

and will not limit such housing or services or give preference to persons on the basis of religion;

(3) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of housing and supportive services.

(d) *Maintenance of effort.* No assistance received under this part (or any State or local government funds used to supplement this assistance) may be used to replace funds provided under any State or local government assistance programs previously used, or designated for use, to assist persons with disabilities, homeless persons, or homeless persons with disabilities.

#### § 582.120 Consolidated plan.

(a) *Applicants that are States or units of general local government.* The applicant must have a HUD-approved complete or abbreviated consolidated plan, in accordance with 24 CFR part 91, and must submit a certification that the application for funding is consistent with the HUD-approved consolidated plan. Funded applicants must certify in a grant agreement that they are following the HUD-approved consolidated plan. If the applicant is a State, and the project will be located in a unit of general local government that is required to have, or has, a complete consolidated plan, or that is applying for Shelter Plus Care assistance under the same Notice of Fund Availability (NOFA) and will have an abbreviated consolidated plan with respect to that application, the State also must submit a certification by the unit of general local government that the State's application is consistent with the unit of general local government's HUD-approved consolidated plan.

(b) *Applicants that are not States or units of general local government.* The applicant must submit a certification by the jurisdiction in which the proposed project will be located that the jurisdiction is following its HUD-approved consolidated plan and the applicant's application for funding is consistent with the jurisdiction's HUD-approved consolidated plan. The certification must be made by the unit of general local government or the State,

in accordance with the consistency certification provisions of the consolidated plan regulations, 24 CFR part 91, subpart F.

(c) *Indian tribes and the Insular Areas of Guam, the U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands.* These entities are not required to have a consolidated plan or to make consolidated plan certifications. An application by an Indian tribe or other applicant for a project that will be located on a reservation of an Indian tribe will not require a certification by the tribe or the State. However, where an Indian tribe is the applicant for a project that will not be located on a reservation, the requirement for a certification under paragraph (b) of this section will apply.

(d) *Timing of consolidated plan certification submissions.* Unless otherwise set forth in the NOFA, the required certification that the application for funding is consistent with the HUD-approved consolidated plan must be submitted by the funding application submission deadline announced in the NOFA.

[60 FR 16379, Mar. 30, 1995]

### Subpart C—Application and Grant Award

#### § 582.200 Application and grant award.

(a) *Review.* When funds are made available for assistance, HUD will publish a notice of fund availability in the FEDERAL REGISTER in accordance with the requirements of 24 CFR part 4. Applications will be reviewed and screened in accordance with the guidelines, rating criteria and procedures published in the notice.

(b) *Rating criteria.* HUD will award funds based on the criteria specified in section 455(a)(1) through (8) of the McKinney Act (42 U.S.C. 11403d(1)—11403d(8)) and on the following criteria authorized by section 455(a)(9) of the McKinney Act (42 U.S.C. 11403d(9)):

(1) The extent to which the applicant has demonstrated coordination with other Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project, to the extent practicable;

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(2) Extent to which the project targets homeless persons living in emergency shelters, supportive housing for homeless persons, or in places not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;

(3) Quality of the project; and

(4) Extent to which the program will serve homeless persons who are seriously mentally ill, have chronic alcohol and/or drug abuse problems, or have AIDS and related diseases.

(Approved by the Office of Management and Budget under control number 2506-0118)

[61 FR 51170, Sept. 30, 1996]

### § 582.230 Environmental review requirements.

(a) *Responsibility for review.* (1) HUD will perform the environmental review, in accordance with part 50 of this title, for conditionally selected applications received from PHA applicants and from IHA applicants. HUD is not permitted to approve such applications prior to its completion of this review, nor is the PHA or IHA permitted to enter into a contract for, or otherwise commit HUD or local funds for, acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under the program, prior to HUD's completion of this review and approval of the application, except under the SRO component.

(2) Applicants that are States, units of general local government, or Indian tribes must assume responsibility as "responsible entities" for environmental review, decisionmaking, and action for each application for assistance in accordance with part 58 of this title. In addition, for PHA projects and IHA projects under the SRO component, environmental reviews will be performed by State, local government, Indian tribe, or Alaska native village "nonrecipient responsible entities" as provided under part 58 of this title. HUD is permitted to approve such applications subject to the completion of reviews by the applicant in accordance with part 58 of this title. Applicants performing these reviews may adopt relevant and adequate prior reviews conducted by HUD or another governmental entity if the reviews meet the particular requirements of the Federal

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environmental law or authority under which they would be adopted, and only under certain conditions (e.g., a determination that no environmentally significant changes have occurred since the review was done). Applicants who adopt such relevant and adequate prior reviews may include the environmental certification and Request for Release of Funds with their applications.

(b) *Environmental review by HUD.* With regard to the environmental effects of applications for which HUD performs the review, HUD will undertake its review in accordance with the provisions of NEPA and the related authorities listed in 24 CFR 50.4. HUD may eliminate an application from consideration where the application would require an Environmental Impact Statement (EIS). PHA applicants and IHA applicants (other than under the SRO component) must include in their application an assurance that the applicant will:

(1) Not enter into a contract for, or otherwise commit HUD or local funds for, acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under the program, prior to HUD's completion of the review and approval of the application;

(2) Supply HUD with information necessary for HUD to perform any applicable environmental review when requested under § 582.225(a); and

(3) Carry out mitigating measures required by HUD or ensure that alternate sites are utilized.

(c) *Environmental review by applicants or nonrecipient responsible entities.* (1) An applicant that is required under paragraph (a)(2) of this section to assume environmental review responsibility must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under NEPA and related authorities listed in 24 CFR 58.5. A PHA or IHA applicant under the SRO component must include in its application an assurance by the nonrecipient responsible entity that the entity will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible