

Title 45: Public Welfare

**PART 75—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES,
AND AUDIT REQUIREMENTS FOR HHS AWARDS**

Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards

§75.203 Notices of funding opportunities

§75.204 HHS funding agency review of merit of proposals.

§75.203 Notices of funding opportunities.

For competitive grants and cooperative agreements, the HHS awarding agency must announce specific funding opportunities by providing the following information in a public notice:

(a) *Summary Information in Notices of Funding Opportunities.* The HHS awarding agency must display the following information posted on the OMB-designated government-wide Web site for finding and applying for Federal financial assistance, in a location preceding the full text of the announcement:

(1) HHS Awarding Agency Name;

(2) Funding Opportunity Title;

(3) Announcement Type (whether the funding opportunity is the initial announcement of this funding opportunity or a modification of a previously announced opportunity);

(4) Funding Opportunity Number (required, if applicable). If the HHS awarding agency has assigned or will assign a number to the funding opportunity announcement, this number must be provided;

(5) Catalog of Federal Domestic Assistance (CFDA) Number(s);

(6) Key Dates. Key dates include due dates for applications or Executive Order 12372 submissions, as well as for any letters of intent or pre-applications. For any announcement issued before a program's application materials are available, key dates also include the date on which

those materials will be released; and any other additional information, as deemed applicable by the relevant HHS awarding agency.

(b) The HHS awarding agency must generally make all funding opportunities available for application for at least 60 calendar days. The HHS awarding agency may make a determination to have a less than 60 calendar day availability period but no funding opportunity should be available for less than 30 calendar days unless exigent circumstances require as determined by the HHS awarding agency head or delegate.

(c) *Full Text of Funding Opportunities.* The HHS awarding agency must include the following information in the full text of each funding opportunity. For specific instructions on the content required in this section, refer to appendix I of this part.

(1) Full programmatic description of the funding opportunity.

(2) Federal award information, including sufficient information to help an applicant make an informed decision about whether to submit an application. (See also §75.414(c)(4)).

(3) Specific eligibility information, including any factors or priorities that affect an applicant's or its application's eligibility for selection.

(4) Application Preparation and Submission Information, including the applicable submission dates and time.

(5) Application Review Information including the criteria and process to be used to evaluate applications. See also §§75.204 and 75.205. See also 2 CFR part 27 (forthcoming at time of publication).

(6) Federal Award Administration Information. See also §75.210.

§75.204 HHS funding agency review of merit of proposals.

For competitive grants or cooperative agreements, unless prohibited by Federal statute, the HHS awarding agency must design and execute a merit review process for applications. This process must be described or incorporated by reference in the applicable funding opportunity (see appendix I to this part.) See also §75.203.

APPENDIX I TO PART 75—FULL TEXT OF NOTICE OF FUNDING OPPORTUNITY

The full text of the notice of funding opportunity is organized in sections. The required format outlined in this appendix indicates immediately following the title of each section whether that section is required in every announcement or is an HHS awarding agency option. The format is designed so that similar types of information will appear in the same sections in announcements of different Federal funding opportunities. Toward that end, there is text in each of the following sections to describe the types of information that an HHS awarding agency would include in that section of an actual announcement.

An HHS awarding agency that wishes to include information that the format does not specifically discuss may address that subject in whatever section(s) is most appropriate. For example, if an HHS awarding agency chooses to address performance goals in the announcement, it might do so in the funding opportunity description, the application content, or the reporting requirements.

Similarly, when this format calls for a type of information to be in a particular section, an HHS awarding agency wishing to address that subject in other sections may elect to repeat the information in those sections or use cross references between the sections (there should be hyperlinks for cross-references in any electronic versions of the announcement). For example, an HHS awarding agency may want to include in Section A information about the types of non-Federal entities who are eligible to apply. The format specifies a standard location for that information in Section C.1 but that does not preclude repeating the information in Section I or creating a cross reference between Sections A and C.1, as long as a potential applicant can find the information quickly and easily from the standard location.

The sections of the full text of the announcement are described in the following paragraphs.

A. Program Description—Required

This section contains the full program description of the funding opportunity. It may be as long as needed to adequately communicate to potential applicants the areas in which funding may be provided. It describes the HHS awarding agency's funding priorities or the technical or focus areas in which the HHS awarding agency intends to provide assistance. As appropriate, it may include any program history (*e.g.*, whether this is a new program or a new or changed area of program emphasis). This section may communicate indicators of successful projects (*e.g.*, if the program encourages collaborative efforts) and may include examples of projects that have been funded previously. This section also may include other information the HHS awarding agency deems necessary, and must at a minimum include citations for authorizing statutes and regulations for the funding opportunity.

B. Federal Award Information—Required

This section provides sufficient information to help an applicant make an informed decision about whether to submit a proposal. Relevant information could include the total amount of funding that the HHS awarding agency expects to award through the announcement; the anticipated number of Federal awards; the expected amounts of individual Federal awards (which may be a range); the amount of funding per Federal award, on average, experienced in previous years; and the anticipated start dates and periods of performance for new Federal awards. This section also should address whether applications for renewal or supplementation of existing projects are eligible to compete with applications for new Federal awards.

This section also must indicate the type(s) of assistance instrument (*e.g.*, grant, cooperative agreement) that may be awarded if applications are successful. If cooperative agreements may be awarded, this section either should describe the “substantial involvement” that the HHS awarding agency expects to have or should reference where the potential applicant can find that information (*e.g.*, in the funding opportunity description in section A. or Federal award administration information in Section D. If procurement contracts also may be awarded, this must be stated.

C. Eligibility Information

This section addresses the considerations or factors that determine applicant or application eligibility. This includes the eligibility of particular types of applicant organizations, any factors affecting the eligibility of the principal investigator or project director, and any criteria that make particular projects ineligible. HHS agencies should make clear whether an applicant's failure to meet an eligibility criterion by the time of an application deadline will result in the HHS awarding agency returning the application without review or, even though an application may be reviewed, will preclude the HHS awarding agency from making a Federal award. Key elements to be addressed are:

1. *Eligible Applicants—Required.* Announcements must clearly identify the types of entities that are eligible to apply. If there are no restrictions on eligibility, this section may simply indicate that all potential applicants are eligible. If there are restrictions on eligibility, it is important to be clear about the specific types of entities that are eligible, not just the types that are ineligible. For example, if the program is limited to nonprofit organizations subject to 26 U.S.C. 501(c)(3) of the tax code (26 U.S.C. 501(c)(3)), the announcement should say so. Similarly, it is better to state explicitly that Native American tribal organizations are eligible than to assume that they can unambiguously infer that from a statement that nonprofit organizations may apply. Eligibility also can be expressed by exception, (*e.g.*, open to all types of domestic applicants other than individuals). This section should refer to any portion of Section D. specifying documentation that must be submitted to support an eligibility determination (*e.g.*, proof of 501(c)(3) status as determined by the Internal Revenue Service or an authorizing tribal resolution). To the extent that any funding restriction in Section D.6 could affect the eligibility of an applicant or project, the announcement must either restate that restriction in this section or provide a cross-reference to its description in Section D.6.

2. Cost Sharing or Matching—Required. Announcements must state whether there is required cost sharing, matching, or cost participation without which an application would be ineligible (if cost sharing is not required, the announcement must explicitly say so). Required cost sharing may be a certain percentage or amount, or may be in the form of contributions of specified items or activities (*e.g.*, provision of equipment). It is important that the announcement be clear about any restrictions on the types of cost (*e.g.*, in-kind contributions) that are acceptable as cost sharing. Cost sharing as an eligibility criterion includes requirements based in statute or regulation, as described in §75.306. This section should refer to the appropriate portion(s) of section D, stating any pre-award requirements for submission of letters or other documentation to verify commitments to meet cost-sharing requirements if a Federal award is made.

3. Other—Required, if applicable. If there are other eligibility criteria (*i.e.*, criteria that have the effect of making an application or project ineligible for Federal awards, whether referred to as “responsiveness” criteria, “go-no go” criteria, “threshold” criteria, or in other ways), must be clearly stated and must include a reference to the regulation of requirement that describes the restriction, as applicable. For example, if entities that have been found to be in violation of a particular Federal statute are ineligible, it is important to say so. This section must also state any limit on the number of applications an applicant may submit under the announcement and make clear whether the limitation is on the submitting organization, individual investigator/program director, or both. This section should also address any eligibility criteria for beneficiaries or for program participants other than Federal award recipients.

D. Application and Submission Information

1. Address to Request Application Package—Required. Potential applicants must be told how to get application forms, kits, or other materials needed to apply (if this announcement contains everything needed, this section need only say so). An Internet address where the materials can be accessed is acceptable. However, since high-speed Internet access is not yet universally available for downloading documents, and applicants may have additional accessibility requirements, there also should be a way for potential applicants to request paper copies of materials, such as a U.S. Postal Service mailing address, telephone or FAX number, Telephone Device for the Deaf (TDD), Text Telephone (TTY) number, and/or Federal Information Relay Service (FIRS) number.

2. Content and Form of Application Submission—Required. This section must identify the required content of an application and the forms or formats that an applicant must use to submit it. If any requirements are stated elsewhere because they are general requirements that apply to multiple programs or funding opportunities, this section should refer to where those requirements may be found. This section also should include required forms or formats as part of the announcement or state where the applicant may obtain them.

This section should specifically address content and form or format requirements for:

i. Pre-applications, letters of intent, or white papers required or encouraged (see Section D.4), including any limitations on the number of pages or other formatting requirements similar to those for full applications.

ii. The application as a whole. For all submissions, this would include any limitations on the number of pages, font size and typeface, margins, paper size, number of copies, and sequence or assembly requirements. If electronic submission is permitted or required, this could include special requirements for formatting or signatures.

iii. Component pieces of the application (*e.g.*, if all copies of the application must bear original signatures on the face page or the program narrative may not exceed 10 pages). This includes any pieces that may be submitted separately by third parties (*e.g.*, references or letters confirming commitments from third parties that will be contributing a portion of any required cost sharing).

iv. Information that successful applicants must submit after notification of intent to make a Federal award, but prior to a Federal award. This could include evidence of compliance with requirements relating to human subjects or information needed to comply with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4370h).

3. Unique Entity Identifier and System for Award Management (SAM)—Required.

This paragraph must state clearly that each applicant (unless the applicant is an individual or Federal awarding agency that is excepted from those requirements under 2 CFR 25.110(b) or (c), or has an exception approved by the Federal awarding agency under 2 CFR 25.110(d)) is required to:

(i) Be registered in SAM before submitting its application;

(ii) provide a valid unique entity identifier in its application; and

(iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency.

It also must state that the Federal awarding agency may not make a Federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

4. Submission Dates and Times—Required. Announcements must identify due dates and times for all submissions. This includes not only the full applications but also any preliminary submissions (*e.g.*, letters of intent, white papers, or pre-applications). It also includes any other

submissions of information before Federal award that are separate from the full application. If the funding opportunity is a general announcement that is open for a period of time with no specific due dates for applications, this section should say so. Note that the information on dates that is included in this section also must appear with other overview information in a location preceding the full text of the announcement (see §75.203).

Each type of submission should be designated as encouraged or required and, if required, any deadline date (or dates, if the Federal awarding agency plans more than one cycle of application submission, review, and Federal award under the announcement) should be specified. The announcement must state (or provide a reference to another document that states):

i. Any deadline in terms of a date and local time. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.

ii. What the deadline means (*e.g.*, whether it is the date and time by which the Federal awarding agency must receive the application, the date by which the application must be postmarked, or something else) and how that depends, if at all, on the submission method (*e.g.*, mail, electronic, or personal/courier delivery).

iii. The effect of missing a deadline (*e.g.*, whether late applications are neither reviewed nor considered or are reviewed and considered under some circumstances).

iv. How the receiving Federal office determines whether an application or pre-application has been submitted before the deadline. This includes the form of acceptable proof of mailing or system-generated documentation of receipt date and time.

This section also may indicate whether, when, and in what form the applicant will receive an acknowledgement of receipt. This information should be displayed in ways that will be easy to understand and use. It can be difficult to extract all needed information from narrative paragraphs, even when they are well written. A tabular form for providing a summary of the information may help applicants for some programs and give them what effectively could be a checklist to verify the completeness of their application package before submission.

5. Intergovernmental Review—Required, if applicable. If the funding opportunity is subject to Executive Order 12372, “Intergovernmental Review of Federal Programs,” the notice must say so. In alerting applicants that they must contact their state's Single Point of Contact (SPOC) to find out about and comply with the state's process under Executive Order 12372, it may be useful to inform potential applicants that the names and addresses of the SPOCs are listed in the Office of Management and Budget's Web site. www.whitehouse.gov/omb/grants/spoc.html.

6. Funding Restrictions—Required. Notices must include information on funding restrictions in order to allow an applicant to develop an application and budget consistent with program requirements. Examples are whether construction is an allowable activity, if there are any limitations on direct costs such as foreign travel or equipment purchases, and if there are any

limits on indirect costs (or facilities and administrative costs). Applicants must be advised if Federal awards will not allow reimbursement of pre-Federal award costs.

7. Other Submission Requirements—Required. This section must address any other submission requirements not included in the other paragraphs of this section. This might include the format of submission, *i.e.*, paper or electronic, for each type of required submission. Applicants should not be required to submit in more than one format and this section should indicate whether they may choose whether to submit applications in hard copy or electronically, may submit only in hard copy, or may submit only electronically.

This section also must indicate where applications (and any pre-applications) must be submitted if sent by postal mail, electronic means, or hand-delivery. For postal mail submission, this must include the name of an office, official, individual or function (*e.g.*, application receipt center) and a complete mailing address. For electronic submission, this must include the URL or email address; whether a password(s) is required; whether particular software or other electronic capabilities are required; what to do in the event of system problems and a point of contact who will be available in the event the applicant experiences technical difficulties.¹

¹With respect to electronic methods for providing information about funding opportunities or accepting applicants' submissions of information, each HHS awarding agency is responsible for compliance with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

E. Application Review Information

1. Criteria—Required. This section must address the criteria that the Federal awarding agency will use to evaluate applications. This includes the merit and other review criteria that evaluators will use to judge applications, including any statutory, regulatory, or other preferences (*e.g.*, minority status or Native American tribal preferences) that will be applied in the review process. These criteria are distinct from eligibility criteria that are addressed before an application is accepted for review and any program policy or other factors that are applied during the selection process, after the review process is completed. The intent is to make the application process transparent so applicants can make informed decisions when preparing their applications to maximize fairness of the process. The announcement should clearly describe all criteria, including any sub-criteria. If criteria vary in importance, the announcement should specify the relative percentages, weights, or other means used to distinguish among them. For statutory, regulatory, or other preferences, the announcement should provide a detailed explanation of those preferences with an explicit indication of their effect (*e.g.*, whether they result in additional points being assigned).

If an applicant's proposed cost sharing will be considered in the review process (as opposed to being an eligibility criterion described in Section C.2), the announcement must specifically address how it will be considered (*e.g.*, to assign a certain number of additional points to applicants who offer cost sharing, or to break ties among applications with equivalent scores after evaluation against all other factors). If cost sharing will not be considered in the evaluation, the announcement should say so, so that there is no ambiguity for potential applicants. Vague

statements that cost sharing is encouraged, without clarification as to what that means, are unhelpful to applicants. It also is important that the announcement be clear about any restrictions on the types of cost (*e.g.*, in-kind contributions) that are acceptable as cost sharing.

2. Review and Selection Process—Required. This section may vary in the level of detail provided. The announcement must list any program policy or other factors or elements, other than merit criteria, that the selecting official may use in selecting applications for Federal award (*e.g.*, geographical dispersion, program balance, or diversity). The HHS awarding agency may also include other appropriate details. For example, this section may indicate who is responsible for evaluation against the merit criteria (*e.g.*, peers external to the HHS awarding agency or HHS awarding agency personnel) and/or who makes the final selections for Federal awards. If there is a multi-phase review process (*e.g.*, an external panel advising internal HHS awarding agency personnel who make final recommendations to the deciding official), the announcement may describe the phases. It also may include: the number of people on an evaluation panel and how it operates, the way reviewers are selected, reviewer qualifications, and the way that conflicts of interest are avoided. With respect to electronic methods for providing information about funding opportunities or accepting applicants' submissions of information, each HHS awarding agency is responsible for compliance with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

In addition, if the HHS awarding agency permits applicants to nominate suggested reviewers of their applications or suggest those they feel may be inappropriate due to a conflict of interest, that information should be included in this section.

3. Anticipated Announcement and Federal Award Dates—Optional. This section is intended to provide applicants with information they can use for planning purposes. If there is a single application deadline followed by the simultaneous review of all applications, the HHS awarding agency can include in this section information about the anticipated dates for announcing or notifying successful and unsuccessful applicants and for having Federal awards in place. If applications are received and evaluated on a “rolling” basis at different times during an extended period, it may be appropriate to give applicants an estimate of the time needed to process an application and notify the applicant of the Federal awarding agency's decision.

F. Federal Award Administration Information

1. Federal Award Notices—Required. This section must address what a successful applicant can expect to receive following selection. If the HHS awarding agency's practice is to provide a separate notice stating that an application has been selected before it actually makes the Federal award, this section would be the place to indicate that the letter is not an authorization to begin performance (to the extent that it allows charging to Federal awards of pre-award costs at the non-Federal entity's own risk). This section should indicate that the notice of Federal award signed by the grants officer (or equivalent) is the authorizing document, and whether it is provided through postal mail or by electronic means and to whom. It also may address the timing, form, and content of notifications to unsuccessful applicants. See also §75.210.

2. Administrative and National Policy Requirements—Required. This section must identify the usual administrative and national policy requirements the HHS awarding agency's Federal awards may include. Providing this information lets a potential applicant identify any requirements with which it would have difficulty complying if its application is successful. In those cases, early notification about the requirements allows the potential applicant to decide not to apply or to take needed actions before receiving the Federal award. The announcement need not include all of the terms and conditions of the Federal-award, but may refer to a document (with information about how to obtain it) or Internet site where applicants can see the terms and conditions. If this funding opportunity will lead to Federal awards with some specific terms and conditions that differ from the HHS awarding agency's usual (sometimes called “general”) terms and conditions, this section should highlight those specific terms and conditions. Doing so will alert applicants that have received Federal awards from the HHS awarding agency previously and might not otherwise expect different terms and conditions. For the same reason, the announcement should inform potential applicants about special requirements that could apply to particular Federal awards after the review of applications and other information, based on the particular circumstances of the effort to be supported (*e.g.*, if human subjects were to be involved or if some situations may justify special terms on intellectual property, data sharing or security requirements).

3. Reporting—Required. This section must include general information about the type (*e.g.*, financial or performance), frequency, and means of submission (paper or electronic) of post-Federal award reporting requirements. Highlight any special reporting requirements for Federal awards under this funding opportunity that differ (*e.g.*, by report type, frequency, form/format, or circumstances for use) from what the HHS awarding agency's Federal awards usually require.

G. HHS Awarding Agency Contact(s)—Required

The announcement must give potential applicants a point(s) of contact for answering questions or helping with problems while the funding opportunity is open. The intent of this requirement is to be as helpful as possible to potential applicants, so the HHS awarding agency should consider approaches such as giving:

1. Points of contact who may be reached in multiple ways (*e.g.*, by telephone, FAX, and/or email, as well as regular mail).
2. A fax or email address that multiple people access, so that someone will respond even if others are unexpectedly absent during critical periods.
3. Different contacts for distinct kinds of help (*e.g.*, one for questions of programmatic content and a second for administrative questions).

H. Other Information—Optional

This section may include any additional information that will assist a potential applicant. For example, the section might:

Attachment A

1. Indicate whether this is a new program or a one-time initiative.
2. Mention related programs or other upcoming or ongoing HHS awarding agency funding opportunities for similar activities.
3. Include current Internet addresses for the HHS awarding agency Web sites that may be useful to an applicant in understanding the program.
4. Alert applicants to the need to identify proprietary information and inform them about the way the HHS awarding agency will handle it.
5. Include certain routine notices to applicants (*e.g.*, that the Federal Government is not obligated to make any Federal award as a result of the announcement or that only grants officers can bind the Federal Government to the expenditure of funds).