

## § 74.10

### § 74.10 Purpose.

Sections 74.11 through 74.17 prescribe forms and instructions and other pre-award matters to be used in applying for HHS awards.

### § 74.11 Pre-award policies.

(a) Use of Grants and Cooperative Agreements, and Contracts. 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 HHS awarding agency.

(b) HHS awarding agencies shall notify the public of funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

### § 74.12 Forms for applying for HHS financial assistance.

(a) HHS 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 in place of or as a supplement to the Standard Form 424 (SF-424) series. However, HHS awarding agencies should use the SF-424 series and its program narrative whenever possible.

(b) Applicants shall use the SF-424 series or those forms and instructions prescribed by the HHS awarding agency. Applicants shall submit the original and two copies of any applications unless additional copies are required pursuant to 5 CFR part 1320.

(c) For Federal programs covered by E.O. 12372, as amended by E.O. 12416, "Intergovernmental Review of Federal Programs," the applicant shall complete the appropriate sections of the

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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 HHS 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. (See also 45 CFR part 100.)

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

(e) This section does not apply to applications for subawards.

[59 FR 43760, Aug. 25, 1994, as amended at 61 FR 11746, Mar. 22, 1996]

### § 74.13 Debarment and suspension.

Recipients are subject to the non-procurement debarment and suspension common rule implementing E.O.s 12549 and 12689, "Debarment and Suspension,"<sup>2</sup> 2 CFR part 376. 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.

[59 FR 43760, Aug. 25, 1994, as amended at 72 FR 9235, Mar. 1, 2007]

### § 74.14 Special award conditions.

(a) The HHS awarding agency may impose additional requirements as needed, without regard to § 74.4, above, 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) When it imposes any additional requirements, the HHS awarding agency must notify the recipient in writing as to the following:

- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;