

## § 19.4

### § 19.4 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of this part when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this part shall be permitted only in unusual circumstances. Federal awarding agencies may apply more restrictive requirements to a class of recipients when approved by OMB. All requests for class deviations shall be processed through the Assistant Secretary for Administration. Federal awarding agencies may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory, subject to the concurrence of the Assistant Secretary for Administration. Exceptions on a case-by-case basis may also be made by Federal awarding agencies, with the concurrence of the Assistant Secretary for Administration to ensure conformance with Department of Transportation grant administration policies.

### § 19.5 Subawards.

Unless sections of this part specifically exclude subrecipients from coverage, the provisions of this part shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals or other non-profit organizations. State and local government subrecipients are subject to the provisions of 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

### § 19.6 Availability of material referenced in this part.

(a) Copies of Federal Transit Administration (FTA) documents identified in this part may be obtained by calling the FTA Administrative Services Division at (202) 366-4865.

(b) Copies of Federal Aviation Administration (FAA) documents identified in this part may be obtained by calling the FAA Program Guidance Branch at (202) 267-3831.

## 49 CFR Subtitle A (10-1-03 Edition)

### Subpart B—Pre-Award Requirements

#### § 19.10 Purpose.

Sections 19.11 through 19.17 prescribes forms and instructions and other pre-award matters to be used in applying for Federal awards.

#### § 19.11 Pre-award policies.

(a) *Use of grants and cooperative agreements, and contracts.* In each instance, the Federal awarding agency shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, "substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement." Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) *Public notice and priority setting.* Federal awarding agencies shall notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

#### § 19.12 Forms for applying for Federal assistance.

(a) Federal awarding agencies shall comply with the applicable report clearance requirements of 5 CFR part 1320, "Controlling Paperwork Burdens on the Public," with regard to all forms used by the Federal awarding agency in place of or as a supplement to the Standard Form 424 (SF-424) series.

(b) Applicants shall use the SF-424 series or those forms and instructions prescribed by the Federal awarding agency.

(c) For Federal programs covered by E.O. 12372, "Intergovernmental Review of Federal Programs," as implemented at 49 CFR part 17, Intergovernmental review of Department of Transportation programs and activities, the applicant shall complete the appropriate sections of the SF-424 (Application for Federal Assistance) indicating whether the application was subject to review by the State Single Point of Contact (SPOC). The name and address of the SPOC for a particular State can be obtained from the Federal awarding agency or the Catalog of Federal Domestic Assistance. The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review.

(d) Federal awarding agencies that do not use the SF-424 form should indicate whether the application is subject to review by the State under E.O. 12372.

#### § 19.13 Debarment and suspension.

Federal awarding agencies and recipients shall comply with the non-procurement debarment and suspension rule, 49 CFR part 29, "Governmentwide Debarment and Suspension (Non-procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)," implementing E.O.s 12549 and 12689, "Debarment and Suspension." This rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

#### § 19.14 Special award conditions.

(a) Federal awarding agencies may impose additional requirements as needed, if an applicant or recipient:

- (1) Has a history of poor performance,
- (2) Is not financially stable,
- (3) Has a management system that does not meet the standards prescribed in this part,
- (4) Has not conformed to the terms and conditions of a previous award, or
- (5) Is not otherwise responsible.

(b) Additional requirements may only be imposed provided that such applicant or recipient is notified in writing as to:

- (1) The nature of the additional requirements,

- (2) The reason why the additional requirements are being imposed,

- (3) The nature of the corrective action needed,

- (4) The time allowed for completing the corrective actions, and

- (5) The method for requesting reconsideration of the additional requirements imposed.

(c) A copy of such notices shall be sent to the Assistant Secretary for Administration. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

#### § 19.15 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205), declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires each Federal agency to establish a date or dates in consultation with the Secretary of Commerce, when the metric system of measurement will be used in the agency's procurements, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of federally-funded activities. Federal awarding agencies shall follow the provisions of E.O. 12770, "Metric Usage in Federal Government Programs."

#### § 19.16 Resource Conservation and Recovery Act.

Under the Act, any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) (40 CFR parts 247-254). Accordingly, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal