

### § 633.203

### 20 CFR Ch. V (4-1-01 Edition)

shall submit a Preapplication for Federal Assistance to DOL by a specified date as announced in the FEDERAL REGISTER.

(c) Applications for statewide programs are encouraged; however, the Department reserves the right to award grant funds to less than statewide areas.

(d) Executive Order 12372, "Intergovernmental Review of Federal Programs," and the implementing regulations at 30 CFR part 46 generally apply to this program. Pursuant to these requirements, in States which have established a consultation process expressly covering this program, applications shall be provided to the State for comment. Since States may also participate as competitors for this program, applications shall be submitted to the State upon the deadline for submission to the Department, instead of the usual 30-day period for review.

#### § 633.203 Review of funding request.

The SGA will identify all review standards including:

(a) An understanding of the problems of migrant and seasonal farmworkers;

(b) A familiarity with the area to be served;

(c) A previously demonstrated capability to administer effectively a diversified employability development program for migrant and seasonal farmworkers.

(d) General administrative and financial management capability.

(e) Prior performance with respect to financial management, audit and program outcomes.

#### § 633.204 Responsibility review.

(a) Prior to final selection as a potential grantee the Department will conduct a review of the available records to determine whether or not the organization has failed any responsibility test. This review is intended to establish overall responsibility to administer Federal funds. With the exceptions of paragraphs (a)(1) and (a)(3) of this section, the failure to meet any one of the tests would not establish that the organization is irresponsible unless the failure is substantial or persistent. The responsibility tests are as follows:

(1) The agency's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful, or failure to comply with an approved repayment plan.

(2) Serious administrative deficiencies identified in final findings and determinations—such as failure to maintain a financial management system as required by Federal regulations.

(3) Established fraud or criminal activity within the organization.

(4) Wilful obstruction of the audit process.

(5) Substantial failure to provide services to applicants as agreed to in a current or recent grant or to meet performance standard requirements as provided at § 633.321 of this subpart.

(6) Failure to correct deficiencies brought to the grantees' attention in writing as a result of monitoring activities, reviews, assessments, etc.

(7) Failure to return a grant closeout package or outstanding advances within 90 days of expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted; final billings reflecting serious cost category or total budget cost overrun.

(8) Failure to submit required reports.

(9) Failure to properly report and dispose of government property as instructed by DOL.

(10) Failure to have maintained cost controls resulting in excess cash on hand.

(11) Failure to procure or arrange for audit coverage for any two year period when required by DOL.

(12) Failure to audit a subrecipient within the required period when applicable.

(13) Final disallowed costs in excess of five percent of the grant or contract award.

(14) Failure to establish a mechanism to resolve subrecipient's audit within established time frames.

(b) This responsibility review is independent of the competitive process. Applicants failing to meet the requirements of this section will not be selected as potential grantees irrespective of their standing in the competition.