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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Number: 84.133E-3.]

Final Priority; National Institute on Disability and Rehabilitation Research--Disability and Rehabilitation Research Projects and Centers Program--Rehabilitation Engineering Research Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority for a Rehabilitation Engineering Research Center (RERC) on Technologies to Support Successful Aging with Disability under the Disability and Rehabilitation Research Projects and Centers Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). The Assistant Secretary may use this priority for a competition in fiscal year (FY) 2013 and later years. We take this action to focus research attention on areas of national need. We intend to use this priority to improve outcomes for individuals with disabilities.

EFFECTIVE DATE: This priority is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Engineering Research Centers Program

The purpose of NIDRR's RERCs program, which is funded through the Disability and Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act. It does so by conducting advanced engineering research, developing and evaluating innovative technologies, facilitating service delivery system changes, stimulating the production and distribution of new technologies and equipment in the private sector, and providing training opportunities. RERCs seek to solve rehabilitation problems and remove environmental barriers to improvements in employment, community living and participation, and health and function outcomes of individuals with disabilities.

The general requirements for RERCs are set out in subpart D of 34 CFR part 350 (What Rehabilitation Engineering Research Centers Does the Secretary Assist?).

Additional information on the RERCs program can be found at: www.ed.gov/rschstat/research/pubs/index.html.

Program Authority: 29 U.S.C. 762(g) and 764(b)(3).

Applicable Program Regulations: 34 CFR part 350.

We published a proposed priority for this program in the Federal Register on April 3, 2013 (78 FR 20069). That

notice contained background information and our reasons for proposing the particular priority.

Public Comment: In response to our invitation in the notice of proposed priority, nine parties submitted comments on the proposed priority. Generally, we do not address technical and other minor changes or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we generally do not address comments that raise concerns not directly related to the proposed priority.

Analysis of Comments and Changes: An analysis of the comments and changes in the priority since publication of the notice of proposed priority follows.

Comment: Four commenters requested that NIDRR modify the priority to emphasize the importance of multidisciplinary teams and to require the use of such teams to achieve the RERC's intended outcomes. One of these commenters specifically described the importance of including engineers, psychologists, research methodologists with expertise in experiments, and health and medical professionals on the RERC staff.

Discussion: NIDRR does not typically specify or require staffing patterns or approaches in its priorities. Instead, we ask our peer reviewers to assess the quality of

the proposed staff relative to the activities the applicant proposes to conduct. Specifically, we ask reviewers to assess "the extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities" (34 CFR 350.54(n)(3)(i)).

Changes: None.

Comment: Four commenters noted that the priority's focus on home-based technologies may not be broad enough to promote physical and cognitive functioning of individuals aging with long-term disabilities. These commenters requested that NIDRR expand the priority's focus beyond "home-based" technologies to include "community-based" technologies as well.

Discussion: NIDRR agrees with the commenters. By requiring research and development on home-based technologies to improve outcomes of individuals with disabilities as they age, we primarily intended to signify that we were requiring the RERC to conduct work on technologies that are intended for use outside of the clinical setting. We did not intend to preclude work on technologies that have applications in the community.

Changes: We have revised the priority by changing "home-based" to "home- and community-based."

Comment: Three commenters requested that NIDRR modify paragraph (4) in General RERC Requirements to specify that "universal design" requires smart technologies that personalize their features through dynamic interaction with the user. Another commenter suggested that NIDRR modify this paragraph by requiring "flexibility of technology use" for a wide variety of target populations and environments.

Discussion: NIDRR does not agree that further specificity in the principles of universal design is needed. The requirement and definition are purposefully broad, which allows applicants to apply universal design approaches to a wide variety of existing and emerging technologies, environments or settings, and target populations to address a broad range of access barriers. NIDRR does not want to overemphasize one particular application or interpretation of universal design principles. It is up to applicants to describe how the technologies that are the focus of their proposed research and development activities meet this universal design requirement. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: One commenter requested that NIDRR modify the priority to require engagement of a wide variety of stakeholders in the RERC's work in order to promote

adoption of new technologies in the area of aging with a disability. This commenter also requested that NIDRR modify the priority to require engagement of stakeholders in developing, testing, evaluating, and disseminating the RERC's work. This commenter noted that it will be particularly important to engage older individuals in the RERC's work (including individuals aging with disabilities and older service providers) to address their relative lack of experience with technology.

Discussion: NIDRR agrees that engagement and collaboration with stakeholders is important to realizing the RERC's intended outcomes. NIDRR believes that the priority, which requires collaboration and communication with relevant stakeholders to promote access to and use of technologies to improve outcomes of individuals with disabilities as they age, sufficiently addresses the commenter's points. In addition, in the third and fifth numbered paragraphs of General RERC Requirements, NIDRR requires collaboration with a wide variety of stakeholders to increase research capacity in the area of rehabilitation engineering related to aging with a disability and to increase awareness and understanding of cutting-edge developments in this area. In the third bulleted paragraph of General RERC Requirements, NIDRR also requires applicants to propose and

implement a plan for including individuals with disabilities or their representatives in all aspects of the RERC's work. In the context of this priority, this requirement refers to the inclusion of individuals who are aging with long-term disabilities.

Nothing in the priority precludes applicants from proposing to engage with older service providers to help address any lack of familiarity with technology, as suggested by the commenter. However, we do not have a sufficient basis for requiring all applicants to do so. In response to the requirements related to stakeholder involvement, applicants must propose appropriate collaborations with the goal of contributing to the intended outcomes of the RERC. The peer review process will determine the merits of each application.

Changes: None.

Comment: One commenter recommended that NIDRR modify the priority to require the RERC to educate the "community at large" on how to work with and accommodate individuals with disabilities as they age.

Discussion: It is beyond the scope of this RERC priority to educate the community at large on how to work with and accommodate individuals with disabilities as they age. Such a broadly stated requirement would necessitate

activities that go well beyond the research, development, and related activities that are central to this RERC's work. Instead, this priority requires targeted collaboration with, and inclusion of, relevant stakeholders in all aspects of the RERC's work.

Changes: None.

Comment: One commenter noted that the priority allows applicants to develop and evaluate new technologies or evaluate existing or commercially available technologies, or both. This commenter recommended that NIDRR modify the priority to require the development of new technologies, given the current limitations of commercially available technologies. This commenter also suggested that NIDRR modify the priority to include the possibility of "blending" commercially available technologies with technology developed by the RERC.

Discussion: Nothing in the priority precludes applicants from focusing their research and development activities on the development of new technologies or on developing new technologies and "blending" them with commercially available technologies. We do not want to preclude proposals from applicants who choose to evaluate existing or commercially available technologies only. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: One commenter suggested that the evidence base for technologies can only be built within specific disability groups and not for "all persons with disabilities." This commenter recommended that NIDRR modify the priority so that it requires applicants to specify the disability group to which the RERC's research and development work will apply.

Discussion: NIDRR generally agrees that it is important for applicants to specify the target population for their proposed research and development work. At the same time, applicants can propose multiple or broad target populations, and we do not want to preclude applicants from proposing research and development toward technologies with broad application. As part of the selection criteria that are used to evaluate RERC applications, we ask reviewers to assess "the extent to which the applicant clearly describes the need and target population" (34 CFR 350.54(a)(2)(i)). The peer review process will determine the merits of each application.

Changes: None.

FINAL PRIORITY:

Background:

This final priority is in concert with NIDRR's Long-Range Plan (Plan) for Fiscal Years 2013-2017. The Plan, which was published in the Federal Register on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site:

www.ed.gov/about/offices/list/osers/nidrr/policy.html.

Through the implementation of the Plan, NIDRR seeks to improve the health and functioning, employment, and community living and participation of individuals with disabilities through comprehensive programs of research, engineering, training, technical assistance, and knowledge translation and dissemination. The Plan reflects NIDRR's commitment to quality, relevance, and balance in its programs to ensure appropriate attention to all aspects of well-being of individuals with disabilities and to all types and degrees of disability, including low-incidence and severe disabilities.

Priority--RERC on Technologies to Support Successful Aging with Disability.

The Assistant Secretary for Special Education and Rehabilitative Services proposes the following priority for the establishment of a Rehabilitation Engineering Research Center (RERC) on Technologies to Support Successful Aging With Disability. Within its designated priority research

area, this RERC will focus on innovative technological solutions, new knowledge, and new concepts that will improve the lives of individuals with disabilities.

Under this priority, the RERC must research, develop or identify, and evaluate innovative technologies and strategies that maximize the physical and cognitive functioning of individuals with long-term disabilities as they age. This RERC must engage in research and development activities to build a base of evidence for the usability of, and cost-effectiveness of home- and community-based interactive technologies that are intended to improve physical and cognitive functioning of individuals with disabilities as they age. This RERC may develop and evaluate new technologies, or identify and evaluate existing or commercially available technologies, or both, that are designed to improve the physical and cognitive outcomes of this population. In addition, the RERC must facilitate access to, and use of the low-cost, home- and community-based interactive technologies that improve the physical and cognitive outcomes of individuals with disabilities, through such means as collaborating and communicating with relevant stakeholders, providing technical assistance, and promoting technology transfer.

General RERC Requirements

Under this priority, the RERC must be designed to contribute to the following outcomes:

(1) Increased technical and scientific knowledge relevant to its designated priority research area. The RERC must contribute to this outcome by conducting high-quality, rigorous research and development projects.

(2) Increased innovation in technologies, products, environments, performance guidelines, and monitoring and assessment tools applicable to its designated priority research area. The RERC must contribute to this outcome through the development and testing of these innovations.

(3) Improved research capacity in its designated priority research area. The RERC must contribute to this outcome by collaborating with the relevant industry, professional associations, institutions of higher education, health care providers, or educators, as appropriate.

(4) Improved usability and accessibility of products and environments in the RERC's designated priority research area. The RERC must contribute to this outcome by emphasizing the principles of universal design in its product research and development. For purposes of this section, the term "universal design" refers to the design of products and environments to be usable by all people, to

the greatest extent possible, without the need for adaptation or specialized design.

(5) Improved awareness and understanding of cutting-edge developments in technologies within its designated priority research area. The RERC must contribute to this outcome by identifying and communicating with relevant stakeholders, including NIDRR; individuals with disabilities and their representatives; disability organizations; service providers; professional journals; manufacturers; and other interested parties regarding trends and evolving product concepts related to its designated priority research area.

(6) Increased impact of research in the designated priority research area. The RERC must contribute to this outcome by providing technical assistance to relevant public and private organizations, individuals with disabilities, employers, and schools on policies, guidelines, and standards related to its designated priority research area.

(7) Increased transfer of RERC-developed technologies to the marketplace. The RERC must contribute to this outcome by developing and implementing a plan for ensuring that all technologies developed by the RERC are made available to the public. The technology transfer plan

must be developed in the first year of the project period in consultation with the NIDRR-funded Disability Rehabilitation Research Project, Center on Knowledge Translation for Technology Transfer.

In addition, the RERC must--

- Have the capability to design, build, and test prototype devices and assist in the technology transfer and knowledge translation of successful solutions to relevant production and service delivery settings;

- Evaluate the efficacy and safety of its new products, instrumentation, or assistive devices;

- Provide as part of its proposal, and then implement, a plan that describes how it will include, as appropriate, individuals with disabilities or their representatives in all phases of its activities, including research, development, training, dissemination, and evaluation;

- Provide as part of its proposal, and then implement, a plan to disseminate its research results to individuals with disabilities and their representatives; disability organizations; service providers; professional journals; manufacturers; and other interested parties. In meeting this requirement, each RERC may use a variety of mechanisms to disseminate information, including state-of-

the-science conferences, webinars, Web sites, and other dissemination methods; and

- Coordinate with relevant NIDRR-funded projects, as identified through consultation with the NIDRR project officer.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications

that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal

governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that

might result from technological innovation or anticipated behavioral changes.”

We are issuing this final priority only upon a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

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

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years, as projects similar to the one envisioned by the final priority have been completed

successfully. Establishing a new RERC based on the final priority will generate new knowledge through research and development and improve the lives of individuals with disabilities. The new RERC will generate, disseminate, and promote the use of new information that will improve the options for individuals with disabilities to fully participate in their communities.

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Dated: June 14, 2013

Michael K. Yudin,
Delegated the authority
to perform the functions
and the duties of the
Assistant Secretary for
Special Education and
Rehabilitative Services.

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