

**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

IN THE MATTER OF

Docket No. 01-17-O

Iowa Tribe of Oklahoma,

Indian Vocational Education
Program Proceeding

Applicant.

DECISION

Appearances:

Robert Washington, Vocational Programs Director, Perkins, Oklahoma, for the Iowa Tribe of Oklahoma.

Daphna Krim, Esq., of the Office of the General Counsel, United States Department of Education, Washington, D.C., for the Assistant Secretary for Vocational and Adult Education.

The Iowa Tribe of Oklahoma (Iowa) seeks a review of a decision by the Secretary not to include Iowa among the 30 applicants selected in a competitive grant process for the award of a grant under the Native American Vocational and Technical Education Program. 66 Fed Reg. 560 (2001). Iowa asserts that the procedure employed by the Department to evaluate its application was flawed and that various errors were made by the reviewers that warranted an increase in its overall score. As a result, Iowa seeks an award of funding or, alternatively, that the rating of Reviewer #4 be stricken from the group of four scores and a revised standardized score be issued. Based on the analysis *infra*, the rating of Reviewer #4 is not stricken, the final ratings of Reviewers #1, #2, and #4 are adjusted and no adjustment to the final rating assigned by Reviewer #3 is warranted.

I. OPINION

The Native American Vocational and Technical Education Program provides grants to improve vocational and technical education programs that are consistent with the purposes of the Carl D. Perkins Vocational and Applied Technology Education Act. Pub. L. No. 88-210, 77 Stat. 403 (1963), as amended by the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, Pub. L. No. 105-332, 112 Stat. 3076 (1998) (to be codified at 20 U.S.C. § 2301 *et seq.*). In awarding grants and entering into contracts, the Secretary shall ensure that the grants and contracts will improve vocational and technical education programs. 20 U.S.C. § 2326(e). Pursuant to this mandate, the Secretary published on January 3, 2001, a notification that solicited applications for a limited number of grants. 66 Fed. Reg. 560 (2001). The Secretary received 73 applications and, presently, anticipates funding 30 applications based upon their standardized scores.

The Office of Vocational and Adult Education (ED) used eight panels, each comprised of four reviewers, to

evaluate the applications. Each panel reviewed approximately nine applications. The applications were evaluated based upon eight categories of criteria, totaling 125 points, and two additional categories, totaling 15 points, and authorized under Section 116(e) of the Carl D. Perkins Vocational and Applied Technology Education Act. These categories and their criteria were set forth in the official notification in the Federal Register.

Iowa's application was reviewed by a panel of four individuals and received raw scores of 118, 108, 99, and 82. These scores were standardized and then averaged. Iowa's standardized score was 87.49 and ranked 39th among the 73 applicants. This was nine places removed from the last funded applicant that had a standardized score of 106.5. Iowa appeals its final score questioning the rating procedure and the rating scores assigned by the four reviewers.

A. RATING PROCEDURE

According to Iowa, the wide range in scores, i.e. between 82 and 118, indicates, on its face, a flawed rating process. It believes that very little discussion occurred among the panel members after the members made their initial evaluation of the grant application and before each member made his or her final decision regarding the score assigned to each of the categories.

ED submitted an affidavit by the individual who was the chairperson for the panel that reviewed and scored Iowa's application. The rating process was followed in accordance with its procedures. As part of the orientation of the panel members, the chairperson informed them about the importance of objective, specific, and detailed comments in support of their assigned scores. Panel members were told that following a panel discussion of an application and in the event of a disagreement, panel members would not be pressured into changing their scores, i.e. a consensus would not be required. The members discussed the merits of Iowa's application after it had been read and scored by each member. Following this discussion, two of the reviewers raised their scores and the other two reviewers did not change their scores. The chairperson recalls that the scoring discrepancies among the panel members were due to the divergent professional opinions as to the quality, sufficiency, or specificity of the information provided and the extent to which the information addressed the selection criteria.

The scoring procedure provides an appropriate means to evaluate the applications in a fair and reasonable manner. Each panel member has relevant expertise and is given an opportunity to read and evaluate each application by his or herself. The merits of the application are discussed by the panelists before each member makes a final decision regarding the score assigned to each category. The approach or method of rating is not by consensus. The process recognizes that panel members are individuals and, as such, may still possess after a discussion, different views regarding an appropriate score for a category. Thus, the rating procedure anticipates as well as respects intellectual differences. Iowa's application was given a fair and reasonable review.

B. OBJECTIONS TO SCORES ASSIGNED BY THE REVIEWERS

Initially, Iowa's program seeks to establish a single-point coordination of education resources for the Indians in the surrounding area. It is not a vocational and technical education program. Rather, it is an "overseer" type of program that provides counseling to individuals regarding the selection of a post secondary technical or vocational education, monitors their progress, supplies limited financial assistance, and provides assistance toward seeking employment.^[1] The primary function of the tribunal at this stage of the award process is—

not to reevaluate the application and supplant the judgment of the reviewers with its judgment. The role of this tribunal is to ensure that the process of selecting successful grant recipients is fundamentally sound. Regarding the scoring aspect, it was held in Sisseton Wahpeton Community College at 6, that the score rendered by a reviewer with respect to each criterion should not be disturbed unless significant error exists. Such a standard recognizes that reasonable persons may differ in their evaluations and yet permits correction in the event of significant error.

In re Miccosukee Corporation, Dkt. No. 97-9-O, U.S. Dept. of Education (Mar. 24, 1997) at 5. The various concerns raised by Iowa will be considered below.

Part A: Needs for Project. In the needs category, the Secretary considers (1) the need for the proposed project based upon the magnitude or severity of the problem, (2) the magnitude of the need for the services or activities provided under the project as evidenced by, for example, data from surveys or tribal economic development plans, and (3) the extent to which the project will address specific gaps or weaknesses in services, infrastructure, or opportunities that exist.

The four reviewers rated the need for project factor at the upper end of adequate to good (10 of 15 points by Reviewer #4, 11 points by Reviewer #2, and 12 points by Reviewers #1 and #3).

Reviewer #4's comments reflect a view that the strengths in favor of Iowa's need for the project were average and that the weaknesses were not particularly important in reaching that result. Reader #4 noted that there was no data reflecting needs such as labor market analysis, surveys, or specifics making it difficult to determine the magnitude of need. Iowa responds that the needs analysis data and tribal survey may be found on page two of the application. This is true; however, the majority of Iowa's data has, at best, marginal relevance toward establishing the magnitude of the need for its project.

Reader #4 also noted that the need for a single-point coordination of education resources for Indians in the surrounding area was not substantiated in any supporting documents. Iowa replies that its support letters from the area tribes substantiates this need and that these letters are attached to its application in an appendix. ED responds that these letters are vague and clearly do not address this issue. The tribunal agrees with ED regarding the letters. Moreover, it would appear that Reader #4 was looking for stronger evidence of such a need than vague statements. As such, it is determined that there is no error in the rating by Reader #4.

Part B: Significance of the Project. In the significance category, the Secretary considers the effect of the proposed project toward improving the applicant's program, local and other programs, and the likelihood of improvements in teaching and student achievement. The four reviewers rated the significance of the project factor as high end inadequate to high end adequate and good (3 of 10 points by Reviewer #4, and 7 to 8 points by Reviewers #1, #2, and #3).

Iowa seeks to increase the 3 rating by Reviewer #4. Initially, the reviewers were divergent in their views regarding the merit of Iowa's proposed project in this as well as other categories. This is not unusual. Reviewers are individuals and have different but relevant backgrounds. Divergent views are fully acceptable because, under the rating process, a consensus is not required in rating a category.

The Secretary considers five factors in this rating category. Reviewer #4 noted, regarding the second factor, that nothing in the proposed project will result in a system change or improvement in the applicant's educational program. Iowa urges that its increased networking with the vocational educational institutions and the attendance of its tribal members constitutes a system change or improvement. These activities are not representative of system changes in an educational program. Hence, the comment is sustained.

The fourth factor examines the extent that the project and its results are to be disseminated and will enable others to use the information or strategies developed by the project. Iowa proposed quarterly meetings with other tribal education and training programs and state employment offices to share outcome information and discuss setbacks and opportunities for professional and personal development. Also, Iowa had future plans to develop websites and to link tribal and state vocational programs. Reader #4 noted that this discussion lacked specificity regarding the programs to be discussed and that the website concept was vague regarding its potential content and its prospective audience.

Iowa questions how it can determine its website customers before it has developed its website. Iowa's response simply confirms Reader #4's conclusion that its plan for dissemination of information by website was in its earliest formative stage and not developed and, therefore, represented a weakness.

Lastly, Iowa notes that vocational schools do not exist within its proposed service area and, hence, it could not include any comment addressing how its project would result in improvements in teaching as required under the fifth factor. It

maintains, however, that its project is consistent with the Carl D. Perkins Vocational and Technical Education Act and is designed to benefit American Indians. The Secretary established various criteria to be considered in grading applications. Improvements in teaching was one of those criteria. Thus, Reader #4's notation of the absence of any teaching improvements under Iowa's project was appropriate and well within the guidelines.^[2] In view of the above, no change in Reader's 4 rating is warranted.

Part C: Quality of the Project Design. In this category, the Secretary considers the design of the project which includes the actual details of the project, whether it addresses the needs of the target population, may be useful to others, provides linkages with other agencies providing services to the target population, and provides for feedback and improvements during its operation. Reviewers #2 and #3 rated Iowa's project at 22 of 25 points which is the high end of excellent. Reviewers #4 and #1 graded the project at 15 and 18 points, respectively. These scores reflect a mid adequate and a high end of adequate rating.

The Secretary utilizes seven limited factors and one expansive and very detailed factor in evaluating projects under this category. Reviewer #1 articulated nine strengths of the project and noted seven weaknesses. Of the weaknesses noted, Iowa disagrees with two. Under the quality of methodology employed factor, Iowa indicated that the project will utilize methods and practices previously utilized by the Tribe when administering three U.S. Department of Education grants. While the reviewer noted that the use of prior successful methods was a strength, the reviewer also indicated a weakness in the application because the successful methods were not described or cited. Iowa responds that one of the methods was the utilization of state educational institutions instead of creating its own curriculum and that the successful methods were cited on page 16 of its application. Unfortunately, page 16 of the application does not identify any methodologies or address the quality of any methodology. As such, Iowa's objection has no merit.

Reviewer #1 wrote that, as a strength, the project drew its potential applicants from multiple Tribal sources; however, the reviewer questioned whether, due to other projects that had drawn many of the potential applicants, the quality of the remaining applicants may be less. Iowa responds that the potential applicant pool had many individuals because current programs were nonexistent or unavailable or had little funding. While the inference drawn by Reviewer #1 may be questionable, the deletion of this comment does not require any adjustment in the rating. It is only one of seven weaknesses cited by the Reviewer #1 and is not particularly significant. Hence, Reviewer #1's score of 18 is upheld.

Reviewer #4 assigned a rating of 15 on the design of the project. This rating is in the mid level of adequate. While Iowa set forth the number of anticipated students and their likelihood of completion of a vocational program, Reviewer #4 was concerned that the goals and outcomes of the project did not quantify either the type of training or the anticipated number of individuals who would participate in each type of training. Hence, it could not be ascertained the extent to which the identified and ranked vocational needs of the Tribes (see Tribal survey, p. 4 application) would be served.

While Iowa acknowledges that areas of training were specifically identified in the needs category, the project was designed, nonetheless, not to limit the choices for its potential consumers. It planned, however, to make its consumers aware of the Tribal needs. Reviewer #4's concern may be considered an acceptable, viable, and significant concern since the absence of restrictions, goals, and proposed outcomes does not reflect a commitment toward targeting the stated needs of the proposal.

Other weaknesses cited by Iowa are insignificant. The reviewer thought it "helpful" to know whether the project design has been or is currently in use in another area. Poor grammar in the application lead the reviewer to make a comment. The reviewer noted that the form letters of support and the form articulation agreements were so general as to be meaningless. Iowa responds that they do, nonetheless, show support for the project. While this is true, a form letter may also reflect a lack of serious commitment to the matter addressed therein. These items do not warrant any modification of the reviewer's rating.

Next, the reviewer noted that, in the design of feedback and improvement criterion, Iowa requires the students to maintain acceptable attendance and grades to remain in the program. The reviewer felt there should be a definition for

“acceptable attendance and grades” in the project design. Iowa refers the tribunal to paragraph two of the articulation agreements. This paragraph does not establish or provide a definition of this term as it simply states that the school shall provide Iowa with the grades and attendance information of the student subject to a release signed by the student.

Lastly, under the quality of the methodology to be employed criterion, Iowa explained that it will utilize methods and practices previously utilized in three Federal grants. It then fails to articulate the methods and practices as well as any specifics regarding them. Reviewer #4 cited these deficiencies as weaknesses. Iowa explains the absence of these matters on the basis of a misunderstanding. It believed the nature and details were to be outlined in another section. In fact, Iowa does explain the proposed methodology under Category H, Quality of Project Evaluation, in a limited fashion.

On the basis of the above discussion and the other weaknesses cited by Reviewer #4, the mid adequate rating by Reviewer #4 is upheld.

Part D: Quality of Project Services. The Secretary considers the quality of the service to be provided and set forth eight criteria to be considered. The Secretary examines these services in light of their appropriate need, current reflection of up-to-date knowledge, and likely impact on the intended recipients. The services should lead to improvement of vocational skills, academic achievement, and employment.

Three reviewers assigned ratings of mid adequate (16 of 25 points by Reviewer #1), good (20 points by Reviewer #2), and mid level between good to excellent (22 points by Reviewer #3). Reviewer #4 assigned a score of 10 points, a high inadequate rating.

Iowa disagrees with the rating by Reviewer #4. In its application, Iowa wrote that the services of the project were appropriate to the needs of the target population. Actual services included career, financial, and academic counseling and job search assistance. The project contemplated financial assistance to the extent otherwise unmet such as limited tuition assistance, living stipends, and child care reimbursement. The reviewer focused on the initial statement that the services are appropriate to the needs of the participants and viewed this representation as so broad to be meaningless. The reviewer also questioned whether the represented need for a single point of coordination could be achieved in light of wide range of services and the number and physical location of the tribal entities and educational institutions involved.

Iowa maintains that it specified its various services and, hence, its broad statement of services was subsequently particularized. Iowa is correct. Hence, this weakness has no basis in the record and must be disregarded. However, the comment regarding the single point of coordination is a reasonable observation drawn from the statements in the application.

Though Iowa described six effects or impacts caused by its services, the reviewer felt that only one aspect was particularly meaningful, namely that 150 American Indians will acquire new vocational skills. The other five effects or impacts were characterized by the reviewer as so generic and non-specific that it was impossible to discern anything unusual or innovative about this grant. While Iowa challenges this comment, its point is not responsive to the reviewer's comment and, therefore, is rejected.

The next comment by the reviewer was a minor, insignificant criticism that Iowa included a statement regarding the professional development of its staff under the wrong criterion. The statement belonged under the criterion pertaining to the professional development of the project staff, not the criterion addressing the professional development of the recipients of the grant's services. This comment was not important, played no apparent role in the rating, and warrants no further discussion.

Reviewer #4 cited a weakness under the criterion requesting an analysis regarding the extent that the services provided by the project will lead to improvements in the skills necessary to gain employment. Iowa's response does not address the nature of the weakness noted by the reviewer and, hence, it remains in force.

The seventh criterion is the likelihood that services will lead to improvements in academic achievements by the

students as measured against rigorous academic standards. The only pertinent point in Iowa's discussion is that student attendance and grades will be closely monitored and the lack of standard progress will result in removal of a student from the program. By inference, the standards are apparently those of the coordinating institutions.

The reviewer made two adverse comments. First, the reviewer wanted a standard to determine whether the various academic standards of the schools were rigorous. This is not mandated by the criterion and, therefore, rejected as an appropriate comment. Second, the reviewer noted that Iowa failed to articulate a standard under its proposed lack of student progress policy. Iowa did not contest this point.

Lastly, Iowa complains about a comment by the reviewer under the capacity for independent living criterion that points were deducted in the Quality of Management Plan category due to the adoption of an unrealistic goal of employment. Since this comment was not a factor in determining the rating under this category, it warrants no discussion.

In summary, Reviewer #4 assigned a final rating of 10 points. In light of the above comments rejecting portions of two cited weaknesses, Iowa's final rating by Reviewer #4 is raised from 10 points to 13 points. This is a rating in the lower range of adequate.

Part E: Quality of Project Personnel. The Secretary awards a maximum of 15 points in the quality of project personnel category. Iowa's application was rated at 13, 11, 15, and 15 by Reviewers #1, #2, #3, and #4, respectively. Iowa disagrees with the good rating by Reviewer #1 and the high end of adequate rating by Reviewer #2.

Iowa notes that Reviewer #1 wrote that no reference was made to the qualifications of personnel at the cooperating colleges and training centers. Iowa responds that instructors are not directly employed or paid by the proposed grant and are certified by the State of Oklahoma. The State certifications for the vocational institutions were included in the appendix to the application. Iowa is correct. The project personnel subject to review are those individuals who will carry out the proposed project including subcontractors. This is a monitoring type project and only indirectly an educational project. Hence, the instructors at the colleges and vocational institutions are not considered as project personnel. Reviewer #1's rating will be raised from 13 to 14 points.

Reviewer #2 cited a weakness in two of the three criteria under this category. First, the reviewer questioned whether the amount of time devoted by the director to the project was sufficient given the breadth and geographic distances in the project. Second, the reviewer also noted that it would be beneficial if the project authors would describe the focus and integration of the staff in the text of the proposal and that the proposal was silent regarding the certification of the instructors.

Iowa explains the limited hours of the director's services was due to his disability. Iowa allows him to work this limited period of time (60% of full time) as a reasonable accommodation. This explanation misses the point. Reviewer #2's comment reflected a view that the position of the director under this project requires the equivalent of one full time person. While the project would hire an assistant director/counselor who would fill in for the director, his abilities, knowledge, expertise, and experience would not be at the same level as the proposed director. The tribunal also is confused regarding Iowa's representation that 40% of the director's time was unavailable due to his disability. It represented in category E(3)(i) (application p. 24-25) that the other 40% of the director's time will be devoted to the Vocational Rehabilitation program through the year 2005.

Iowa is correct that, under its program, it does not employ any instructors. It utilizes other educational and vocational institutions to provide the education. Hence, there is no need for instructor certification. Reviewer #2's comment must be disregarded. Inasmuch as only one part of one of two weaknesses constitutes error, it is a borderline case for a rating modification. Reviewer #2's rating is raised from 11 to 12 points.

Part F: Adequacy of Resources. Under this category, the Secretary considers the adequacy of resources for the proposed project. The maximum number of points awarded in this category is five. Reviewers #1 and #2 assigned two and five points, respectively. Reviewers #3 and #4 rated the proposal at four points.

As a strength, Reviewer #1 indicated that tribes, colleges, and training centers have offered letters of support and noted, as a weakness, that the letters were identical and do not identify what services or activities each writer will be supporting. Iowa asserts each letter is different because it was printed on the institution's letterhead and signed by the institution. In its view, the articulation agreements with the technical schools outline the services to be provided. ED urges that one may conclude such letters do not reflect a strong and specific commitment of support as they are simply form letters. Moreover, the articulation agreements address the issue of services in a cursory and nonspecific manner.

One reasonable conclusion that may be drawn from the usage of a form type letter is the neutrality or lack of serious commitment to the matter addressed therein. The absence of specifics in the articulation agreements means, in effect, that these educational concerns will simply provide whatever services that are normally available to all students. The nature of these services are not specified. Hence, Reviewer #1's concern has a reasonable basis.

Reviewer #1 also noted that the majority of the budget is devoted to the supporting staff and that only 135 students will be impacted at a cost of \$7,195 per student. In the reviewer's view, the program is very expensive. Iowa believes the cost per student number was determined arbitrarily and is not an excessive amount for supporting a student in vocational training leading to an associates degree. It is determined that, as a factual matter, the cost per student figure is correct and that two-thirds of this amount represents the expenditures incurred toward monitoring the students. The characterization of expensive is one conclusion that a reasonable person could reach under these circumstances. Therefore, the determination will not be rejected.

Iowa's only objection to Reviewer #3 is under this category. The reviewer noted that, while the general budget appears to be adequate, that aspect devoted to stipends was based on 40 students in the first year. Since the proposed goal is to have 40 fulltime students and 20 part-time, some students who have need may not get services. Iowa replies that participants must apply for federal financial aid and tribal vocational programs before they can apply for monetary assistance under this project and, hence, budgeted amount is adequate. The stipends questioned by this reviewer related to training stipends, not tuition monies. Hence, Iowa's response misses the point. This weakness reflects a judgment determination by the reviewer and has support in the record. The reviewer's score of four out of a possible five points is upheld.

Under the criterion, the commitment from various organizations relative to the proposed project, Reviewer #4 noted the presence of support letters from education institutions and tribal entities; however, it was unknown if there was support from local employers for hiring participants from this program. Iowa replies that it appears that the reviewer does not consider or recognized employment with tribal entities as a positive employment outcome. The Tribal letters are written in general terms. They do not propose to hire any participants although one would suspect that they would hire some of these individuals if they had that specific need. Iowa's application does not quantify or qualify the positions of employment available among the Tribes in its area. As such, Reviewer #4's rating is not in error.

Part G: Quality of the Management Plan. Under the quality of management plan category, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget; whether time commitments of significant personnel are appropriate and adequate to meet the objectives of the proposed project; and whether there are procedures to ensure feedback and improvement in the operation of the project and mechanisms to ensure high quality products and services.

The four reviewers rated this category as highly adequate (7 of 10 points by Reviewer #4), the low end of good (8 points by Reviewers #1 and #3), and the high end of excellent (10 points by Reviewer #2). Iowa's sole objection lies in its belief that Reviewer #4 intended to award 10 points (an excellent rating) rather than the seven points (a highly adequate rating) assigned in the evaluation scoreboard. The source of the misunderstanding is a statement by Reviewer #4 located in the weakness column. The reviewer noted that it was unclear if the proposal had a safety net or special action for students who might fail which would be essential if Iowa was to meet its objective of employing all students by the end of the project. Immediately following this comment, the reviewer emphasized that "[n]o points were taken off this section for the above remark. See Section D-6."

The reviewer intended to award a rating of seven in this category. While the reviewer recognized that this comment reflected a weakness, the reviewer also knew that it was inappropriate to consider this as a weakness under

this category. Accordingly and acting out of caution, the reviewer noted that this weakness was not a factor in determining the rating in this category. No adjustment in Iowa's score is warranted in this category.

Part H: Quality of the Project Evaluation. Under this category, the Secretary requires appropriate methods of evaluation that measure the outcomes of the project, produce qualitative and quantitative data, provide performance feedback and permit periodic assessment of progress toward achieving the intended outcomes.

The reviewers rated this category as high adequate (Reviewer #4 at 13 points) and good to low excellent (Reviewers #2 at 15 points, #1 at 16 points, and #3 at 18 points). Reviewer #4 noted two weaknesses and Iowa disagrees with one. Reviewer #4 opined that Iowa's approach under its evaluation model relies on qualitative data for feedback and periodic assessment and fails to connect or link up with the quantitative data (e.g. information regarding grades, attendance, acquired credentials and awards) collected under the model. In the reviewer's view, connecting the two is imperative for a full evaluation. Iowa responds that both types of data will be collected throughout the project. Collection of data is not, however, the interrelating of data. Hence, Iowa's response does not address the concern of the reviewer. The reviewer's rating is sustained.

Part I: Economic Development Plan. The Secretary proposed to award up to 10 additional points to those applications that "propose exemplary approaches that involve, coordinate with, or encourage tribal economic development plans." 66 Fed. Reg. 564. The reviewers rated this 10 point category as 7 (Reviewers #1 and #2), 9 (Reviewer #3), and 5 (Reviewer #4). Iowa disagrees with the adequate rating by Reviewer #4 asserting that the proposal was written with the intention to focus on the point that education was its foremost need and, therefore, specifics in this area were not outlined. Reviewer #4 assigned a 5 rating and noted that the proposal does not indicate any exemplary approaches to engaging with the tribal economic development plan. Reviewer #4 is correct. The proposal has no meaningful discussion on this point. Accordingly, no adjustment is warranted.

In summary, Iowa's exceptions are generally without merit. Under Part D, the final rating by Reviewer #4 is adjusted from 10 to 13 points. Under Part E, the final ratings by Reviewer #1 and Reviewer #2 are adjusted from 13 to 14 points and from 11 to 12 points, respectively. As such, the final overall score by Reviewer #1 is 100 points, the score by Reviewer #2 is 109 points, and the score by Reviewer # 4 is 85 points. The overall score by Reviewer #3 remains unchanged at 118 points. These adjustments will not significantly affect Iowa's position vis-a-vis the award of a grant and, therefore, ED is not required to recompute and standardize Iowa's score.

II. ORDER

In light of the above, it is HEREBY ORDERED that the appeal by the Iowa Tribe of Oklahoma is dismissed with prejudice.

Allan C. Lewis
Chief Administrative Law Judge

Issued: July 24, 2001
Washington, D.C.

[\[1\]](#) Iowa sought the elimination of the rating score by Reviewer #4 on the apparent theory that his or her rating was in total error. Absent unique circumstances, the rating process contemplates the revision of a reviewer's score, not its elimination. Since there are no unique circumstances present in this case, the reviewer's score as a whole will not be disregarded.

[2] The stated purpose of these grants “is to improve vocational and technical education programs.” 66 Fed. Reg. 560.