

DEPARTMENT OF EDUCATION**34 CFR Parts 606 and 607****Strengthening Institutions Program and Developing Hispanic-Serving Institutions Program****AGENCY:** Department of Education.**ACTION:** Final regulations.

SUMMARY: We amend the regulations governing the Strengthening Institutions and Developing Hispanic-Serving Institutions (HSI) Programs to conform them to statutory changes made to those programs by the Higher Education Amendments of 1998 (1998 Amendments). We have also moved the regulations for the HSI Program to a new part. These regulations also make technical corrections and changes.

EFFECTIVE DATE: These regulations are effective January 14, 2000.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The Strengthening Institutions Program is authorized under title III, part A of the Higher Education Act of 1965 as amended (HEA). The HSI Program is now authorized under title V of the HEA. However, prior to the 1998 Amendments, it was also authorized under title III, part A of the HEA. Accordingly, because the HSI Program was moved from title III to title V of the HEA, we moved the regulations governing the program from part 607 to a new part, part 606. However, new part 606 either contains regulatory provisions already included in part 607 or statutory changes made to the HSI Program by the 1998 Amendments.

The 1998 Amendments made several other changes to the HEA with regard to those two programs that require conforming changes to the regulations for the two programs. These statutory amendments incorporated in the regulations in part 606 include:

- Expanding the specific allowable activities, and
- Providing that an institution that receives a five-year individual grant under the HSI Program is not eligible to receive an additional development grant

until two years after the date on which the five-year grant terminates.

The statutory amendments incorporated in the regulations in part 607 include:

- Expanding the specific allowable activities, and
- Extending from one year to two years the period that a previous grantee must sit out before it can receive another individual development grant.

The 1998 Amendments also created several new programs under the Strengthening Institutions Program umbrella. These programs provide grants to Indian Tribal Colleges and Universities, Alaska Native-serving institutions, and Native Hawaiian-serving institutions. Grants made to these institutions under these programs are subject to the requirements in part 607. However, to implement these programs, part 607 is further amended to incorporate the following statutory provisions that:

- Authorize grants to Tribal Colleges and Universities to plan, develop, and carry out approved program activities.
- Define the terms "Indian", "Indian Tribe" and "Tribal College or University".
- Allow the Secretary to waive the needy student eligibility requirement if the applicant is a Tribal College or University.
- List activities that Tribal Colleges and Universities may carry out under a grant.
- Provide that no Tribal College or University that receives funds under the Indian Tribal Colleges and Universities Program may concurrently receive other grant funds under the Strengthening Institutions Program, Strengthening Historically Black Colleges and Universities Program, or Strengthening Historically Black Graduate Institutions Program.

- Require a five-year plan for improving the assistance provided by the Tribal College or University to Indian students, increasing the rates at which Indian secondary school students enroll in higher education, and increasing overall postsecondary retention rates for Indian students.

- Authorize grants to assist Alaska Native-serving and Native Hawaiian-serving institutions of higher education to plan, develop and carry out approved program activities.

- Define the terms "Alaska Native", "Alaska Native-serving Institution" and "Native Hawaiian-serving institution".

- List activities that Alaska Native-serving institutions of higher education and Native Hawaiian-serving institutions of higher education may carry out under a grant.

- Provide that no Alaska Native-serving institution or Native Hawaiian-serving institution that receives funds under the programs specifically serving those institutions may concurrently receive other grant funds under the Strengthening Institutions Program, Strengthening Historically Black Colleges and Universities Program, or Strengthening Historically Black Graduate Institutions Program.

- Require a five-year plan for improving the assistance provided by the Alaska Native-serving institution or the Native Hawaiian-serving institution to Alaska Native students or Native Hawaiian students.

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 government for coordination and review of proposed Federal financial assistance.

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

Assessment of Education Impact

Based on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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Waiver of Proposed Rulemaking

It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations in accordance with the Administrative Procedure Act (5 U.S.C. 553). However, since these changes merely incorporate statutory amendments into the regulations and do not implement substantive policy, public comment could have no effect. Therefore, the Secretary has determined pursuant to 5 U.S.C. 553(b)(B) that public comment on the regulations is unnecessary and contrary to the public interest.

List of Subjects in 34 CFR Parts 606 and 607

Colleges and universities, Grant programs—education, Reporting and recordkeeping requirements.

Dated: December 8, 1999.

A. Lee Fritschler,

Assistant Secretary, Office of Postsecondary Education.

For the reasons discussed in the preamble, the Secretary amends title 34 of the Code of Federal Regulations by adding a new part 606 and amending part 607 as follows:

1. A new part 606 is added to read as follows:

PART 606—DEVELOPING HISPANIC-SERVING INSTITUTIONS PROGRAM

Subpart A—General

Sec.

- 606.1 What is the Developing Hispanic-Serving Institutions Program?
- 606.2 What institutions are eligible to receive a grant under the Developing Hispanic-Serving Institutions Program?
- 606.3 What is an enrollment of needy students?
- 606.4 What are low educational and general expenditures?
- 606.5 How does an institution apply to be designated an eligible institution?
- 606.6 What regulations apply?
- 606.7 What definitions apply?
- 606.8 What is a comprehensive development plan and what must it contain?
- 606.9 What are the type, duration, and limitations in the awarding of grants under this part?
- 606.10 What activities may and may not be carried out under a grant?

Subpart B—How Does an Institution Apply for a Grant?

- 606.11 What must be included in individual development grant applications?
- 606.12 What must be included in cooperative arrangement grant applications?
- 606.13 How many applications for a development grant may an institution submit?

Subpart C—How Does the Secretary Make an Award?

- 606.20 How does the Secretary choose applications for funding?
- 606.21 What are the selection criteria for planning grants?
- 606.22 What are the selection criteria for development grants?
- 606.23 What special funding consideration does the Secretary provide?
- 606.24 How does the Secretary use an applicant's performance under a previous development grant when awarding a development grant?
- 606.25 What priority does the Secretary use in awarding cooperative arrangement grants?

Subpart D—What Conditions Must a Grantee Meet?

- 606.30 What are allowable costs and what are the limitations on allowable costs?
- 606.31 How does a grantee maintain its eligibility?

Authority: 20 U.S.C. 1101 *et seq.*, unless otherwise noted.

Subpart A—General

§ 606.1 What is the Developing Hispanic-Serving Institutions Program?

The purpose of the Developing Hispanic-Serving Institutions Program is to provide grants to eligible institutions of higher education to—

- (a) Expand educational opportunities for, and improve the academic attainment of, Hispanic students; and
- (b) Expand and enhance the academic offerings, program quality, and institutional stability of colleges and universities that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and other low-income individuals complete postsecondary degrees.

(Authority: 20 U.S.C. 1101)

§ 606.2 What institutions are eligible to receive a grant under the Developing Hispanic-Serving Institutions Program?

- (a) An institution of higher education is eligible to receive a grant under this part if—
 - (1) At the time of application, it has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students;
 - (2) It provides assurances that not less than 50 percent of its Hispanic students are low-income individuals;
 - (3) It has an enrollment of needy students as described in § 606.3(a), unless the Secretary waives this requirement under § 606.3(b);
 - (4) It has low average educational and general expenditures per full-time equivalent undergraduate student as described in § 606.4(a), unless the Secretary waives this requirement under § 606.4(c);

(5) It is legally authorized by the State in which it is located to be a junior college or to provide an educational program for which it awards a bachelor's degree; and

(6) It is accredited or preaccredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered.

(b) A branch campus of a Hispanic-Serving institution is eligible to receive a grant under this part if—

(1) The institution as a whole meets the requirements of paragraph (a) of this section; and

(2) The branch satisfies the requirements of paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section.

(c)(1) An institution that receives a grant under the Strengthening Institutions Program (34 CFR part 607) or the Strengthening Historically Black Colleges and Universities Program (34 CFR part 608) for a particular fiscal year is not eligible to receive a grant under this part for that same fiscal year, and may not relinquish its grant under those programs to secure a grant under this part.

(2) A Hispanic-Serving institution under this part may not concurrently receive grant funds under the Strengthening Institutions Program, Strengthening Historically Black Colleges and Universities Program, or Strengthening Historically Black Graduate Institutions Program.

(Authority: 20 U.S.C. 1101a and 1101d)

§ 606.3 What is an enrollment of needy students?

(a) Except as provided in paragraph (b) of this section, for the purpose of § 606.2(a)(3), an applicant institution has an enrollment of needy students if in the base year—

(1) At least 50 percent of its degree students received student financial assistance under one or more of the following programs: Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, Federal Work-Study, and Federal Perkins Loan; or

(2) The percentage of its undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants exceeded the median percentage of undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants at comparable institutions that offer similar instruction.

(b) The Secretary may waive the requirement contained in paragraph (a) of this section if the institution demonstrates that—

(1) The State provides more than 30 percent of the institution's budget and the institution charges not more than \$99.00 for tuition and fees for an academic year;

(2) At least 30 percent of the students served by the institution in the base year were students from low-income families;

(3) The institution substantially increases the higher education opportunities for low-income students who are also educationally disadvantaged, underrepresented in postsecondary education, or minority students;

(4) The institution substantially increases the higher education opportunities for individuals who reside in an area that is not included in a "metropolitan statistical area" as defined by the Office of Management and Budget and who are unserved by other postsecondary institutions; or

(5) The institution will, if granted the waiver, substantially increase the higher education opportunities for Hispanic Americans.

(c) For the purpose of paragraph (b) of this section, the Secretary considers "low-income" to be an amount which does not exceed 150 percent of the amount equal to the poverty level as established by the United States Bureau of the Census.

(d) Each year, the Secretary notifies prospective applicants of the low-income figures through a notice published in the **Federal Register**.

(Authority: 20 U.S.C. 1101a and 1103a)

§ 606.4 What are low educational and general expenditures?

(a)(1) Except as provided in paragraph (b) of this section, for the purpose of § 606.2(a)(2), an applicant institution's average educational and general expenditures per full-time equivalent undergraduate student in the base year must be less than the average educational and general expenditures per full-time equivalent undergraduate student in that year of comparable institutions that offer similar instruction.

(2) For the purpose of paragraph (a)(1) of this section, the Secretary determines the average educational and general expenditure per full-time equivalent undergraduate student for institutions with graduate students that do not differentiate between graduate and undergraduate educational and general expenditures by discounting the graduate enrollment using a factor of 2.5 times the number of graduate students.

(b) Each year, the Secretary notifies prospective applicants through a notice in the **Federal Register** of the average

educational and general expenditures per full-time equivalent undergraduate student at comparable institutions that offer similar instruction.

(c) The Secretary may waive the requirement contained in paragraph (a) of this section, if the Secretary determines, based upon persuasive evidence provided by the institution, that—

(1) The institution's failure to satisfy the criteria in paragraph (a) of this section was due to factors which, if used in determining compliance with those criteria, distorted that determination; and

(2) The institution's designation as an eligible institution under this part is otherwise consistent with the purposes of this part.

(d) For the purpose of paragraph (c)(1) of this section, the Secretary considers that the following factors may distort an institution's educational and general expenditures per full-time equivalent undergraduate student—

(1) Low student enrollment;

(2) Location of the institution in an unusually high cost-of-living area;

(3) High energy costs;

(4) An increase in State funding that was part of a desegregation plan for higher education; or

(5) Operation of high cost professional schools such as medical or dental schools.

(Authority: 20 U.S.C. 1101a and 1103a)

§ 606.5 How does an institution apply to be designated an eligible institution?

(a) An institution applies to the Secretary to be designated an eligible institution under this part by first submitting an application to the Secretary in the form, manner, and time established by the Secretary. The application must contain—

(1) The information necessary for the Secretary to determine whether the institution satisfies the requirements of §§ 606.2, 606.3(a), and 606.4(a);

(2) Any waiver request under §§ 606.3(b) and 606.4(c); and

(3) Information or explanations justifying any requested waiver.

(b) An institution that wishes to receive a grant under this part must submit, as part of its application for that grant, an assurance that when it submits its application—

(1) Its enrollment of undergraduate full-time equivalent students is at least 25 percent Hispanic students; and

(2) Not less than 50 percent of its Hispanic students are low-income individuals.

(Authority: 20 U.S.C. 1101a and 1103)

§ 606.6 What regulations apply?

The following regulations apply to the Developing Hispanic-Serving Institutions Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs), except 34 CFR 75.128(a)(2) and 75.129(a) in the case of applications for cooperative arrangements.

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 606.

(Authority: 20 U.S.C. 1101 *et seq.*)

§ 606.7 What definitions apply?

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

EDGAR
Fiscal year
Grant
Grantee
Grant period
Nonprofit
Private
Project period
Public
Secretary
State

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

Accredited means the status of public recognition which a nationally recognized accrediting agency or association grants to an institution which meets certain established qualifications and educational standards.

Activity means an action that is incorporated into an implementation plan designed to meet one or more objectives. An activity is a part of a project and has its own budget that is approved to carry out the objectives of that subpart.

Base year means the second fiscal year preceding the fiscal year for which an institution seeks a grant under this part.

Branch campus means a unit of a college or university that is

geographically apart from the main campus of the college or university and independent of that main campus. The Secretary considers a unit of a college or university to be independent of the main campus if the unit—

- (1) Is permanent in nature;
- (2) Offers courses for credit and programs leading to an associate or bachelor's degree; and
- (3) Is autonomous to the extent that it has—
 - (i) Its own faculty and administrative or supervisory organization; and
 - (ii) Its own budgetary and hiring authority.

Comparable institutions that offer similar instruction means institutions that are being compared with an applicant institution and that fall within one of the following four categories—

- (1) Public junior or community colleges;
- (2) Private nonprofit junior or community colleges;
- (3) Public institutions that offer an educational program for which they offer a bachelor's degree; or
- (4) Private nonprofit institutions that offer an educational program for which they offer a bachelor's degree.

Cooperative arrangement means an arrangement to carry out allowable grant activities between an institution eligible to receive a grant under this part and another eligible or ineligible institution of higher education, under which the resources of the cooperating institutions are combined and shared to better achieve the purposes of this part and avoid costly duplication of effort.

Degree student means a student who enrolls at an institution for the purpose of obtaining the degree, certificate, or other recognized educational credential offered by that institution.

Developmental program and services means new or improved programs and services, beyond those regularly budgeted, specifically designed to improve the self sufficiency of the school.

Educational and general expenditures means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

Educationally disadvantaged means a college student who requires special services and assistance to enable them to succeed in higher education. The phrase includes, but is not limited to, students who come from—

- (1) Economically disadvantaged families;
- (2) Limited English proficiency families;
- (3) Migrant worker families; or
- (4) Families in which one or both of their parents have dropped out of secondary school.

Federal Pell Grant Program means the grant program authorized by title IV—A—1 of the HEA.

Federal Perkins Loan Program, formerly called the National Direct Student Loan Program, means the loan program authorized by title IV—E of the HEA.

Federal Supplemental Education Opportunity Grant Program means the grant program authorized by title IV—A—3 of the HEA.

Federal Work-Study Program means the part-time employment program authorized under title IV—C of the HEA.

Full-time equivalent students means the sum of the number of students enrolled full-time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

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

Hispanic student means a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

Institution of higher education means an educational institution defined in section 101 of the HEA.

Junior or community college means an institution of higher education—

- (1) That admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;
- (2) That does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

- (3) That—
 - (i) Provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree; or
 - (ii) Offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

Low-income individual means an individual from a family whose taxable

income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

Minority student means a student who is an Alaska Native, American Indian, Asian-American, Black (African-American), Hispanic American, Native Hawaiian, or Pacific Islander.

Nationally recognized accrediting agency or association means an accrediting agency or association that the Secretary has recognized to accredit or preaccredit a particular category of institution in accordance with the provisions contained in 34 CFR part 603. The Secretary periodically publishes a list of those nationally recognized accrediting agencies and associations in the **Federal Register**.

Operational programs and services means the regular, ongoing budgeted programs and services at an institution.

Preaccredited means a status that a nationally recognized accrediting agency or association, recognized by the Secretary to grant that status, has accorded an unaccredited institution that is progressing toward accreditation within a reasonable period of time.

Project means all the funded activities under a grant.

Self-sufficiency means the point at which an institution is able to survive without continued funding under the Developing Hispanic-Serving Institutions Program.

Underrepresented means proportionate representation as measured by degree recipients, that is less than the proportionate representation in the general population—

- (1) As indicated by—
 - (i) The most current edition of the Department's *Digest of Educational Statistics*;
 - (ii) The National Research Council's *Doctorate Recipients from United States Universities*; or
 - (iii) Other standard statistical references, as announced annually in the **Federal Register** notice inviting applications for new awards under this program; or
- (2) As documented by national survey data submitted to and accepted by the Secretary on a case-by-case basis.

(Authority: 20 U.S.C. 1101 *et seq.*; OMB Directive No. 15)

§ 606.8 What is a comprehensive development plan and what must it contain?

(a) A comprehensive development plan is an institution's strategy for achieving growth and self-sufficiency by strengthening its—

- (1) Academic programs;
- (2) Institutional management; and
- (3) Fiscal stability.

(b) The comprehensive development plan must include the following:

(1) An analysis of the strengths, weaknesses, and significant problems of the institution's academic programs, institutional management, and fiscal stability.

(2) A delineation of the institution's goals for its academic programs, institutional management, and fiscal stability, based on the outcomes of the analysis described in paragraph (b)(1) of this section.

(3) Measurable objectives related to reaching each goal and timeframes for achieving the objectives.

(4) Methods and resources that will be used to institutionalize practices and improvements developed under the proposed project.

(5) Its five year plan to improve its services to Hispanic and other low-income students.

(Authority: 20 U.S.C. 1101 *et seq.*)

§ 606.9 What are the type, duration, and limitations in the awarding of grants under this part?

(a)(1) Under this part, the Secretary may award planning grants and two types of development grants, individual development grants and cooperative arrangement development grants.

(2) Planning grants may be awarded for a period not to exceed one year.

(3) Either type of development grant may be awarded for a period of five years.

(b)(1) An institution that received an individual development grant of five years may not subsequently receive another individual development grant for a period of two years from the date on which the five-year grant terminates.

(2) A cooperative arrangement grant is not considered to be an individual development grant under paragraph (b)(1) of this section.

(Authority: 20 U.S.C. 1101c and 1103c)

§ 606.10 What activities may and may not be carried out under a grant?

(a) *Planning grants.* Under a planning grant, a grantee shall formulate—

(1) A comprehensive development plan described in § 606.8; and

(2) An application for a development grant.

(b) *Development grants—allowable activities.* Under a development grant, except as provided in paragraph (c) of this section, a grantee shall carry out activities that implement its comprehensive development plan and hold promise for strengthening the institution. Activities that may be

carried out include, but are not limited to—

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities.

(3) Support of faculty exchanges, faculty development, curriculum development, academic instruction, and faculty fellowships to assist in attaining advanced degrees in the fellow's field of instruction.

(4) Purchase of library books, periodicals, and other educational materials, including telecommunications program material.

(5) Tutoring, counseling, and student service programs designed to improve academic success.

(6) Funds management, administrative management, and acquisition of equipment for use in strengthening funds management.

(7) Joint use of facilities, such as laboratories and libraries.

(8) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(9) Establishing or improving an endowment fund, provided the grantee uses no more than 20 percent of its grant funds for this purpose and at least matches those grant funds with non-Federal funds.

(10) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

(11) Establishing or enhancing a program of teacher education designed to qualify students to teach in public elementary or secondary schools.

(12) Establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education.

(13) Expanding the number of Hispanic and other underrepresented graduate and professional students that can be served by the institution by expanding courses and institutional resources.

(14) Other activities that contribute to carrying out the purposes of this program.

(c) *Development grants—unallowable activities.* A grantee may not carry out the following activities or pay the following costs under a development grant:

(1) Activities that are not included in the grantee's approved application.

(2) Activities that are inconsistent with any State plan for higher education that is applicable to the institution, including, but not limited to, a State plan for desegregation of higher education.

(3) Activities or services that relate to sectarian instruction or religious worship.

(4) Activities provided by a school or department of divinity. For the purpose of this provision, a "school or department of divinity" means an institution, or a department of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter into some other religious vocation or to prepare them to teach theological subjects.

(5) Developing or improving non-degree or non-credit courses other than basic skills development courses.

(6) Developing or improving community-based or community services programs, unless the program provides academic-related experiences or academic credit toward a degree for degree students, or, unless it is a program or services to encourage elementary and secondary school students to develop the academic skills and the interest to pursue postsecondary education.

(7) Purchase of standard office equipment, such as furniture, file cabinets, bookcases, typewriters, or word processors.

(8) Payment of any portion of the salary of a president, vice president, or equivalent officer who has college-wide administrative authority and responsibility at an institution to fill a position under the grant such as project coordinator or activity director.

(9) Costs of organized fund-raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions.

(10) Costs of student recruitment such as advertisements, literature, and college fairs.

(11) Services to high school students, unless they are services to encourage such students to develop the skills and the interest to pursue postsecondary education.

(12) Instruction in the institution's standard courses as indicated in the institution's catalog.

(13) Costs for health and fitness programs, transportation, and day care services.

(14) Student activities such as entertainment, cultural, or social enrichment programs, publications, social clubs, or associations.

(15) Activities that are operational in nature rather than developmental in nature.

(Authority: 20 U.S.C. 1101 *et seq.*)

Subpart B—How Does an Institution Apply for a Grant?

§ 606.11 What must be included in individual development grant applications?

In addition to the information needed by the Secretary to determine whether the institution should be awarded a grant under the funding criteria contained in subpart C, an application for a development grant must include—

- (a) The institution's comprehensive development plan;
- (b) A description of the relationship of each activity for which grant funds are requested to the relevant goals and objectives of its plan;
- (c) A description of any activities that were funded under previous development grants awarded under the Developing Hispanic-Serving Institutions Program that expired within five years of when the development grant will begin and the institution's justification for not completing the activities under the previous grant, if applicable;
- (d) If the applicant is applying to carry out more than one activity—

(1) A description of those activities that would be a sound investment of Federal funds if funded separately;

(2) A description of those activities that would be a sound investment of Federal funds only if funded with the other activities; and

(3) A ranking of the activities in preferred funding order.

(Approved by the Office of Management and Budget under control number 1840-0114)

(Authority: 20 U.S.C. 1101 *et seq.*)

§ 606.12 What must be included in cooperative arrangement grant applications?

(a)(1) Institutions applying for a cooperative arrangement grant shall submit only one application for that grant regardless of the number of institutions participating in the cooperative arrangement.

(2) The application must include the names of each participating institution, the role of each institution, and the rationale for each eligible participating institution's decision to request grant funds as part of a cooperative arrangement rather than as an individual grantee.

(b) If the application is for a development grant, the application must contain—

(1) Each participating institution's comprehensive development plan;

(2) The information required under § 606.11; and

(3) An explanation from each eligible participating institution of why participation in a cooperative arrangement grant rather than performance under an individual grant will better enable it to meet the goals and objectives of its comprehensive development plan at a lower cost.

(4) The name of the applicant for the group that is legally responsible for—

- (i) The use of all grant funds; and
- (ii) Ensuring that the project is carried out by the group in accordance with Federal requirements. (Approved by the Office of Management and Budget under control number 1840-0114)

(Authority: 20 U.S.C. 1103 and 1103e)

§ 606.13 How many applications for a development grant may an institution submit?

In any fiscal year, an institution of higher education may—

(a) Submit an application for an individual development grant; and

(b) Be part of a cooperative arrangement application.

(Authority: 20 U.S.C. 1101 *et seq.*)

Subpart C—How Does the Secretary Make an Award?

§ 606.20 How does the Secretary choose applications for funding?

(a) The Secretary evaluates an application on the basis of the criteria in—

(1) Sections 606.21 and 606.23 for a planning grant; and

(2) Sections 606.22, 606.23, 606.24, and 606.25 for a development grant.

(b)(1) The Secretary awards up to 100 points for the criteria in § 606.21 and up to 100 points for the criteria in § 606.22.

(2) The maximum possible score for each complete criterion is in parentheses.

(c)(1) The Secretary considers funding an application for a planning grant that scores at least 50 points under § 606.21.

(2) The Secretary considers funding an application for a development grant that—

(i) Scores at least 50 points under § 606.22;

(ii) Is submitted with a comprehensive development plan that satisfies all the elements required of such a plan under § 606.8; and

(iii) In the case of an application for a cooperative arrangement grant, demonstrates that the grant will enable

each eligible participant to meet the goals and objectives of its comprehensive development plan better and at a lower cost than if each eligible participant were funded individually.

(Authority: 20 U.S.C. 1101 *et seq.*)

§ 606.21 What are the selection criteria for planning grants?

The Secretary uses the following criteria to evaluate an application to determine whether the applicant will produce a good comprehensive development plan and a fundable application:

(a) *Design of the planning process.*

(Total: 60 points) The Secretary reviews each application to determine the quality of the planning process that the applicant will use to develop a comprehensive development plan and an application for a development grant based on the extent to which—

(1) The planning process is clearly and comprehensively described and based on sound planning practice (15 points);

(2) The president or chief executive officer, administrators and other institutional personnel, students, and governing board members systematically and consistently will be involved in the planning process (15 points);

(3) The applicant will use its own resources to help implement the project (10 points); and

(4) The planning process is likely to achieve its intended results (20 points).

(b) *Key personnel.* (Total: 20 points) The Secretary reviews each application to determine the quality of key personnel to be involved in the project based on the extent to which—

(1) The past experience and training of key personnel such as the project coordinator and persons who have key roles in the planning process are suitable to the tasks to be performed (10 points); and

(2) The time commitments of key personnel are adequate (10 points).

(c) *Project Management.* (Total: 15 points) The Secretary reviews each application to determine the quality of the plan to manage the project effectively based on the extent to which—

(1) The procedures for managing the project are likely to ensure effective and efficient project implementation (10 points); and

(2) The project coordinator has sufficient authority, including access to the president or chief executive officer, to conduct the project effectively (5 points).

(d) *Budget.* (Total: 5 points) The Secretary reviews each application to

determine the extent to which the proposed project costs are necessary and reasonable. (Approved by the Office of Management and Budget under control number 1840–0114)

(Authority: 20 U.S.C. 1101 *et seq.*)

§ 606.22 What are the selection criteria for development grants?

The Secretary uses the following criteria to evaluate applications for development grants:

(a) *Quality of the applicant's comprehensive development plan.* (Total: 30 points) The extent to which—

(1) The strengths, weaknesses, and significant problems of the institution's academic programs, institutional management, and fiscal stability are clearly and comprehensively analyzed and result from a process that involved major constituencies of the institution. (12 points);

(2) The goals for the institution's academic programs, institutional management, and fiscal stability are realistic and based on comprehensive analysis. (5 points);

(3) The objectives stated in the plan are measurable, related to institutional goals, and, if achieved, will contribute to the growth and self-sufficiency of the institution (5 points);

(4) The plan clearly and comprehensively describes the methods and resources the institution will use to institutionalize practice and improvements developed under the proposed project, including, in particular, how operational costs for personnel, maintenance, and upgrades of equipment will be paid with institutional resources (8 points).

(b) *Quality of activity objectives.* (Total: 10 points) The extent to which the objectives for each activity are—

(1) Realistic and defined in terms of measurable results (5 points); and

(2) Directly related to the problems to be solved and to the goals of the comprehensive development plan (5 points).

(c) *Quality of implementation strategy.* (Total: 25 points) The extent to which—

(1) The implementation strategy for each activity is comprehensive (10 points);

(2) The rationale for the implementation strategy for each activity is clearly described and is supported by the results of relevant studies or projects (10 points); and

(3) The timetable for each activity is realistic and likely to be attained (5 points).

(d) *Quality of key personnel.* (Total: 10 points) The extent to which—

(1) The past experience and training of key professional personnel are directly related to the stated activity objectives (7 points); and

(2) The time commitment of key personnel is realistic (3 points).

(e) *Quality of project management plan.* (Total: 10 points) The extent to which—

(1) Procedures for managing the project are likely to ensure efficient and effective project implementation (5 points); and

(2) The project coordinator and activity directors have sufficient authority to conduct the project effectively, including access to the president or chief executive officer (5 points).

(f) *Quality of evaluation plan.* (Total: 10 points) The extent to which—

(1) The data elements and the data collection procedures are clearly described and appropriate to measure the attainment of activity objectives and to measure the success of the project in achieving the goals of the comprehensive development plan (5 points); and

(2) The data analysis procedures are clearly described and are likely to produce formative and summative results on attaining activity objectives and measuring the success of the project on achieving the goals of the comprehensive development plan (5 points).

(g) *Budget.* (Total: 5 points) The extent to which the proposed costs are necessary and reasonable in relation to the project's objectives and scope. (Approved by the Office of Management and Budget under control number 1840–0114)

(Authority: 20 U.S.C. 1101 *et seq.*)

§ 606.23 What special funding consideration does the Secretary provide?

(a) If funds are available to fund only one additional planning grant and each of the next fundable applications has received the same number of points under § 606.21, the Secretary awards additional points, up to a maximum of two points, to any of those applicants that—

(1) Has an endowment fund of which the current market value, per full-time equivalent enrolled student, is less than the average current market value of the endowment funds, per full-time equivalent enrolled student, at similar type institutions; (one point) or

(2) Has expenditures for library materials per full-time equivalent enrolled student which are less than the average expenditure for library materials per full-time equivalent enrolled

student at similar type institutions. (one point)

(b) If funds are available to fund only one additional development grant and each of the next fundable applications has received the same number of points under § 606.22, the Secretary will award additional points, up to a maximum of three points, to any of those applicants that—

(1) Has an endowment fund of which the current market value, per full-time equivalent enrolled student, is less than the average current market value of the endowment funds, per full-time equivalent enrolled student, at comparable institutions that offer similar instruction; (one point)

(2) Has expenditures for library materials per full-time equivalent enrolled student that are less than the average expenditures for library materials per full-time equivalent enrolled student at comparable institutions that offer similar instruction (one point); or

(3) Propose to carry out one or more of the following activities—

(i) Faculty development;

(ii) Funds and administrative management;

(iii) Development and improvement of academic programs;

(iv) Acquisition of equipment for use in strengthening management and academic programs;

(v) Joint use of facilities; and

(vi) Student services. (one point)

(c) As used in this section, an “endowment fund” does not include any fund established or supported under 34 CFR part 628.

(d) Each year, the Secretary provides prospective applicants with the average market value of endowment funds and the average expenditure of library materials per full-time equivalent student.

(e) The Secretary gives priority to each application that contains satisfactory evidence that the applicant has entered into or will enter into a collaborative arrangement with at least one local educational agency or community-based organization to provide that agency or organization with assistance (from funds other than funds provided under this part) in—

(1) Reducing the dropout rates of Hispanic students;

(2) Improving rates of academic achievement of Hispanic students; and

(3) Increasing the rates at which Hispanic high school graduates enroll in higher education.

(Authority: 20 U.S.C. 1101 *et seq.*)

§ 606.24 How does the Secretary use an applicant's performance under a previous development grant when awarding a development grant?

(a)(1) In addition to evaluating an application under the selection criteria in § 606.22, the Secretary evaluates an applicant's performance under any previous development grant awarded under the Developing Hispanic-Serving Institutions Program that expired within five years of the year when the development grant will begin.

(2) The Secretary evaluates whether the applicant fulfilled, or is making substantial progress toward fulfilling, the goals and objectives of the previous grant, including, but not limited to, the applicant's success in institutionalizing practices developed and improvements made under the grant.

(3) The Secretary bases the evaluation of the applicant's performance on information contained in—

(i) Performance and evaluation reports submitted by the applicant;

(ii) Audit reports submitted on behalf of the applicant; and

(iii) Other information obtained by the Secretary, including reports prepared by the Department.

(b) If the Secretary initially determines that the applicant did not fulfill the goals and objectives of a previous grant or is not making substantial progress towards fulfilling those goals and objectives, the Secretary affords the applicant the opportunity to respond to that initial determination.

(c) If the Secretary determines that the applicant did not fulfill the goals and objectives of a previous grant or is not making substantial progress towards fulfilling those goals and objectives, the Secretary may—

(1) Decide not to fund the applicant; or

(2) Fund the applicant but impose special grant terms and conditions, such as specific reporting and monitoring requirements.

(Authority: 20 U.S.C. 1101 *et seq.*)

§ 606.25 What priority does the Secretary use in awarding cooperative arrangement grants?

Among applications for cooperative arrangement grants, the Secretary gives priority to proposed cooperative arrangements that are geographically and economically sound, or will benefit the institutions applying for the grant.

(Authority: 20 U.S.C. 1101 *et seq.*)

Subpart D—What Conditions Must a Grantee Meet?

§ 606.30 What are allowable costs and what are the limitations on allowable costs?

(a) *Allowable costs.* Except as provided in paragraphs (b) and (c) of this section, a grantee may expend grant funds for activities that are related to carrying out the allowable activities included in its approved application.

(b) *Supplement and not supplant.* Grant funds shall be used so that they supplement and, to the extent practical, increase the funds that would otherwise be available for the activities to be carried out under the grant and in no case supplant those funds.

(c) *Limitations on allowable costs.* A grantee may not use an indirect cost rate to determine allowable costs under its grant.

(Authority: 20 U.S.C. 1101 *et seq.*)

§ 606.31 How does a grantee maintain its eligibility?

(a) A grantee shall maintain its eligibility under the requirements in § 606.2, except for § 606.2(a)(3) and (4), for the duration of the grant period.

(b) The Secretary reviews an institution's application for a continuation award to ensure that—

(1) The institution continues to meet the eligibility requirements described in paragraph (a) of this section; and

(2) The institution is making substantial progress toward achieving the objectives described in its grant application including, if applicable, the institution's success in institutionalizing practices and improvements developed under the grant.

(Authority: 20 U.S.C. 1101 *et seq.*)

PART 607—STRENGTHENING INSTITUTIONS PROGRAM

2. The authority citation for part 607 continues to read as follows:

Authority: 20 U.S.C. 1057–1059c, 1066–1069f, unless otherwise noted.

3. Section 607.2 is amended by revising paragraphs (c), (d), and (e); and by adding new paragraphs (f) and (g) to read as follows:

§ 607.2 What institutions are eligible to receive a grant under the Strengthening Institutions Program?

* * * * *

(c) For the purpose of paragraphs (e)(2) and (f)(2) of this section, an institution's enrollment consists of a head count of its entire student body.

(d) A tribal college or university may receive a grant authorized under section 316 of the HEA if—

(1) It satisfies the requirements of paragraph (a) of this section, other than § 607.2(a)(3), and

(2)(i) It meets the definition of the term “tribally controlled college or university” in section 2 of the Tribally Controlled College or University Assistance Act of 1978; or

(ii) It is listed in the Equity in Educational Land Grant Status Act of 1994.

(e) An Alaska Native-serving institution may receive a grant under section 317 of the HEA if—

(1) It satisfies the requirements of paragraph (a) of this section; and

(2) It has, at the time of application, an enrollment of undergraduate students that is at least 20 percent Alaska Native students.

(f) A Native Hawaiian-serving institution may receive a grant authorized under section 317 of the HEA if—

(1) It satisfies the requirements of paragraph (a) of this section; and

(2) It has, at the time of application, an enrollment of undergraduate students that is at least 10 percent Native Hawaiian students.

(g)(1) An institution that qualifies for a grant under the Strengthening Historically Black Colleges and Universities Program (34 CFR part 608) or the Developing Hispanic-Serving Institutions Program (34 CFR part 606) and receives a grant under either of these programs for a particular fiscal year is not eligible to receive a grant under this part for the same fiscal year.

(2) A tribal college or university that receives a grant under section 316 of the HEA or an Alaska Native or Native Hawaiian-serving institution that receives a grant under section 317 of the HEA may not concurrently receive other grant funds under the Strengthening Institutions Program, Strengthening Historically Black Colleges and Universities Program, or Strengthening Historically Black Graduate Institutions Program.

4. Section 607.3 is amended by removing the word “or” at the end of paragraph (b)(5); redesignating paragraph (b)(6) as paragraph (b)(7); and adding a new paragraph (b)(6) to read as follows:

§ 607.3 What is an enrollment of needy students?

* * * * *

(b) * * *

(6) It is a tribal college or university; or

* * * * *

5. Section 607.7 is amended by:

A. Revising paragraph (b);

B. Redesignating paragraph (c) as paragraph (e);

C. adding new paragraphs (c) and (d);
D. Removing the definitions of "College Work-Study Program", "Pell Grant Program", "Perkins Loan Program", "Special Needs Program", and "Supplemental Education Opportunity Grant" from newly designated paragraph (e);

E. Revising the definition of "Institution of higher education" in newly designated paragraph (e); and

F. Adding, in alphabetical order, new definitions of "Federal Pell Grant Program", "Federal Perkins Loan Program", "Federal Supplemental Education Opportunity Grant Program", "Federal Work-Study Program", and "Low-income individual" in newly redesignated paragraph (e).

The revisions and additions read as follows:

§ 607.7 What definitions apply?

* * * * *

(b) The following term used in this part is defined in section 312 of the HEA:

Endowment fund

(c) The following terms used in this part are defined in section 316 of the HEA:

Indian

Indian tribe

Tribal college or university

(d) The following terms used in this part are defined in section 317 of the HEA:

Alaska Native

Alaska Native-serving institution

Native Hawaiian

Native Hawaiian-serving institution

(e) * * *

Federal Pell Grant Program means the grant program authorized by title IV-A-1 of the HEA.

Federal Perkins Loan Program, formerly called the National Direct Student Loan Program, means the loan program authorized by title IV-E of the HEA.

Federal Supplemental Education Opportunity Grant Program means the grant program authorized by title IV-A-3 of the HEA.

Federal Work-Study Program means the part-time employment program authorized under title IV-C of the HEA.

* * * * *

Institution of higher education means an educational institution defined in section 101 of the HEA.

* * * * *

Low-income individual means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using

criteria of poverty established by the Bureau of Census.

* * * * *

6. Section 607.8(b) is amended by adding paragraphs (b)(5) and (b)(6) to read as follows:

§ 607.8 What is a comprehensive development plan and what must it contain?

* * * * *

(b) * * *

(5) For a grant under section 316 of the HEA to a tribal college or university, its five-year plan for improving its services to Indian students, increasing the rates at which Indian secondary school students enroll in higher education, and increasing overall postsecondary retention rates for Indian students.

(6) For a grant under section 317 of the HEA to an Alaska Native-serving institution or to a Native Hawaiian-serving institution, its five-year plan for improving its services to Alaska Native or Native Hawaiian students, respectively.

7. Section 607.9 is amended by revising paragraph (b) to read as follows:

§ 607.9 What are the type, duration and limitations in the awarding of grants under this part?

* * * * *

(b)(1) An institution that received an individual development grant of five years may not subsequently receive another individual development grant for a period of two years from the date on which the five-year grant period terminates.

(2) A cooperative arrangement grant is not considered to be an individual development grant under paragraph (b)(1) of this section.

8. Section 607.10 is amended by:

A. Revising paragraph (b)(1)

introductory text;

B. Removing the word "or" at the end of paragraph (b)(7);

C. Redesignating paragraph (b)(8) as paragraph (b)(13);

D. Adding new paragraphs (b)(8) through (12) and (b)(14);

E. Revising the introductory text in newly designated paragraph (b)(13) and paragraphs (b)(13)(ii), (v), and (viii);

F. Removing the word "and" at the end of newly designated paragraph (b)(13)(vii);

G. Adding new paragraphs (b)(13)(ix) through (xiii); and

H. Revising paragraphs (c)(6) and (11).
The revisions and additions read as follows:

§ 607.10 What activities may and may not be carried out under a grant?

* * * * *

(b) * * *

(1) Faculty exchanges, faculty fellowships, and faculty development that provide faculty with the skills and knowledge needed to—

* * * * *

(8) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(9) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including the integration of computer technology into institutional facilities to create smart buildings;

(10) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector;

(11) Establishing or improving an endowment fund, provided a grantee uses no more than 20 percent of its grant funds for this purpose and at least matches those grant funds with non-Federal funds;

(12) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services;

(13) For grants authorized under section 316 of the HEA to tribal colleges or universities—

* * * * *

(ii) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

* * * * *

(v) Purchase of library books, periodicals, microfilm, and other educational materials, including telecommunications program materials;

* * * * *

(viii) Academic tutoring and counseling programs and student support services designed to improve academic services;

(ix) Academic instruction in disciplines in which Indians are underrepresented;

(x) Establishing or improving a development office to strengthen or improve contributions from the alumni and the private sector;

(xi) Establishing or enhancing a program of teacher education designed to qualify students to teach in elementary schools or secondary schools, with a particular emphasis on teaching Indian children and youth, that shall include, as part of such program, preparation for teacher certification;

(xii) Establishing community outreach programs that encourage Indian elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education; and

(xiii) Establishing or improving an endowment fund, provided a grantee uses no more than 20 percent of its grant funds for this purpose and at least matches those grant funds with non-Federal funds; or

(14) For grants authorized under section 317 of the HEA to Alaska Native-serving institutions and Native Hawaiian-serving institutions—

(i) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(ii) Renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(iii) Support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

(iv) Curriculum development and academic instruction;

(v) Purchase of library books, periodicals, microfilm, and other educational materials;

(vi) Funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(vii) Joint use of facilities such as laboratories and libraries;

(viii) Academic tutoring and counseling programs and student support services.

(c) * * *

(6) Developing or improving community-based or community services programs, unless the program provides academic-related experiences or academic credit toward a degree for degree students, or unless it is an

outreach program that encourages Indian elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education.

* * * * *

(11) Services to high school students, unless they are part of a program to encourage Indian students to develop the academic skills and the interest to pursue postsecondary education.

* * * * *

9. Section 607.11 is amended by revising paragraphs (c) and (d); and removing paragraph (e) to read as follows:

§ 607.11 What must be included in individual development grant applications?

* * * * *

(c) A description of any activities that were funded under previous development grants awarded under the Strengthening Institutions Program that expired within five years of when the development grant will begin and the institution's justification for not completing the activities under the previous grant, if applicable; and

(d) If the applicant is applying to carry out more than one activity—

(1) A description of those activities that would be a sound investment of Federal funds if funded separately;

(2) A description of those activities that would be a sound investment of Federal funds only if funded with the other activities; and

(3) A ranking of the activities in preferred funding order.

10. Section 607.13 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 607.13 How many applications for a development grant may an institution submit?

In any fiscal year, an institution of higher education that meets the

eligibility requirements under sections 311, 316, and 317 of the HEA may—

(a) Submit an application for a development grant authorized under sections 311, 316, and 317 of the HEA; and

* * * * *

11. Section 607.20 is amended by revising paragraphs (a)(2) and (b)(1) to read as follows:

§ 607.20 How does the Secretary choose applications for funding?

(a) * * *

(2) Sections 607.22, 607.23, 607.24, and 607.25 for a development grant.

(b)(1) With regard to applicants that satisfy the requirements of paragraph (d) of this section, for each fiscal year, the Secretary awards individual development grants to applicants that are not individual development grantees under this part, before the Secretary awards an individual development grant to any applicant that is an individual grantee under this part.

* * * * *

§ 607.23 [Amended]

12. Section 607.23 is amended by removing the words “is less than the average expenditure”, and adding, in their place, “are less than the average expenditures” in paragraph (b)(2); and by removing paragraph (e).

§ 607.24 [Amended]

13. Section 607.24 is amended by removing the words “Strengthening Institutions and Special Needs Programs”, and adding, in their place “the Strengthening Institutions Program” in paragraph (a)(1).

[FR Doc. 99-32323 Filed 12-14-99; 8:45 am]

BILLING CODE 4000-01-U