments and/or counterproposals on the draft recommendations listed below. Comments and counterproposals must be received in the Commission office by November 13, 1987.

I. Comprehensive Service Centers and Training Programs

A. Service Centers

Discussion: At least 500,000 of the estimated 2 million deaf persons in the U.S. became profoundly deaf before the age of 19. As many as 100,000 deaf individuals are severely limited in their ability to find employment or to pursue postsecondary education due to inadequate educational preparation.⁶ Studies reveal that about 60 percent of deaf students who graduate or drop out of school every year go directly into the labor market in semi- or un-skilled jobs or remain unemployed. They are likely to have limited formal education, very limited English proficiency, poor vocational preparation, and sporadic employment histories. If intensive specialized training does not become available, a 70 percent rate of labor force nonparticipation or unemployment could be predicted for them as technological advances reduce the number and kinds of jobs they have traditionally filled.⁷

¹ 52 FR 10722 (1987).

² Pub. L. 99-371, 100 Stat. 781, 786-789 (20 U.S.C. 4341-4344).

³ Task Force on Rehabilitation Centers for Deaf Individuals. *Guidelines for Rehabilitation Centers for Deaf Individuals*. 1973.

⁴ Report of the Steering Committee on Activities for Low Achieving Deaf Post-School Population. Arkansas Rehabilitation Research Training Center. 1989.

⁵ 52 FR 32732-32737.

⁶ Pub. L. 99-457, Title III, § 310, 100 Stat. 1168 (1986).

⁷ *Draft Recommendation 8*, 52 FR 32735.

Under the Education of the Deaf Act of 1986 (EDA), nearly \$74.6 million was allocated in fiscal year 1986 to educate nearly 3,700 students who attended GU and NTID. Conversely, ED's Rehabilitation Services Administration (RSA) estimates it spent about half that amount to rehabilitate 26,200 clients who are deaf.

Since the late 1970s, no comprehensive service center for this under-served population has been funded by RSA. This means that for the past 10 years, over 60 percent of the adult deaf population has not received services appropriate for their unique needs.

Draft Recommendation 1: Congress should establish one comprehensive service center in each of the ten federal regions.

The comprehensive service centers would be funded through a competitive bid process, using a five-year funding cycle. A federal incentive to encourage cooperating states to support these centers after the five-year period has ended would be instituted. To be eligible for initial federal funds, applicants would have to:

(a) Provide comprehensive services, such as initial evaluation and diagnosis, general education, counseling and guidance, vocational training, work transition, supported employment, placement, follow-up, and outreach;

(b) Employ qualified personnel who are able to communicate in the clients' native language or mode of communication;

(c) Disseminate training techniques, instructional materials, results of program evaluations, and public information; and

(d) Demonstrate viability of continuation without direct federal subsidies.

B. Training Programs

Discussion: The pervasive and continuing shortage of qualified personnel to work with the population to be served in the comprehensive centers emphasizes the need for appropriate training programs for rehabilitation counselors.

Draft Recommendation 2: The Department of Education should require rehabilitation counselor training programs, which prepare deafness specialists, to offer additional coursework and internships on counseling the population to be served in the comprehensive centers.

To provide the necessary pool of professionals to staff the comprehensive service centers, the number of training programs offering coursework and internships in counseling this population

will have to be increased, or the current programs will need to be expanded. Currently, there are seven training programs for rehabilitation counselors who work with persons who are deaf.

II. Adult and Continuing Education

Discussion: The next recommendation addresses the needs of deaf adults who are functioning fully in the labor market but who require continuing education, as do most adults, in order to keep up with the changes occurring in the workplace. Despite an apparent demand from deaf persons for adult education classes, many adult and continuing education programs do not provide needed support services or utilize teachers who are familiar with the educational, social, cultural, and communication needs of that population. In addition, input and direction from deaf adults in planning adult education courses is often lacking.

Draft Recommendation 3, which follows, recognizes the special considerations inherent in developing and improving programs in adult and continuing education for deaf persons. Such programs should include not only degree programs but also programs in career preparation, personal development, academic skills enhancement, and vocational training.

The Commission's previous draft recommendation on the RPEPD suggested that each of the participating schools provide a "broader range of educational options."⁹ The intent of this recommendation was to encourage each RPEPD to provide technical assistance to existing universities and community colleges in order to furnish a full range of postsecondary education opportunities. The Commission now recommends that the mission of each RPEPD in offering postsecondary education to deaf students be expanded to include adult education.

Draft Recommendation 3: Congress should authorize funds for each RPEPD to provide adult and continuing education programs and to assist local educational institutions in providing such programs to adults who are deaf.

To be eligible for additional funding for adult and continuing education components, each RPEPD should meet the following criteria:

(a) Involvement and training of persons who are deaf as administrators, program planners, and instructors;

(b) Provision of adequate support services, including interpreters, notetakers, and tutors;

(c) Provision of outreach services to their communities and schools serving persons who are deaf;

(d) Design of programs to meet the unique needs of adults who are deaf; and

(e) Provision of inservice training on deafness to adult education providers.

III. Department of Education Liaison Officer for Federally Funded Postsecondary Programs

Discussion: The Education of the Deaf Act of 1986 directed ED to designate an individual to serve as liaison between ED and GU, NTID, and the four schools participating in the RPEPD. The duties of the liaison officer are to provide information to the programs regarding ED's activities which directly affect the operation of the institution's programs and to provide such support and assistance as the institutions may request and the Secretary considers appropriate.⁹

The original bill, the Education of the Deaf Act of 1985 (S. 1874), stipulated that this liaison officer: Coordinate the activities of GU, NTID, and the regional programs to ensure the provision of quality education of deaf individuals and avoid unnecessary duplication; to review and comment on plans and other materials submitted by GU and NTID relating to research and demonstration activities, technical assistance, and development of instructional materials; and to assist in the preparation of budget requests.¹⁰ The Senate version was not included in the final bill. To ensure coordination and avoid duplication among the programs, especially in view of the Commission's draft recommendations for the expanding roles of the regional programs, the Commission proposes that the liaison officer should have those additional responsibilities as described in the original Senate bill.

Draft Recommendation 4: Congress should amend the Education of the Deaf Act to direct the Department of Education's liaison officer to: (1) Coordinate the activities of GU, NTID, and the regional programs to ensure quality of the programs and to avoid unnecessary duplication; (2) review and comment on workplans relating to research and demonstration activities, technical assistance, and development of instructional materials; (3) assist in the preparation of budget requests; and (4) serve as an ex-officio member of GU's Board of Trustees and the advisory groups of NTID and the RPEPD.

⁹ Pub. L. 99-371, § 406, 100 Stat. at 790 (20 U.S.C. 4356).

¹⁰ S. 1874, 99th Cong., 2d Sess. 406 (1986).

^{*} See Draft Recommendation 4, 52 FR 32734.

It is the Commission's intent that the liaison not be involved in the management, policymaking process, or governance of any of these programs. The person selected for the position of liaison officer should be an acknowledged expert in the field of deafness.

IV. Evaluation of GU and NTID by the Department of Education

Discussion: The General Accounting Office (GAO) reported that although ED generally oversees financial and budgetary matters at GU and NTID, the institutions have not been subject to periodic program evaluation.¹¹ The Commission is aware that some of the programs are already subject to accreditation evaluation; however, there is still a need for more comprehensive evaluation of those programs that receive federal funds. The liaison officer and advisory boards do not provide evaluative information and do not provide direct information to the Federal government regarding the achievements of these institutions in fulfilling their national missions.

The EDA requires ED to monitor and evaluate the education programs and activities and the administrative operations of GU and NTID. In carrying out these responsibilities, ED is authorized to employ such consultants as may be necessary.¹² The Act does not prescribe how ED should carry out its monitoring and evaluation responsibilities.

Draft Recommendation 5: The Department of Education should conduct program evaluations at GU and NTID on a five-year cycle and submit a report of its evaluation with recommendations, including specific proposals for legislation, as it deems advisable, to the authorizing committees of the Congress. The evaluation team should consist of outside experts in the field of deafness, program evaluation, education, and rehabilitation.

Evaluation should coincide, as much as possible, with the accreditation activities at the two institutions to avoid unnecessary duplication of effort. This recommendation is separate from the other draft recommendations relating to ED's liaison officer¹³ and to evaluation

of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf.¹⁴

V. Membership of GU's Board of Trustees, NTID's National Advisory Group, and RPEPD Advisory Groups

Discussion: The Commission notes that GU's Board of Trustees is currently composed of 21 members, only 4 of whom are deaf; while NTID's National Advisory Group is composed of 16 members, 3 of whom are deaf. Rather than recommending legislative action, the Commission encourages these programs to take the lead by increasing the representation of deaf persons in the governing and policy making bodies which serve this population.¹⁵ If a fifth RPEPD is funded,¹⁶ it would be expected to follow this recommendation as well.

*Draft Recommendation 6: At least 51 percent of GU's Board of Trustees and the NTID's National Advisory Group and similar guiding bodies at each school participating in the RPEPD should be deaf.*¹⁷

VI. Captioned Films Program

Discussion: ED's Captioned Films program distributes captioned educational films through 58 depositories free of charge to any school or program that is registered for the service and has at least one child with impaired hearing. ED's 1987 projects include over \$5 million for captioning and distributing films. Educational films average about 17,500 showings per month during the school year.

The current process of captioning and distributing films takes almost two years. This process includes: Film selection, negotiations with film producers to caption their films, producing the scripts for captioning, actual captioning of the films, and distribution of the films to the schools.

Draft Recommendation 7: Congress should continue federal funds for the Department of Education's (ED) Captioned Films program (including captioning and distribution of educational and entertainment films). ED should require certain administrative improvements in the

program. The use of current technology should be investigated to enhance the production of captioned films and media.

The Commission recognizes the importance of the captioned films program. At the same time, it notes several administrative problems in this program, which could include: Using current technology in the captioning and distribution process; keeping the distribution system on school campuses; lessening the gap between costs incurred and reimbursements; involving the deaf community and other professionals knowledgeable about deafness in all aspects of the program; making more prints available to depositories on the basis of information gathered from unfilled FILMSHARE bookings nationwide; increasing the number of new titles distributed each year; eliminating old films while updating others; and shortening the length of time now required for film distribution. The Commission is also considering a recommendation to ED that an independent contractor conduct a needs assessment on school use of captioned educational films.¹⁸

VII. Kendall Demonstration Elementary School (KDES) and the Model Secondary School for the Deaf (MSSD)

Discussion: The KDES Act¹⁹ and the MSSD Act²⁰ directed the two schools to "provide an exemplary educational program to stimulate the development of similar excellent programs throughout the Nation." Both of these programs were established in their present form as a result of the 1964 Babbidge Report, which deplored the lack of systematic education for the majority of preschool deaf children, the limited secondary opportunities for deaf students nationwide, the low level of educational achievement attained by many secondary school graduates who were deaf, and the low allocation of funding for research.²¹

Thus, KDES was authorized to provide elementary-level educational facilities for individuals who are deaf "in order to prepare them for high school and other secondary study,"²² while

¹⁴ See *Draft Recommendation 8* below.

¹⁵ As a precedent, at least 5 of the 12 members of the Commission must be deaf. 20 U.S.C. 4341(b)(4). See also 29 U.S.C. 796d-1(b) (a majority of the members of state independent living council must be handicapped individuals and parents or guardians of handicapped individuals).

¹⁶ See previous *Draft Recommendation 4*, 52 FR 32734 (the Commission proposed a fifth regional program in the Southwest, in addition to the four existing programs).

¹⁷ The Commission has not reached full consensus on this recommendation.

¹⁸ It should be noted that the first notice of draft recommendations contains those relating to closed captioned television. See *Draft Recommendations 12-18*, 52 FR 32737.

¹⁹ Pub. L. 91-587, 84 Stat. 1579 (1970).

²⁰ Pub. L. 89-894, 80 Stat. 1027 (1966).

²¹ The House report accompanying the MSSD Act cited the Babbidge findings of "significant inadequacies in the educational services for the deaf, particularly noting the lack of a genuine secondary school program for deaf persons." H.R. No. 2214, 91st Cong. 2d Sess. 2, reprinted in 1968 U.S. Code & Admin. News 3527, 3528.

²² 20 U.S.C. 4311(a)(1).

¹¹ Oversight of Gallaudet College and the National Technical Institute for the Deaf: Hearing before the Subcomm. on the Handicapped of the Sen. Comm. on Labor and Human Resources, 99th Cong. 1st Sess. 3-5 (statements of William J. Gainer, GAO).

¹² Pub. L. 99-371, 405, 100 Stat. at 790 (20 U.S.C. 4355).

¹³ See *Draft Recommendation 4* above.

MSSD was authorized to provide day and residential facilities for secondary education for individuals who are deaf "in order to prepare them for college and for other advanced study."²³ In carrying out its function to prepare students for college, MSSD has adopted an admissions policy which stipulates "potential students to demonstrate reading levels of third grade or higher."²⁴ GU reports that 78 percent of former MSSD students continued their education beyond high school, with nearly one-fourth of that number completing programs of advanced study.²⁵

A number of educators stated to this Commission that they are able to adequately serve the academically oriented students, but they expressed a need for programs, products, technical assistance, and outreach efforts designed for students who are not achieving satisfactory academic progress. Such students may be average or above average in terms of intelligence, but due to unsuccessful educational methodology, they are functioning at the first, second, or third grade levels in terms of academic achievement. In addition, many professionals expressed a need for other programs and products which are appropriate for students with secondary disabilities, students from non-English speaking homes, students who are members of minority groups, and parents who have deaf children.

Draft Recommendation 8: Congress should amend the EDA to include the following provisions for setting priorities at KDES and MSSD, and for submitting annual and evaluation reports:

Priorities

KDES and MSSD should provide exemplary programs to stimulate the development of similar programs across the nation. These exemplary programs should be developed to meet the critical needs at the elementary and secondary levels through research, development, training, and technical assistance. The current critical needs identified by the Commission relate to the following special populations:

- (a) Students who are lower achieving academically;*
- (b) Students who have secondary handicaps;*

(c) Students who are from non-English speaking homes;

(d) Students who are members of minority groups; and

(e) Parents who have deaf children.

Admission criteria should be changed to be congruent with the special populations addressed. The mission and focus of MSSD should be redefined so that the student population served by the school more closely mirrors the national demographics of secondary school-age deaf children. Materials and other product development of MSSD shall first address the special populations defined above.

Annual Report

KDES and MSSD shall submit an annual report to the President and to Congress which includes a list of the critical needs, a description of programs and activities designed to meet those needs, and an evaluation of their effectiveness.

Evaluation Report

Prior to reauthorization, or at least every five years, KDES and MSSD shall select independent experts, including consumers, from all types of educational programs, including mainstream programs, to provide an objective assessment of the progress made by KDES and MSSD in meeting the identified critical needs. An evaluation report shall be provided to the President and to Congress which includes the names of the experts and consumers conducting the assessment, a presentation of their findings, and the response of KDES and MSSD to the evaluation. In addition, the experts will delineate the critical needs to guide the programs during the next funding cycle.

VIII. Minority and Deaf-Blind Education

Discussion: Currently, nearly one-third of the children in schools and programs for the deaf belong to minority groups and that percentage is likely to increase. Numerous statements to the Commission charged that research, development, and training efforts must confront more than the issue of deafness—future activities must also be responsive to cultural and minority concerns. Topics of concern include: Cultural perspectives on education; development of the individual educational plan; teacher, administrator, and student recruitment; learning styles and strategies; the home language environment; and parent and family counseling.

Draft Recommendation 9: With respect to programs and activities serving students who are deaf, special recognition should be given to the

unique needs of students who are members of minority groups, including deaf/blind students and those with secondary disabilities, as well as those who are members of racial and ethnic minority groups. This special recognition should apply to educational programs (from infant and early childhood to adult education), parent education, model/demonstration programs, and research, and should take into consideration cultural factors relating to race, ethnicity, and deafness.

IX. Language Acquisition

Discussion: Since language cannot be taught directly, the acquisition of language by children who are deaf is dependent upon the optimal presentation of relationships between concepts, linguistic signals, and social use. Despite the efforts of researchers and educators, little extensive progress has been evidenced in the acquisition of English by persons who are prelingually deaf. Therefore, the Commission views the acquisition of language and reading skills by children as a preeminent goal in the field of deaf education.

Draft Recommendation 10: Facilitating language acquisition in students who are deaf (including verbal, visual, and written language) should be a paramount concern guiding the implementation of exemplary practices, the establishment of program models, the determination of research priorities, the design of curricula, materials, and assessment instruments, and the provision of professional and parent training.

Exemplary practices, programs, materials, and assessment instruments should be developed based on findings from the fields of deaf education, psycholinguistics, human cognition, and second language acquisition. Funding should be provided for advancement in various areas, including:

- (a) Theoretical and Applied Research
- (b) Development and Dissemination
- (c) Implementation
- (d) Parent and Professional Training

The Commission requests input on subtopics which merit attention under each of the preceding four topics. The Commission does not seek to prescribe a specific communication mode; instead, it wishes to explore various aspects of language acquisition which transcend communication mode preferences.

X. Early Intervention

Discussion: Under the Education of the Handicapped Act Amendments of 1986, states must provide early intervention services to all handicapped preschool students by the year 1991 in

²³ *Id.* at 4321(a).

²⁴ Gallaudet University. Responses to Questions from the Commission on Education of the Deaf, June 12, 1987, p. IV(b)-15.

²⁵ Gallaudet University Pre-College Programs. Presentation to Commission on Education of the Deaf, March, 1987, p. 8.

order to be eligible for federal funds.²⁶ To ensure that quality services are being provided to children who are deaf, standards for personnel and programs should be developed by parents, specialists in early intervention and deafness, and adults who are deaf. Several states have already taken the initiative to develop such standards and the Commission encourages other states to review those standards as they develop their own. In addition, parents should have access to information about standards, allowing them to assess the quality of individual programs.

Draft Recommendation 11: State education agencies should be required to conduct state-wide planning and implementation activities, including the establishment of program and personnel standards which specifically address the educational and psychological needs of families with young children who are deaf. Individuals working with young, deaf children must be professionally trained to serve this population.

In providing early intervention services, the majority of individuals who work with young children who are deaf have been trained as teachers for the school-aged deaf population, as communicative disorder specialists, as early childhood/special education teachers, or in other unrelated fields. As a result, they would benefit from training relative to the population and age-range with whom they work. In addition, the infusion of deaf persons into home and school settings could also provide opportunities for deaf children to be exposed to deaf adult role models and would allow parents to be introduced at the earliest possible time to deaf persons. Amplification devices, including individual hearing aids, group amplification systems and other assistive listening devices, are integral components of any educational program for hearing-impaired children and youth, yet funding sources for the purchase of these systems are frequently inadequate for hearing aids and are non-existent for group amplification systems and tactile aids. These program practices and devices, as well as other important features, might be incorporated into exemplary program models which would improve approaches to high quality early childhood education.

Draft Recommendation 12: Congress should make available federal funding for states to:

(a) Provide preservice and inservice training to personnel to enable them to work effectively with young children,

ages 0 to 5, who are deaf. Training should also be provided to adults who are deaf to prepare them to work as facilitating team members with local intervention programs;

(b) Ensure that appropriate technologies, and particularly amplification devices, are available for the provision of education for all children with hearing impairments; and

(c) Initiate or support a variety of program models which demonstrate improved approaches to high quality infant and early childhood education programs for children who are deaf. Projects must provide direct service to participating individuals and have the potential for wide replication.

XI. Educational Technology

Discussion: Great strides have been made in educational technology, and today's technologies include personal computers, satellite communication systems, video disc systems, robotics, and telecommunication systems. The most prominent of the current technological advancements in the field of computer-assisted instruction for children who are deaf include: speech recognition and synthesis software, language and speech development aids, real-time and closed captioning, telecommunication devices (TDDs), warning systems, and amplification devices. Coupled with the use of personal computers, these advancements have the potential to greatly enhance the education of students who are deaf.

Despite these strides, the Commission finds a compelling need for the development and application of these techniques and devices for improving instruction, for measuring student progress, and for disseminating information to interested persons and organizations.

Draft Recommendation 13: Congress should provide funds for research, development, acquisition, and maintenance of technology to be used for special and vocational education of children and adults who are deaf, including those with secondary disabilities.

The EHA Amendments of 1986 authorize federal funds for the support of research, dissemination, and technical assistance activities related to the development, production, and marketing of technology for use in the education of handicapped children.²⁷ As

an alternative, such funds could appropriately be used to help defray much of the high start-up cost associated with the purchase of technological equipment and products for use in classrooms with children and adults who are deaf.

Draft Recommendation 14: Congress should support new and existing assistive devices resource centers to inform and instruct children and adults on the latest technological advances in the education of persons who are deaf.

Assistive devices resource centers should be established in cooperation with experts in audiology and education. The centers should have mobile units to serve the needs of persons who are deaf, including those living in rural areas. The centers would demonstrate the range of available devices, and would provide training and technical assistance on the use of the devices. The centers are intended to bridge the gap in the delivery of rehabilitation engineering research for school-aged children with severe disabilities. This draft recommendation supports and extends beyond the pending Senate bill entitled, "Technology to Educate Children With Handicaps Act."²⁸

Draft Recommendation 15: National symposia on media and technology should be held to provide information on the most recent advances in applied technology for children who are deaf.

The last symposium on media and technology for children who are deaf was held in 1983. The Commission strongly endorses the reinstatement of these national symposia so that professionals in the field of deaf education are knowledgeable about state-of-the-art educational technology.

XII. Professional Certification

Discussion: The lack of uniform standards for adequate professional training and preparation continues to be a pressing problem. A set of uniform guidelines would provide urgently needed standards and eliminate problems associated with employing teachers trained in other states. (Standards for educational interpreters will be discussed in Section XIV.)

Section 613(a)(14) of the EHA Amendments of 1986 requires states to include in their plans "policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of * * * [part B] are appropriately and adequately prepared and trained * * *."²⁹ It also requires

²⁶ Pub. L. 99-457, title I, § 101, 100 Stat. 1146 (20 U.S.C. 1475).

²⁷ Pub. L. 99-457, title III, 312, 101 Stat. 1169 (20 U.S.C. 1442).

²⁸ S. 1586, 100th Cong. 1st Sess. (1987).

²⁹ 101 Stat. 1159, 1174, 20 U.S.C. 1413(a)(14).

states to establish and maintain standards consistent with state approved or recognized certification, licensing, registration, or other comparable requirements which apply to particular professions or disciplines.³⁰

In assisting the states to develop personnel standards for professionals in deaf education, ED should consider the Council on Education of the Deaf's standards for the certification of professionals involved in the education of hearing impaired children and youth.

Draft Recommendation 16: The Department of Education should provide guidelines for states to include in their state plans such policies and procedures, which relate to the establishment and maintenance of standards, to ensure that professionals in special programs for students who are deaf are adequately prepared and trained.

XIII. Educational Interpreters

Discussion: Communication in the classroom is crucial not only to the educational process, but also to student participation in the classroom. Utilizing interpreting services is one way of providing communication for students who are deaf in classrooms with hearing peers. The classroom setting presents a challenge for educational interpreters because they must consider: The varying linguistic and cognitive developmental levels of the child; the differing sign/oral systems employed for interpreting; the appropriateness of performing other duties; and the need to work cooperatively with regular classroom teachers, administrators, and other support personnel.

The Registry of Interpreters for the Deaf (RID), the national certifying organization for interpreters, has established guidelines for the professional interpreter's role and functions but has not established special provisions for educational interpreters. In 1985, the National Task Force on Educational Interpreting (NTFEI) was formed to "examine and clarify roles and responsibilities, training and certification, working conditions, and other needs concerning educational interpreters and their services to mainstreamed deaf students at all educational levels." NTFEI is also seeking to establish standards for educational interpreters and to promote "equitable salary ranges as determined by skill level required and advanced training expectations."

Although NTID's 1986 Interpreter Training Programs resource guide lists 48 interpreter training programs in 30 states, none are specifically designed for educational interpreters. Interpreters, themselves, recognize that they do not receive adequate training in such subjects as child and language development, cognitive processing, the various sign/oral systems, and educational settings that require special knowledge and expertise. Serious concern has been expressed about the lack of understanding of the interpreter's role by deaf students, classroom teachers, parents, administrators, and interpreters themselves. Another serious concern is that states and local educational agencies have not treated interpreters as "professionals," in terms of status and salaries.

Draft Recommendation 17: The Department of Education, in consultation with consumers, professionals, and organizations, should provide guidelines for states to include in their state plans such policies and procedures, which relate to the establishment and maintenance of standards, to ensure that interpreters in educational settings are adequately prepared and trained.

This recommendation is intended to include interpreter standards in the personnel standards as required by section 613(a)(14) of the EHA Amendments of 1986. The Commission proposes that ED should recognize interpreters as professionals and should continue working closely with RID, NTFEI, and other groups in developing and providing guidelines to states to establish and maintain standards for interpreters in educational settings. ED should especially define the appropriate role of interpreters in these settings. The Commission emphasizes that the term "educational interpreters" includes sign language, cued speech, oral, and deaf/blind interpreters.

Draft Recommendation 18: Federal funding should be provided to develop training programs, design curricula, and award stipends to recruit and train potential and working educational interpreters.

There are currently no interpreter training programs specifically designed for educational interpreters. Training programs should offer courses addressing special issues, such as: The various sign systems used in educational settings; oral and cued speech interpreting; manual communication with deaf/blind persons; the need for collaboration between teachers, administrators, and counselors; and the cognitive and

language development processes of hearing and deaf children. Section 304 of the Rehabilitation Act currently provides an average of \$18,000 per state for interpreter training programs. That amount is not enough to pay for even one qualified instructor let alone pay for additional faculty, curriculum development, and support services that would be needed for a quality training program.³¹

Part D of the EHA allocates monies to promote staff development of special education personnel. These monies could be used to provide stipends to potential and working interpreters who seek training in the field of educational interpreting.

Draft Recommendation 19: Congress should fund section 315 of the Rehabilitation Act. The Department of Education should establish standards for interpreters in the field of rehabilitation.

Section 315 of the Rehabilitation Act of 1973, as amended, authorizes the Commissioner of Rehabilitation Services to make grants to states for establishing interpreting services for individuals who are deaf.³² Interpreters participating in the programs are required to meet minimum standards.³³ Section 315 has never been funded and consequently no interpreter standards have been established for the states by the Commissioner.

XIV. American Sign Language

Discussion: Researchers examining the linguistic characteristics of American Sign Language (ASL) have determined that it is a natural and complete language, comparable in complexity and expressiveness to other languages. ASL should not be confused with manually coded English sign systems (e.g., Seeing Exact English, Seeing Essential English) which are not considered languages but which have become widely used in educational settings. Some educational institutions also recognize ASL as a distinct language and grant foreign/second language credit to students who master ASL.

Approximately 10 percent of deaf children have parents who are deaf and many of these children learn ASL as their native language and acquire English as a second language. Deaf children of hearing parents often choose to learn ASL later in life. Psycholinguists studying second language acquisition have found that language learning is

³¹ 29 U.S.C. 774.

³² Id. at 777(e)(a).

³³ Id. at 777(e)(b)(5).

³⁰ Id.

enhanced when both languages and cultures are viewed positively by the society in which the individual interacts and when there is complementarity, rather than competition, between linguistic systems.³⁴

*Draft Recommendation 20: The Commission on Education of the Deaf recognizes American Sign Language as a legitimate language.*³⁵

It is not the intent of the Commission that ASL be used as the primary method of English instruction for all students who are deaf; however, it should be emphasized that this recommendation recognizes ASL as a language in its own right and as an educational tool.

XV. The Role and Impact of Research, Development, and Evaluation Activities at Gallaudet University and the National Technical Institute for the Deaf

Discussion: The Commission examined several related questions concerning the role and impact of research, development, and evaluation activities conducted by GU (including KDES and MSSD) and NTID. The Commission emphasizes that it has not attempted to evaluate the quality of research at GU and NTID; however, it has considered how research, development, and evaluation priorities should be established, whether there has been adequate oversight to ensure cost-effectiveness and quality, and whether research, development, and evaluation projects should be funded through Congressional appropriations, competitive grants, or both.

Funding of Research, Development, and Evaluation Projects

Discussion: GU and NTID are authorized by law to conduct research, development, and evaluation. There is significant value in having extensive and high quality research, development, and evaluation programs at GU and NTID. The Commission commended the valuable contribution to the field made by the Annual Survey of Hearing Impaired Children and Youth and it expressed interest in exploring ways in which the Survey might provide important data about specific groups,

such as the rural student population. However, it recognized that other research centers are also conducting a significant amount of research on deafness and deaf education. These centers would benefit from increased opportunities to compete for larger amounts of funding. Similarly, requiring GU and NTID to participate in more competition for funding could be expected to enhance the quality of GU's and NTID's research, development, and evaluation activities.

The Commission's recommendation is intended to encourage competition, innovation, and diversity in research and development projects on deafness. The Commission certainly does not recommend any reduction of funding for deafness-related research.

*Draft Recommendation 21: Only a base level of Congressionally appropriated line-item funding should continue to be allocated to GU and NTID for research, development, and evaluation projects. Specifically, funding should be adequate to provide a robust research agenda which would include the Annual Survey of Hearing Impaired Children and Youth conducted by Gallaudet. An overall reduction in the current funding provided to these two institutions should be made and the remaining monies should then be set aside and used for competitive grants for deafness-related research. Any research center with adequate capacity in the field, including GU and NTID, could compete for the funds on a multi-year basis.*³⁶

The Commission welcomes comments on how to set the "base level" for GU and NTID: one-third, one-half, two-thirds, or some other proportion of what Congress now appropriates to them for research, development, and evaluation activities. The current appropriations for GU (including KDES and MSSD) and NTID total approximately \$8 million for these activities.

XVI. Employment and Advancement of Persons Who Are Deaf at Federally Funded Postsecondary Education Institutions

Discussion: The Commission requested information regarding the employment of deaf persons at GU and

NTID, and the employment of blacks and women at Howard University and Wellesley College, respectively. At GU, the overall employment rate for persons who are deaf is 22% (18% executive, 33% professional, 38% technical, 7% secretarial, 7% maintenance, and 6% service positions). At NTID, the overall employment rate is 12% (12% executive, 12% faculty, 15% professional, 20% technical, and 6% secretarial positions). At Howard University, a primarily black university in Washington, DC, the overall employment rate for black persons is 87% (91% administrative, 77% faculty, and 89% staff positions). At Wellesley College, a women's college near Boston, the overall employment rate is 74% for women (50% administrative, 83% faculty, and 91% staff positions).

The Commission recognizes that the pool of deaf applicants is not as extensive as the pool of female and black applicants; however, these federally-funded postsecondary institutions for the deaf should take initiatives to recruit, hire, and promote deaf persons similar to the initiatives taken by Howard and Wellesley. The Commission acknowledges the efforts made by GU and NTID and supports further efforts, by these institutions and others, to employ and advance persons who are deaf.

Draft Recommendation 22: GU, NTID, and the schools participating in the RPEPD should continue to strengthen the positive efforts they have already made in recruiting, hiring, and promoting qualified applicants and employees who are deaf.

Records of the comments received will be available for public inspection at the office of the Commission on Education of the Deaf, GSA Regional Office Building, Room 6646, 7th and D Streets SW., Washington, DC.

Pat Johanson,
Staff Director, Commission on Education of the Deaf.

October 8, 1987.

[FR Doc. 87-23732 Filed 10-13-87; 8:45 am]

BILLING CODE 6820-SO-M

³⁴ Beardsmore, H. B. (1982). *Bilingualism: Basic principles*. England: Tieto.

³⁵ The Commission has not reached full consensus on this recommendation.

³⁶ The Commission has not reached full consensus on this recommendation.

Test Report Federal Register

Wednesday
October 14, 1987

Part IV

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 14, 19, and 52

Small Business Set-Asides; Federal
Acquisition Regulation; Interim Rule and
Request for Comment

DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Parts 14, 19, and 52

[Federal Acquisition Circular 84-31]

Small Business Set-Asides; Federal
Acquisition Regulation

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule and request for comment.

SUMMARY: Federal Acquisition Circular (FAC) 84-31 amends the Federal Acquisition Regulation (FAR) to implement amendments made to sections 8 and 15 of the Small Business Act by section 921, Pub. L. 99-661. The revisions (i) adopt the statutory prohibition against award of set-aside and 8(a) contracts at a price exceeding fair market price; (ii) require that a fair proportion of Government contracts within each industrial category be awarded to small business concerns, and (iii) implement statutory restrictions concerning the extent of subcontracting permitted under set-aside and 8(a) contracts.

DATES: Effective Date: October 1, 1987.

The revisions made by this interim rule are effective October 1, 1987, except that the revisions made to FAR 19.508(e) and 52.219-14 are effective for those solicitations issued on or after October 1, 1987. Solicitations issued before October 1, 1987, should be amended to incorporate the clause at 52.219-14, unless to do so would unduly delay the contract action.

Comment Date: December 1, 1987.

Comments on the interim rule must be received on or before December 1, 1987, to be considered in the formulation of a final rule. Please cite FAC 84-31 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Paperwork Reduction Act

This interim rule does not contain information collection requirements within the meaning of the Paperwork

Reduction Act of 1980, 44 U.S.C. 3501, et seq., and regulations prescribed by OMB at 5 CFR Part 1320. Accordingly, OMB approval of the interim rule is not required.

B. Regulatory Flexibility Act

The interim rule may have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, et seq., principally with respect to its implementation of statutory requirements placing limitations upon subcontracting (section 921(c)).

Pursuant to authority contained in section 608(a) of the Regulatory Flexibility Act (5 U.S.C. 608(a)), a determination has been made that circumstances require delay in preparation of an Initial Regulatory Flexibility Analysis in order to issue regulatory guidance in consonance with the October 1, 1987, effective date of section 921 of Pub. L. 99-661. This determination is based upon the pendency of regulatory implementation by the Small Business Administration (SBA), cited above, and legislation introduced to further amend sections 8 and 15 of the Small Business Act, as amended by section 921 (see 133 Cong. Rec. S 12888 (daily ed., Sept. 26, 1987)). It is anticipated that an Initial Regulatory Flexibility Analysis pertaining to FAC 84-31 will be prepared and submitted to the Chief Counsel for Advocacy of the SBA within 120 days. Comments are invited.

Comments from small entities concerning the affected FAR subparts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite FAR Case 87-610 in correspondence.

C. Determination to Issue an Interim Rule

A determination has been made under authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) to issue the regulations in FAC 84-31 as an interim rule. This action is necessary to ensure that regulatory guidance is available to contracting officers to implement the statute upon its October 1, 1987, effective date. DoD, GSA, and NASA have determined that compelling reasons exist to promulgate an interim rule without prior opportunity for public comment. However, pursuant to Pub. L. 98-577 and FAR 1.301, public comments received in response to this interim rule

will be considered in formulating a final rule.

List of Subjects in 48 CFR Parts 14, 19, and 52

Government procurement.

Dated: October 8, 1987.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Federal Acquisition Circular

[Number 84-31]

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84-31 is effective October 1, 1987.

Eleanor R. Spector,

Deputy Assistant Secretary of Defense for Procurement.

Terence C. Golden,

Administrator.

October 7, 1987.

S.J. Evans,

Assistant Administrator for Procurement.

Federal Acquisition Circular (FAC) 84-31 amends the Federal Acquisition Regulation (FAR) as specified below:

Item I—Small Business Set-Asides; Implementation of Section 921 of the National Defense Authorization Act for Fiscal Year 1987 (Pub. L. 99-661)

Section 921 of the National Defense Authorization Act for Fiscal year 1987 (Pub. L. 99-661), entitled "Small Business Set-Asides," amended sections 8 and 15 of the Small Business Act (15 U.S.C. 637; 15 U.S.C. 644) in order to increase participation by small business and small disadvantaged business concerns in the Federal procurement process. Identical amendments to the Small Business Act were contained in the Department of Defense Appropriations Act, 1987 (Pub. L. 99-591). At a later date, technical corrections to the amendments were made by the Defense Technical Corrections Act of 1987 (Pub. L. 100-26). This interim rule revises certain sections of Federal Acquisition Regulation (FAR) Parts 14, 19 and 52 in order to conform FAR procurement procedures with the statutory amendments. Other provisions of section 921 which require rulemaking by the Small Business Administration (e.g., size determination program) are addressed in separate issuances by the Small Business Administration in the **Federal Register** on March 17, 1987 (52 FR 8261), and on August 31, 1987 (52 FR 32870), and, except as noted in paragraph 8 of this item, are beyond the scope of the present rulemaking.

The following summarizes the principal FAR revisions made by the interim rule and provides a parenthetical reference to the Section 921 requirement implemented by the revision:

1. FAR 19.001 is revised to add a definition of "fair market price," consistent with previous use of the term (see former FAR 19.806-1(a)) in order to give effect to the requirement that set-aside and 8(a) contracts not exceed fair market prices. (Sec. 921(b) (1) and (2)). FAR 19.806-1(a) is deleted as surplusage.

2. FAR 19.202-6 is added to provide additional guidance to contracting officers in determining fair market price in view of the statutory award price restriction. (Sec. 921(b) (1) and (2)).

3. FAR 19.501(j) is added as a further reference to the award price restriction (Sec. 921(b) (1) and (2)). The phrase "except as authorized by law" is added to accommodate certain statutory exceptions to the limitation (e.g., Sec. 1207, Pub. L. 99-661 permits payment of a 10 percent price differential in DOD contract awards to small disadvantaged businesses) (see 52 FR 16263; May 4, 1987).

4. FAR 19.501(k) is added to implement statutory direction concerning release of names and addresses of prospective offerors. (Sec. 921(e)).

5. FAR 19.502-1 is amended to reflect statutory guidance that separate industry categories are to be used in ensuring that a fair proportion of contract awards are made to small businesses. (Sec. 921(a)).

6. FAR 19.508(e) is added to prescribe a contract clause relating to the composition of a contractor's labor force, as a limitation upon subcontracting, for use under total and partial small business set-asides and 8(a) contracts. (Sec. 921(c)).

7. FAR 19.805(b) is added to reference the fair market price limitation concerning 8(a) contracts. (Sec. 921(b)(2)).

8. FAR 52.219-14, Limitations on Subcontracting, is added to provide a contract clause for use in set-aside and 8(a) contracts regarding the composition of a contractor's labor force. (Sec. 921(c)). The statute requires in service contracts (except construction) that at least 50 percent of a contractor's personnel costs be expended for employees of the concern. Similarly, in supply contracts (other than those involving regular dealers) 50 percent of the cost of manufacturing supplies, excluding materials, must be performed by the concern. With respect to construction contracts, the statute

requires the Small Business Administration to establish similar requirements concerning general and specialty construction contracts. Pending completion of the public comment process (see 52 FR 8261; 52 FR 32870), the Small Business Administration has requested that the FAR Councils adopt the percentage limitations contained in the clause on an interim basis until a final rule is promulgated by the Small Business Administration.

Therefore, 48 CFR Parts 14, 19, and 52 are amended as set forth below:

1. The authority citation for Parts 14, 19, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 14—SEALED BIDDING

14.205-5 [Amended]

2. Section 14.205-5 is amended in paragraph (a) by removing the period at the end of the sentence and adding a parenthetical cross reference "(see also 19.501(k))."

PART 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

3. Section 19.001 is amended by adding alphabetically a definition to read as follows:

19.001 Definitions.

"Fair market price," as used in this part, means a price based on reasonable costs under normal competitive conditions and not on lowest possible cost (see 19.202-6).

4. Section 19.202-6 is added to read as follows:

19.202-6 Determination of fair market price.

Agencies shall determine the fair market price of small business set-aside and 8(a) contracts as follows:

(a) For total and partial small business set-aside contracts the fair market price to be the price achieved in accordance with the reasonable price guidelines in 19.805-2.

(b) For 8(a) contracts, both with respect to meeting the requirement at 19.805(b) and in order to accurately estimate the current fair market price and business development expense, contracting officers shall follow the procedure at 19.806-2.

5. Section 19.501 is amended by adding paragraphs (j) and (k) to read as follows:

19.501 General.

(j) Except as authorized by law, a contract may not be awarded as a result of a set-aside if the cost to the awarding agency exceeds the fair market price.

(k) After a decision to set-aside a procurement for small business concerns, the contracting officer shall, within five (5) working days after receipt of a written request, provide the requestor with a list of the names and addresses of the small business concerns expected to respond to the solicitation. However, (1) the Secretary of Defense may decline to provide this information in order to protect national security, and (2) the contracting officer is not required to release information that is not required to be released under the Freedom of Information Act (5 U.S.C. 552).

6. Section 19.502-1 is amended by revising paragraph (c) to read as follows:

19.502-1 Requirements for setting aside acquisitions.

(c) assuring that a fair proportion of Government contracts in each industry category is placed with small business concerns, and when the circumstances described in 19.502-2 or 19.502-3(a) exist.

19.508 [Amended]

7. Section 19.508 is amended by adding paragraph (e) to read as follows:

(e) The contracting officer shall insert the clause at 52.219-14, Limitations on Subcontracting, in solicitations and contracts for supplies, services, and construction, if any portion of the requirement is to be set aside for small business, or if the contract is to be awarded under Subpart 19.8

8. Section 19.805 is amended by redesignating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

19.805 Pricing the 8(a) contract.

(b) An 8(a) contract may not be awarded if the price of the contract results in a cost to the awarding agency which exceeds a fair market price.

19.806-1 [Amended]

9. Section 19.806-1 is amended by deleting paragraph (a) and redesignating the existing paragraphs (b) and (c) as paragraphs (a) and (b).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Section 52.219-14 is added to read as follows:

52.219-14 Limitations on Subcontracting.

As prescribed in 19. 508(e), insert the following clause:

Limitations on Subcontracting (October 1987)

By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract in the case of a contract for—

(a) *Services (except construction)*. At least 50 percent of the cost of contract performance

incurred for personnel shall be expended for employees of the concern.

(b) *Supplies (other than procurement from a regular dealer in such supplies)*. The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

(c) *General construction*. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.

(d) *Construction by special trade contractors*. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

(End of clause)

[FR Doc. 87-23774 Filed 10-13-87; 8:45 am]

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Best of Part 1 Federal Register

**Wednesday
October 14, 1987**

Part V

Department of Education

34 CFR Part 778

**Strengthening Research Library
Resources Program; Proposed Rule and
Notice Inviting Applications for New
Awards**

DEPARTMENT OF EDUCATION

34 CFR Part 778

Strengthening Research Library Resources Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Strengthening Research Library Resources Program. These amendments are needed to implement a program change legislated by Congress in the Higher Education Amendments of 1986. Additionally, the proposed regulations would change the point values assigned to various selection criteria.

DATES: Comments must be received on or before November 13, 1987.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Frank Stevens or Louise Sutherland, U.S. Department of Education, Office of Educational Research and Improvement, Library Programs, 555 New Jersey Avenue, NW., Washington, DC 20208-1430.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Frank Stevens or Louise Sutherland, (202) 357-6315.

SUPPLEMENTARY INFORMATION: This proposed rulemaking is primarily designed to implement a change in program operations required by the Higher Education Amendments of 1986. Prior to these amendments, only an organization that qualified as a major research library under criteria developed by the Secretary in the existing program regulations (34 CFR 778.31) was eligible to compete for a grant. These criteria, which would remain unaffected by the proposed regulations, generally favored organizations with considerable library holdings, as required under the then applicable legislation. An organization with smaller holdings, despite the significance of its library collections to scholars and researchers, could not generally qualify as a major research library.

In the Higher Education Amendments of 1986, Congress enacted a program change directing that the Secretary permit organizations otherwise found ineligible as a major research library under the Secretary's criteria to compete for a grant if additional information

provided by the organization demonstrates "the national or international significance for scholarly research of the particular collection described in the grant proposal." The proposed regulations would implement this directive.

Aside from this legislative requirement, the Secretary is also proposing changes in the numerical values associated with certain criteria used to score applications for grants. These changes were recommended by the peer reviewers that the Secretary uses to evaluate applications for grants. The proposed changes are intended to ensure better competition among applicants for grants by increasing the numerical value associated with a project's significance to scholarly research.

Finally, the existing regulations would be revised to conform with the Department's current requirements regarding the style and format of regulatory documents.

Executive Order 12291

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

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

Because these regulations would affect institutions of higher education and public and private non-profit organizations the regulations would not have an impact on small entities. These potential grantees are not defined as "small entities" in the Regulatory Flexibility Act.

Paperwork Reduction Act of 1980

Sections 778.21 and 778.22 contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372

and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. The Secretary specifically invites comments on proposed § 778.22(a), a selection criterion relating to the sufficiency of an applicant's description of its project, and whether the point value ascribed to that section should be diminished by the Secretary.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 402D, 555 New Jersey Avenue, NW., Washington, DC, 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, the Secretary also invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Education Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 778

Colleges and universities, Education, Grant programs—education, Libraries, Library and information science, Libraries—resource sharing, Networks, Reporting and recordkeeping requirements, Technology.

Dated: September 15, 1987.

William J. Bennett,
Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.091, Strengthening Research Library Resources Program)

The Secretary proposes to revise Part 778 of Title 34 of the Code of Federal Regulations to read as follows:

PART 778—STRENGTHENING RESEARCH LIBRARY RESOURCES

Subpart A—General

Sec.

- 778.1 What is the Strengthening Research Library Resources Program?
 778.2 Who is eligible for an award?
 778.3 What restrictions on eligibility apply?
 778.4 What activities may the Secretary fund?
 778.5 What priorities may the Secretary establish?
 778.6 What regulations apply?
 778.7 What definitions apply?

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make an Award?

- 778.20 How does the Secretary evaluate an application?
 778.21 What criteria does the Secretary use to evaluate an applicant as a major research library?
 778.22 What criteria does the Secretary use to evaluate the quality of a project?
 778.23 What additional factors does the Secretary consider?

Subpart D—What Conditions Must Be Met After an Award?

- 778.30 What agencies must be informed of activities funded by this program?
 Authority: 20 U.S.C. 1021, 1041, 1042, unless otherwise noted.

Subpart A—General

§ 778.1 What is the Strengthening Research Library Resources Program?

The Secretary awards grants under the Strengthening Research Library Resources Program for the purpose of promoting research and education of high quality throughout the United States by providing financial assistance to help the Nation's major research libraries—

- (a) Maintain and strengthen their collections; and
- (b) Make their holdings available to other libraries whose users have need for research materials.

(Authority: 20 U.S.C. 1021, 1041)

§ 778.2 Who is eligible for an award?

- (a) The Secretary awards grants under this program to institutions with major research libraries.
- (b) An institution with a major research library is defined as a public or private nonprofit institution, an institution of higher education (including a branch campus), an independent research library, a State or other public library, or a consortium of the above entities, having a library collection available to qualified users that—

- (1) Makes a significant contribution to higher education and research;
- (2) Is broadly based;
- (3) Is recognized as having national or international significance for scholarly research;
- (4) Is of a unique nature, containing material not widely available; and
- (5) Is in substantial demand by researchers and scholars outside the institution.

(c) The Secretary evaluates an applicant's status as a major research library on the basis of the criteria in §§ 778.20 and 778.21. If the Secretary determines that an applicant meets the criteria of a major research library, the determination is effective for each of the four succeeding fiscal year.

(d) An institution that does not meet the criteria for a major research library in §§ 778.20 and 778.21 may still be eligible to receive a grant, if it demonstrates that the library collection proposed for grant assistance is of national or international significance for scholarly research.

(e) If an applicant is a consortium or a branch campus of an institution of higher education, the library collection of the consortium or the branch campus—rather than the separate library collections of each unit comprising the consortium or the institution of higher education—must satisfy the conditions of paragraphs (b) and (c) of this section.

(Authority: 20 U.S.C. 1021, 1041, 3474)

§ 778.3 What restrictions on eligibility apply?

The Secretary does not award a grant to an applicant otherwise eligible under this program if the applicant—

- (a) Receives a grant under section 211 of the Act (College Library Resources Program) during the same fiscal year that it applies for a grant under this part; or

(b) Is eligible to receive a grant under other Federal programs, such as the Medical Library Assistance Act of 1965, for the project it proposes to receive assistance under this part, unless the applicant shows that—

- (1) Payments under this part will not duplicate payments under those other Federal programs; and
- (2) Special circumstances warrant assistance under this part.

(Authority: 20 U.S.C. 1021, 1041, 3474)

§ 778.4 What activities may the Secretary fund?

Funds provided under this part may be used for one or both of the purposes in § 778.1. Authorized activities include, but are not limited to, the following:

- (a) Acquiring books and other materials to be used for library purposes.
- (b) Binding, rebinding, and repairing books and other materials to be used for library purposes, and preserving these materials by making photocopies, treating paper or bindings to lengthen their life, or other means.
- (c) Cataloging, abstracting, and making available lists and guides of the library collection.
- (d) Distributing library materials and bibliographic information to users beyond the primary clientele by mail, or by electronic, photographic, magnetic, optical, or other means.
- (e) Acquiring additional equipment and supplies that assist in making library materials available to users beyond the primary clientele.
- (f) Hiring necessary additional staff to carry out activities funded under this part.
- (g) Communicating with other institutions.
- (h) Performing evaluations.
- (i) Disseminating information.

(Authority: 20 U.S.C. 1021)

§ 778.5 What priorities may the Secretary establish?

The Secretary may give priority to applications proposing one or more of the following activities:

- (a) Adapting, converting, or creating library records for unique research materials which expand or otherwise complement the national bibliographic data base and which conform to highest national standards.
- (b) Augmenting unique collections of specialized research materials.
- (c) Preserving or maintaining unique research materials in danger of deterioration.
- (d) Promoting the sharing of library resources.

(Authority: 20 U.S.C. 1021)

(Authority: 20 U.S.C. 1021)

§ 778.6 What regulations apply?

The following regulations apply to the Strengthening Research Library Resources Program:

- (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions That Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in this Part 778.

(Authority: 20 U.S.C. 1021)

§ 778.7 What definitions apply?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Acquisition	Nonprofit
Applicant	Private
Application	Project
Department	Public
EDGAR	Secretary
Fiscal year	State
Grant	

(b) *Other definitions.* The following definitions also apply to this part:

"Act" means the Higher Education Act of 1965, as amended.

"Branch campus" means a permanent campus of an institution of higher education located in a community of the United States different from that of the parent institution, not within a reasonable commuting distance from the main campus, that is separately accredited, and that provides—through its own budgetary and hiring authority, and faculty and administrative staff—postsecondary educational programs for which library facilities, services, and materials are necessary.

"Consortium" means a nonprofit organization of library institutions established or operated for the purpose of sharing library resources, coordinating collection development, or engaging in similar cooperative activities.

"Institution of higher education" means a public or private nonprofit institution of higher education as defined in 34 CFR 668.2.

"Primary clientele" means students, faculty, or other registered users of the library of the applicant or grantee.

"State agency" means the State agency designated under section 1203 of the Act.

(Authority: 20 U.S.C. 1021)

Subpart B—[Reserved]**Subpart C—How Does the Secretary Make an Award?****§ 778.20 How does the Secretary evaluate an application?**

(a) In evaluating applications for new grants, the Secretary uses two sets of criteria.

(b) (1) The Secretary determines an applicant's status as a major research library on the basis of the criteria in § 778.21. An applicant that receives a score of 65 points or more under the criteria in § 778.21 is determined to be a major research library and qualifies to have its project evaluated for an award.

(2) The Secretary notifies an applicant that does not receive a score of 65 points or more under the criteria in § 778.21 that the application will still be

considered for funding if additional information or documents are provided to demonstrate the national or international significance for scholarly research of the particular collection described in the grant application.

(c) The Secretary evaluates the quality of the applications from applicants that qualify under paragraphs (b)(1) and (b)(2) of this section, using the criteria in § 778.22.

(Authority: 20 U.S.C. 1021, 3474)

§ 778.21 What criteria does the Secretary use to evaluate an applicant as a major research library?

The Secretary uses the criteria in this section to evaluate an applicant's status as a major research library. The maximum score is 100 points. The Secretary reviews each application to determine the extent to which the applicant's library collection—

(a) Makes a significant contribution to higher education and research as measured by factors such as—(20 points)

(1) The major research projects for which the library has made resources available in the past fiscal year;

(2) The amount the applicant expended in research funds from all sources and the number of projects conducted by the institution with these funds in the past fiscal year; and

(3) Evidence that the institution is established and recognized in the field of advanced research and scholarship;

(b) Is broadly based as measured by factors such as—(20 points)

(1) The number of subject areas covered or the comprehensiveness of special collections;

(2) The number of volumes and titles, manuscripts, microforms, and other types of materials;

(3) The number of volumes and titles and other materials added to the collection in the previous fiscal year; and

(4) The number of current periodical subscriptions;

(c) Is recognized as having national or international significance for scholarly research as measured by factors such as—(20 points)

(1) The number or percentage of interlibrary loans made or copies of materials provided by the applicant during the past year to libraries outside the geographical region in which the applicant is located;

(2) The number or percentage of interlibrary loans made or copies provided during the past year to libraries located outside the United States; and

(3) The extent to which loans of the applicant's materials described in

paragraphs (c)(1) and (c)(2) of this section are made under formal, cooperative arrangements;

(d) Is of a unique nature, and contains material not widely available, as measured by factors such as—(20 points)

(1) The number and nature of special collections containing research materials not widely available;

(2) The availability of printed, computerized, or otherwise published catalogs or other guides to the special collections; and

(3) Evidence which demonstrates possession of uncommon library resources necessary to support advanced research and scholarship; and

(e) Is in substantial demand by researchers and scholars not connected with the applicant institution as measured by factors such as—(20 points)

(1) The number or percentage of loan requests coming from users outside the applicant's primary clientele;

(2) The extent to which the applicant lends more on interlibrary loan than it borrows;

(3) The number or percentage of researchers and scholars outside the applicant's primary clientele who use its collection;

(4) The number of institutions with which the applicant has formal cooperative agreements to provide library and information services for researchers and scholars outside the applicant's primary clientele; and

(5) Membership is a major computer-based bibliographic database.

(Authority: 20 U.S.C. 1021, 1041)

§ 778.22 What criteria does the Secretary use to evaluate the quality of a project?

The Secretary uses the following criteria to evaluate the quality of the proposed project. The maximum score is 100 points.

(a) *Description of the project.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The purpose of the project is clearly stated;

(2) There is a concise description of the project; and

(3) There is a clear statement of the project objectives.

(b) *Significance of the project.* (45 points) The Secretary reviews each application to determine the importance of the project for scholarly research and inquiry by assessing—

(1) The uniqueness of the project;

(2) The size of the audience the project is intended to serve;

(3) The need for the project;

(4) The extent to which the project will increase the availability of the applicant's research collections;

(5) The extent to which the proposed project will help the applicant maintain and strengthen its collections, particularly collections which have national or international significance for scholarly research; and

(6) The extent to which the applicant intends to disseminate the project accomplishments to the scholarly and professional communities.

(7) The extent to which there will be significant project accomplishments as a result of cooperative undertaking when a joint application is submitted by two or more institutions.

(c) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The design of the project;

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

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

(4) The quality of the applicant's plans to use its resources and personnel to achieve each objective.

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

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

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

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

(iii) The time that these key personnel will commit to the project.

(2) To determine the qualifications of these key personnel, the Secretary considers—

(i) Experience, training, and professional productivity in fields related to the objectives of the project; and

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

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

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

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

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

(1) Appropriate to the project;

(2) Objective; and

(3) Produce data that are quantifiable.

Cross-reference. See 34 CFR 75.590

Evaluation by the grantee.

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

(h) *Institutional commitment.* (5 points) The Secretary reviews each application to determine the extent of the applicant's commitment to the project, its capability to continue the project, and the likelihood that it will

build upon the project when Federal assistance ends.

(Authority: 20 U.S.C. 1021, 1041)

§ 778.23 What additional factors does the Secretary consider?

(a) After evaluating the applications according to the criteria in § 778.22, the Secretary determines whether the most highly rated projects are broadly and equitably distributed throughout the Nation.

(b) The Secretary may select other applications for funding if doing so would improve the geographical distribution of—

(1) Projects funded under this competition; or

(2) Projects funded under this program during the preceding five fiscal years.

(c) In determining whether to select other applications under paragraph (b) of this section, the Secretary considers the impact of that determination on the needs of the research community.

(Authority: 20 U.S.C. 1042)

Subpart D—What Conditions Must Be Met After an Award?

§ 778.30 What agencies must be informed of activities funded under this program?

Each institution of higher education which receives a grant under this part shall annually inform the State agency designated under section 1203 of the Higher Education Act, as amended, of its activities under this part.

(Authority: 20 U.S.C. 1022)

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