

after publication of this document in the **Federal Register**.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Electronic Access to This Document

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

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

You may also view this document in PDF at the following site: <http://www.ed.gov/programs/8007b/>.

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

(Catalog of Federal Domestic Assistance Number 84.041C Impact Aid Discretionary Construction Program)

List of Subjects in 34 CFR Part 222

Education, Education of children with disabilities, Educational facilities, Elementary and secondary education, Federally affected areas, Grant programs—education, Indians—education, Public housing, Reporting and recordkeeping requirements, School construction, Schools.

Dated: October 17, 2003.

Ronald J. Tomalis,

Acting Assistant Secretary for Elementary and Secondary Education.

For the reasons discussed in the preamble, the Secretary proposes to amend title 34 of the Code of Federal Regulations by revising subpart L of part 222 to read as follows:

PART 222—IMPACT AID PROGRAMS

1. The authority citation for part 222 continues to read as follows:

Authority: 20 U.S.C. 7701–7714, unless otherwise noted.

2. Revise subpart L of part 222 to read as follows:

Subpart L—Impact Aid Discretionary Construction Grant Program Under Section 8007(b) of the Act

General

Sec.

222.170 What is the purpose of the Impact Aid Discretionary Construction grant program (Section 8007(b) of the Act)?

222.171 In general, what LEAs may be eligible for Discretionary Construction grants?

222.172 What activities may an LEA conduct with funds received under this program?

222.173 What activities are prohibited?

222.174 What other prohibitions apply to these funds?

222.175 What regulations apply to recipients of funds under this program?

222.176 What definitions apply to this subpart?

Eligibility

222.177 What eligibility requirements must an LEA meet to apply for an emergency grant under the first priority?

222.178 What eligibility requirements must an LEA meet to apply for an emergency grant under the second priority?

222.179 Under what circumstances may an ineligible LEA apply on behalf of a school for an emergency grant under the second priority?

222.180 What eligibility requirements must an LEA meet to apply for a modernization grant under the third priority?

222.181 What eligibility requirements must an LEA meet to apply for a modernization grant under the fourth priority?

222.182 Under what circumstances may an ineligible LEA apply on behalf of a school for a modernization grant under the fourth priority?

How to Apply for a Grant

222.183 How does an LEA apply for a grant?

222.184 What information must an application contain?

222.185 What additional information must be included in an emergency grant application?

222.186 What additional information must be included in a modernization grant application?

222.187 Which year's data must an SEA or LEA provide?

How Grants Are Made

222.188 What priorities may the Secretary establish?

222.189 What funding priority does the Secretary give to applications?

222.190 How does the Secretary rank and select applicants?

222.191 What is the maximum award amount?

222.192 What local funds may be considered as available for this project?

222.193 What other limitations on grant amounts apply?

222.194 Are “in-kind” contributions permissible?

Conditions and Requirements Grantees Must Meet

222.195 How does the Secretary make funds available to grantees?

222.196 What additional construction and legal requirements apply?

Authority: 20 U.S.C. 7701–7714, unless otherwise noted.

General

§ 222.170 What is the purpose of the Impact Aid Discretionary Construction grant program (Section 8007(b) of the Act)?

The Impact Aid Discretionary Construction grant program provides competitive grants for emergency repairs and modernization of school facilities to certain eligible local educational agencies (LEAs) that receive formula Impact Aid funds.

(Authority: 20 U.S.C. 7707(b))

§ 222.171 In general, what LEAs may be eligible for Discretionary Construction grants?

(a) Applications for these grants are considered in four funding priority categories. The specific requirements for each priority are detailed in §§ 222.177 through 222.182.

(b)(1) Generally, to be eligible for an emergency construction grant, an LEA must—

(i) Enroll a high proportion (at least 40 percent) of federally connected children in average daily attendance (ADA) who reside on Indian lands or who reside on Federal property and have a parent on active duty in the U.S. uniformed services;

(ii) Have a school that enrolls a high proportion of one of these types of students;

(iii) Be eligible for funding for heavily impacted LEAs under section 8003(b)(2) of the Act; or

(iv) Meet the specific numeric requirements regarding bonding capacity.

(2) The Secretary must also consider such factors as an LEA's total assessed value of real property that may be taxed for school purposes, its availability and use of bonding capacity, and the nature and severity of the emergency.

(c)(1) Generally, to be eligible for a modernization construction grant, an LEA must—

(i) Be eligible for Impact Aid funding under either section 8002 or 8003 of the Act;