reviewers may be used and for awards of more than \$1,000,000 when at least five reviewers must be used. These requirements reflect the Secretary's belief that the number of reviewers used should reflect the complexity of the activities that are the subject of the competition and that competitions involving larger awards generally are more complex than those involving smaller awards. Therefore, applications for grant awards should be reviewed by a group large enough to provide the breadth of perspectives necessary to evaluate the proposed work.

The Secretary believes that conflicts of interest for peer reviewers should be determined by applying established Department policy. Accordingly, peer reviewers for grants and cooperative agreements will be considered employees of the agency for the purposes of conflicts of interest analysis. As employees of the agency, peer reviewers will be subject to 18 U.S.C. Section 108, the criminal statute regarding conflicts of interest for government employees and, 5 CFR Section 2635.502, the Office of Government Ethics regulations.

To the extent practicable, the Secretary believes that these standards should apply to all research, development, dissemination, demonstration, and school improvement activities carried out by OERI Furthermore, the Secretary believes that in many instances, the proposed peer review standards and evaluation criteria may be relevant to the research, development, and dissemination activities carried out by other offices in the Department. Therefore, § 700.3 authorizes the Secretary to elect to apply these standards to other activities carried out by the Department. The Secretary will announce through the grant application notice published in the Federal Register, the extent to which the standards are applicable for a given competition.

In accordance with section 912(i)(2)(D)(ii) of the Act, Subpart D of these proposed regulations specifies the evaluation criteria that may be used by reviewers to evaluate applications for grant and cooperative agreements and proposals for contracts. For each competition, the Secretary will select the criteria that best enable the Department to identify the highest quality applications consistent with the program purpose, statutory requirements and any priorities established. The Secretary may add to any individual criterion one or more specific factors within that criterion. For example, in the case of a national research center competition, the

Secretary may select the criterion "National Significance"; the Secretary may evaluate a national research center in terms of its potential contribution to increased knowledge or understanding of educational problems, issues, or effective strategies and the potential contribution of the project to the development and advancement of theory and knowledge in the field of study. In the case of a field initiated study competition, the Secretary may evaluate the national significance of a project in terms of the importance of the problem to be addressed and the potential of the project to contribute to the development and advancement of theory and knowledge in the field of study. In the case of a competition for demonstration activities, the Secretary may evaluate the national significance of a project in terms of whether the project involves the development or demonstration of creative or innovative strategies that build on, or are alternatives to, existing strategies and the potential for generalizing from project findings or results. For some competitions, the Secretary may select the criterion, "National Significance" without selecting specific factors.

The proposed standards provide an opportunity to improve significantly the manner in which OERI carries out its mandate by establishing a menu of evaluation criteria that: (1) Provide OERI the flexibility to choose a set of criteria tailored to a given competition; and (2) obviate the need to create specific evaluation criteria through individual program regulations.

The Assistant Secretary will publish at a later date additional proposed regulations to establish procedures to be used to designate programs as exemplary or promising and to evaluate the performance of all recipients awarded grants, cooperative agreements, or contracts by the Office.

Executive Order 12866

Assessment of Costs and Benefits

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those determined by the Secretary as necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements, if any, are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1980.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed regulations without impeding the effective and efficient administration of the program.

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example, § 700.11 Who may serve as peer reviewers.) (4) Is the description of the regulations in the "Supplementary Information" section of this preamble helpful in understanding the regulations? How could this description be more helpful in making the regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 5121, FB–10B), Washington, D.C. 20202–2241.