

information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, sub-contract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter. Participation by homeless individuals who also are participants under the program in policy or decisionmaking under § 583.300(f) does not constitute a conflict of interest.

(2) Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (e)(1) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the program and the effective and efficient administration of the recipient's project. An exception may be considered only after the recipient has provided the following:

(i) For States and other governmental entities, a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) For all recipients, an opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(3) In determining whether to grant a requested exception after the recipient has satisfactorily met the requirement of paragraph (e)(2) of this section, HUD will consider the cumulative effect of the following factors, where applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the project which would otherwise not be available;

(ii) Whether the person affected is a member of a group or class of eligible persons and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iii) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking

process with respect to the specific assisted activity in question;

(iv) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (e)(1) of this section;

(v) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vi) Any other relevant considerations.

(f) *Audit.* The financial management systems used by recipients under this program must provide for audits in accordance with 24 CFR part 44 or part 45, as applicable. HUD may perform or require additional audits as it finds necessary or appropriate.

(g) *Davis-Bacon Act.* The provisions of the Davis-Bacon Act do not apply to this program.

[58 FR 13871, Mar. 15, 1993, as amended at 61 FR 5211, Feb. 9, 1996; 64 FR 50226, Sept. 15, 1999]

Subpart E—Administration

§ 583.400 Grant agreement.

(a) *General.* The duty to provide supportive housing or supportive services in accordance with the requirements of this part will be incorporated in a grant agreement executed by HUD and the recipient.

(b) *Enforcement.* HUD will enforce the obligations in the grant agreement through such action as may be appropriate, including repayment of funds that have already been disbursed to the recipient.

§ 583.405 Program changes.

(a) *HUD approval.* (1) A recipient may not make any significant changes to an approved program without prior HUD approval. Significant changes include, but are not limited to, a change in the recipient, a change in the project site, additions or deletions in the types of activities listed in § 583.100 of this part approved for the program or a shift of more than 10 percent of funds from one approved type of activity to another, and a change in the category of participants to be served. Depending on the nature of the change, HUD may require

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a new certification of consistency with the consolidated plan (see § 583.155).

(2) Approval for changes is contingent upon the application ranking remaining high enough after the approved change to have been competitively selected for funding in the year the application was selected.

(b) *Documentation of other changes.* Any changes to an approved program that do not require prior HUD approval must be fully documented in the recipient's records.

[58 FR 13871, Mar. 15, 1993, as amended at 61 FR 51176, Sept. 30, 1996]

§ 583.410 Obligation and deobligation of funds.

(a) *Obligation of funds.* When HUD and the applicant execute a grant agreement, funds are obligated to cover the amount of the approved assistance under subpart B of this part. The recipient will be expected to carry out the supportive housing or supportive services activities as proposed in the application.

(b) *Increases.* After the initial obligation of funds, HUD will not make revisions to increase the amount obligated.

(c) *Deobligation.* (1) HUD may deobligate all or parts of grants for acquisition, rehabilitation, acquisition and rehabilitation, or new construction:

(i) If the actual total cost of acquisition, rehabilitation, acquisition and rehabilitation, or new construction is less than the total cost anticipated in the application; or

(ii) If proposed activities for which funding was approved are not begun within three months or residents do not begin to occupy the facility within nine months after grant execution.

(2) HUD may deobligate the amounts for annual leasing costs, operating costs or supportive services in any year:

(i) If the actual leasing costs, operating costs or supportive services for that year are less than the total cost anticipated in the application; or

(ii) If the proposed supportive housing operations are not begun within three months after the units are available for occupancy.

(3) The grant agreement may set forth in detail other circumstances

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under which funds may be deobligated, and other sanctions may be imposed.

(4) HUD may:

(i) Readvertise the availability of funds that have been deobligated under this section in a notice of fund availability under § 583.200, or

(ii) Award deobligated funds to applications previously submitted in response to the most recently published notice of fund availability, and in accordance with subpart C of this part.

PART 585—YOUTHBUILD PROGRAM

Subpart A—General

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Subpart E—Administration

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