beginning of the next grant award period. The Secretary believes that this practice may continue to be appropriate for situations that can be addressed by State assurances and documentation that program requirements are being implemented. In other situations, an assurance would not be sufficient to address the new State plan requirements, even in the short run, and the Secretary may need the discretion to give States additional time to submit their applications under a program.

Change: A new § 76.704 has been added that provides that, unless the particular program has established an earlier date, the State plan must meet the requirements that were in effect for the program three months before the State plan due date and any additional requirements known on that date that are scheduled to become effective by the expected grant award date (July 1 for forward-funded programs or October 1 for current-funded programs). If any of these requirements is changed after that date (three months before the State plan due date or the other date established by the program), the Secretary may require a State to submit appropriate assurances and documentation or extend the due date for the State plan and, if necessary under an extended due date, approve pre-award costs for that program.

Should States be permitted to waive their right to interest in return for the Department's acceptance of late State

plans without penalty?

Comment: One commenter suggested that the regulations provide that the Secretary could waive these regulations if the State agreed to "waive" its claim to interest on the State funds used for pre-award costs under the CMIA. Another commenter recommended that expenditures made during a period that a State plan is not substantially approved be exempted from the operation of the CMIA.

Discussion: The Department is without authority to require or even permit States to forego claims to interest under the CMIA. Congress delegated to the Treasury Department the authority to enforce the CMIA. The operation of the CMIA and the programs to which it applies are controlled by Treasury's CMIA implementing regulations, 31 CFR part 205, and the State-Treasury agreements under those regulations.

Change: None.

Should certain programs be exempt from the regulations in 76.703?

Comment: Commenters noted the particular problems of the programs that are not forward-funded, such as the LSCA programs and the Rehabilitation Act programs. One commenter suggested that these programs be

exempted from the operation of the proposed regulations.

Discussion: As explained above, the Secretary cannot control the application of the CMIA to these programs. Thus, the Secretary does not believe that it would be prudent to exclude these programs from the operation of these Department regulations.

Change: None.

Should subgrantees be permitted to obligate funds during a period before the State may begin to obligate funds?

Comment: One comment was received regarding the relationship between proposed § 76.703 and the current § 76.704 (redesignated by this final rulemaking document as § 76.708), which provides that a subgrantee may not begin to obligate funds until the State may begin to obligate funds. The commenter noted that, under many State-administered programs, most of the funds flow through to subgrantees that are required to provide most of the services required under a program. The commenter thought that the proposed regulations should be amended so that subgrantees could begin to obligate funds even if the State had failed to submit a substantially approvable State plan. According to the commenter, this result was appropriate because subgrantees have no control over the timely preparation of the State plan but would be penalized under the proposed regulations for a State's failure to submit a substantially approvable State plan on a timely basis.

Discussion: The Secretary is aware that subgrantees must depend upon responsible management of Federal programs by the States in order to be able to obligate funds at the start of the obligation period. However, the Secretary cannot sever this dependency due to the relationship between the Department, the States, and their subgrantees. Under the framework established by Congress for Stateadministered programs, the Department makes grants to States and has no direct relationship with subgrantees. The Department looks to the States for proper administration of the programs. For example, when a subgrantee misspends funds under a Stateadministered program, the Department seeks recovery of the funds or takes other action against the State to achieve compliance by the subgrantee. In this context, a subgrantee derives its entire authority to obligate funds under a program from the State. Thus, if a State lacks authority to obligate funds, its subgrantees are equally without authority to obligate funds.

Even if the Secretary had the power to permit obligation by subgrantees

before the State could obligate funds, there are good policy reasons for the Department not to permit such a practice. One of the purposes of approving a State plan is to ensure that the State is imposing correct requirements upon its subgrantees. If a State submitted a plan that was not substantially approvable and subgrantees were permitted to submit local applications for flow through funds and obligate funds under that plan, serious questions would be raised about whether the subgrantees were complying with the Federal requirements under the program.

Change: None.

What issues are raised under the Library Services and Construction Act?

Comment: One commenter suggested that instead of the proposed regulations, the Secretary pro-rate decreases to the grant awards in accordance with the days the plan is late.

*Discussion:* Under the LSCA statute and GEPA, the Secretary does not have the authority to decrease the grant awards due to a State's late plan submission.

Change: None.

Comment: Two commenters noted that disallowing pre-award costs under LSCA, Title II (Construction), would adversely impact on communities that need to count the cost of the land and architectural fees (both pre-award expenditures) in order to meet the 50 percent matching requirement. They recommend that the Title II construction program be exempt from these

regulatory changes.

Discussion: It is highly unlikely that the LSCA Title II program will ever meet the funding threshold for coverage under the CMIA Treasury regulations in subpart A of 31 CFR part 205. The LSCA Title II program regulations require that the request for grant award be submitted to the Department after the State has approved the final working drawings. This, by implication, requires that the land be purchased and the architectural drawings be completed before the plan is submitted. The LSCA Title II regulations clearly provide that these expenditures are allowable. 34 CFR 770.11(a)(5). The Assistant Secretary will specifically authorize these preaward costs in grant award notices under the LSCA Title II program so that the costs may be allowed to meet the requirements of the program.

Change: None.

Comment: Several commenters were concerned that State and/or local funds expended between July 1 and the effective date of the program (or the date of the acceptance of a substantially approvable plan) would not be counted