

applicant must show one of the following as proof of mailing by the deadline date:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the Secretary.
- (e) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:
 - (1) A private metered postmark.
 - (2) A mail receipt that is not dated by the U.S. Postal Service.

(Authority: 20 U.S.C. 1221e-3 and 3474)

NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

[45 FR 22497, Apr. 3, 1980, as amended at 51 FR 20824, June 9, 1986; 69 FR 41201, July 8, 2004]

§ 75.103 Deadline date for preapplications.

- (a) If the Secretary invites or requires preapplications under a program, the application notice for the program sets a deadline date for preapplications.
- (b) An applicant shall submit its preapplication in accordance with the procedures for applications in § 75.102(b) and (d).

(Authority: 20 U.S.C. 1221e-3 and 3474)

§ 75.104 Applicants must meet procedural rules.

- (a) The Secretary may make a grant only to an eligible party that submits an application.
- (b) If a maximum award amount is established in a notice published in the FEDERAL REGISTER, the Secretary may reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount.

(Authority: 20 U.S.C. 1221e-3 and 3474)

[61 FR 8455, Mar. 4, 1996]

§ 75.105 Annual priorities.

(a) *What programs are covered by this section?* This section applies to any program for which the Secretary establishes priorities for selection of applications in a particular fiscal year.

(b) *How does the Secretary establish annual priorities?* (1) The Secretary establishes final annual priorities by publishing the priorities in a notice in the FEDERAL REGISTER, usually in the application notice for that program.

(2) The Secretary publishes proposed annual priorities for public comment, unless:

(i) The final annual priorities will be implemented only by inviting applications that meet the priorities (Cross-reference: See 34 CFR 75.105(c)(1));

(ii) The final annual priorities are chosen from a list of priorities already established in the program's regulations;

(iii) Publishing proposed annual priorities would seriously interfere with an orderly, responsible grant award process or would otherwise be impracticable, unnecessary, or contrary to the public interest;

(iv) The program statute requires or authorizes the Secretary to establish specified priorities; or

(v) The annual priorities are chosen from allowable activities specified in the program statute.

(c) *How does the Secretary implement an annual priority?* The Secretary may choose one or more of the following methods to implement an annual priority:

(1) *Invitations.* The Secretary may simply invite applications that meet a priority. If the Secretary chooses this method, an application that meets the priority receives no competitive or absolute preference over applications that do not meet the priority.

(2) *Competitive preference.* The Secretary may give one of the following kinds of competitive preference to applications that meet a priority.

(i) The Secretary may award some or all bonus points to an application depending on the extent to which the application meets the priority. These points are in addition to any points the applicant earns under the selection criteria (see § 75.200(b)). The notice states the maximum number of additional

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points that the Secretary may award to an application depending upon how well the application meets the priority.

(ii) The Secretary may select an application that meets a priority over an application of comparable merit that does not meet the priority.

(3) *Absolute preference.* The Secretary may give an absolute preference to applications that meet a priority. The Secretary establishes a separate competition for applications that meet the priority and reserves all or part of a program's funds solely for that competition. The Secretary may adjust the amount reserved for the priority after determining the number of high quality applications received.

(Authority: 20 U.S.C. 1221e-3 and 3474)

[46 FR 3205, Jan. 14, 1981, as amended at 57 FR 30337, July 8, 1992; 60 FR 63873, Dec. 12, 1995]

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CROSS REFERENCE: See § 75.200 for a description of discretionary and formula grant programs.

§ 75.109 Changes to application; number of copies.

(a) Each applicant that submits a paper application shall submit an original and two copies to the Department, including any information that the applicant supplies voluntarily.

(b) An applicant may make changes to its application on or before the deadline date for submitting applications under the program.

(Authority: 20 U.S.C. 1221e-3 and 3474)

CROSS REFERENCE: See § 75.200 How applications for new grants are selected for funding.

[45 FR 22497, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 69 FR 41201, July 8, 2004]

§ 75.110 Information regarding performance measurement.

(a) The Secretary may establish in an application notice for a competition one or more performance measurement requirements, including requirements for performance measures, baseline data, or performance targets, and a requirement that applicants propose in their applications one or more of their

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own performance measures, baseline data, or performance targets.

(b) If an application notice requires applicants to propose project-specific performance measures, baseline data, or performance targets, the application must include the following, as required by the application notice:

(1) *Performance measures.* How each proposed performance measure would accurately measure the performance of the project and how the proposed performance measure would be consistent with the performance measures established for the program funding the competition.

(2) *Baseline data.* (i) Why each proposed baseline is valid; or

(ii) If the applicant has determined that there are no established baseline data for a particular performance measure, an explanation of why there is no established baseline and of how and when, during the project period, the applicant would establish a valid baseline for the performance measure.

(3) *Performance targets.* Why each proposed performance target is ambitious yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

(c) If the application notice establishes performance measurement requirements, the applicant must also describe in the application—

(1)(i) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and

(ii) If the Secretary requires applicants to collect data after the substantive work of a project is complete regarding the attainment of certain performance targets, the data collection and reporting methods the applicant would use during the post-performance period and why those methods are likely to yield reliable, valid, and meaningful performance data.

(2) The applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection,