

## § 84.10

work under awards if such subrecipients are institutions of higher education, hospitals, commercial organizations and international organizations operating domestically, or other non-profit organizations. State, local and Federally recognized Indian tribal government subrecipients are subject to the provisions of regulations implementing the grants management common rule, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments," (24 CFR part 85).

### Subpart B—Pre-Award Requirements

#### § 84.10 Purpose.

Sections 84.11 through 84.17 prescribe forms and instructions and other pre-award matters to be used in applying for HUD awards.

#### § 84.11 Pre-award policies.

(a) *Use of Grants and Cooperative Agreements, and Contracts.* In each instance, HUD 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.* HUD shall notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

## 24 CFR Subtitle A (4-1-04 Edition)

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

(a) HUD 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 HUD 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 HUD.

(c) For Federal programs covered by E.O. 12372, "Intergovernmental Review of Federal Programs," 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 *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.

#### § 84.13 Debarment and suspension; Drug-Free Workplace.

(a) HUD and its recipients and subrecipients shall comply with the non-procurement debarment and suspension common rule implementing E.O.s 12549 and 12689, "Debarment and Suspension," at 24 CFR part 24. This common 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.

(b) HUD and its recipients and subrecipients shall comply with the certification requirements of the Drug-Free Workplace Act of 1988 (42 U.S.C. 701), as set forth at 24 CFR part 24, subpart F.

#### § 84.14 Special award conditions.

If an applicant or recipient:

- (a) Has a history of poor performance;
- (b) Is not financially stable;
- (c) Has a management system that does not meet the standards prescribed in this part;
- (d) Has not conformed to the terms and conditions of a previous award; or