

Construction Projects with Federal Funds

When agreeing to obtain Federal funds and signing all assurances you also agreed to the terms listed below. These are requirements that **must** be followed and are not optional. If you fail to meet these requirements future federal funding could be withheld or delayed via Federal law 2 CFR 200.339 *Remedies for noncompliance*.

Use of ESSER II and ESSER III funds for construction projects over \$2,000 (i.e., windows, HVAC, building, remodel, doors, etc.) requires the regulations noted below to be followed:

We need an explanation or answer to each one of the Federal regulations cited below to show compliance.

Cross Reference: See [2 CFR part 200.317-200.326](#) for procurement requirements.

34 CFR § 75.600 Use of a grant for construction: Purpose of [§§ 75.601-75.615](#).

Sections 75.601-75.615 apply to:

- (a) An applicant that requests funds for construction; and
- (b) A grantee whose grant includes funds for construction.

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

34 CFR § 75.601 Applicant's assessment of environmental impact. (Feds waived this requirement)

An applicant shall include with its application its assessment of the impact of the proposed construction on the quality of the environment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 and Executive Order 11514 ([34 FR 4247](#)).

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

34 CFR § 75.602 Preservation of historic sites must be described in the application.

(a) An applicant shall describe in its application the relationship of the proposed construction to and probable effect on any district, site, building, structure, or object that is:

- (1) Included in the National Register of Historic Places; or
- (2) Eligible under criteria established by the Secretary of Interior for inclusion in the National Register of Historic Places.

Cross Reference: See [36 CFR part 60](#) for these criteria.

(b) In deciding whether to make a grant, the Secretary considers:

- (1) The information provided by the applicant under [paragraph \(a\)](#) of this section; and
- (2) Any comments by the Advisory Council on Historic Preservation.

Cross Reference: See [36 CFR part 800](#), which provides for comments from the Council.

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

34 CFR § 75.603 Grantee's title to site.

A grantee must have or obtain a full title or other interest in the site, including right of access, that is sufficient to ensure the grantee's undisturbed use and possession of the facilities for 50 years or the useful life of the facilities, whichever is longer.

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

34 CFR § 75.604 Availability of cost-sharing funds.

A grantee shall ensure that sufficient funds are available to meet any non-Federal share of the cost of constructing the facility.

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

34 CFR § 75.605 Beginning the construction.

(a) A grantee shall begin work on construction within a reasonable time after the grant for the construction is made.

(b) Before construction is advertised or placed on the market for bidding, the grantee shall get approval by the Secretary of the final working drawings and specifications.

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

34 CFR § 75.606 Completing the construction.

(a) A grantee shall complete its construction within a reasonable time.

(b) The grantee shall complete the construction in accordance with the application and approved drawings and specifications.

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

34 CFR § 75.607 General considerations in designing facilities and carrying out construction.

(a) A grantee shall insure that the construction is:

(1) Functional.

(2) Economical; and

(3) Not elaborate in design or extravagant in the use of materials, compared with facilities of a similar type constructed in the State or other applicable geographic area.

(b) The grantee shall, in developing plans for the facilities, consider excellence of architecture and design and inclusion of works of art. The grantee may not spend more than one percent of the cost of the project on inclusion of works of art.

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

34 CFR § 75.608 Areas in the facilities for cultural activities.

A grantee may make reasonable provision, consistent with the other uses to be made of the facilities, for areas in the facilities that are adaptable for artistic and other cultural activities.

(Authority: [20 U.S.C. 1221e-3](#) and [3474](#)) [[57 FR 30339](#), July 8, 1992]

34 CFR § 75.609 Comply with safety and health standards.

In planning for and designing facilities, a grantee shall observe:

(a) The standards under the Occupational Safety and Health Act of 1970 (Pub. L. 91-576) (See [36 CFR part 1910](#)); and

(b) State and local codes, to the extent that they are more stringent.

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

34 CFR § 75.610 Access by the handicapped.

A grantee shall comply with the Federal regulations on access by the handicapped that apply to construction and alteration of facilities. These regulations are:

(a) For residential facilities - [24 CFR part 40](#); and

(b) For non-residential facilities - [41 CFR subpart 101-19.6](#).

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

34 CFR § 75.611 Avoidance of flood hazards.

In planning the construction, a grantee shall, in accordance with the provisions of Executive Order 11988 of February 10, 1978 ([43 FR 6030](#)) and rules and regulations that may be issued by the Secretary to carry out those provisions:

- (a) Evaluate flood hazards in connection with the construction; and
- (b) As far as practicable, avoid uneconomic, hazardous, or unnecessary use of flood plains in connection with the construction.

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

34 CFR § 75.612 Supervision and inspection by the grantee.

A grantee shall maintain competent architectural engineering supervision and inspection at the construction site to ensure that the work conforms to the approved drawings and specifications.

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

34 CFR § 75.613 Relocation assistance by the grantee.

A grantee is subject to the regulations on relocation assistance and real property acquisition in 34 CFR part 15.

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

34 CFR § 75.614 Grantee must have operational funds.

A grantee shall insure that, when construction is completed, sufficient funds will be available for effective operation and maintenance of the facilities.

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

34 CFR § 75.615 Operation and maintenance by the grantee.

A grantee shall operate and maintain the facilities in accordance with applicable Federal, State, and local requirements.

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

34 CFR § 75.616 Energy conservation.

(a) To the extent feasible, a grantee shall design and construct facilities to maximize the efficient use of energy.

(b) The following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) are incorporated by reference in this section:

- (1) ASHRAE-90 A-1980 (Sections 1-9).
- (2) ASHRAE-90 B-1975 (Sections 10-11).
- (3) ASHRAE-90 C-1977 (Section 12).

Incorporation by reference of these provisions has been approved by the Director of the Office of the Federal Register pursuant to the Director's authority under 5 U.S.C. 552 (a) and 1 CFR part 51. The incorporated document is on file at the Department of Education, Grants and Contracts Service, rm. 3636 ROB-3, 400 Maryland Avenue, SW., Washington, DC 20202-4700 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. These standards may be obtained from the publication sales department at the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, NE., Atlanta, Georgia 30329.

(c) A grantee shall comply with ASHRAE standards listed in paragraph (b) of this section in designing and constructing facilities built with project funds.

(Authority: 20 U.S.C. 1221e-3 and 3474, 42 U.S.C. 8373(b), and E.O. 12185)
[57 FR 30339, July 8, 1992, as amended at 69 FR 18803, Apr. 9, 2004]

34 CFR § 75.617 Compliance with the Coastal Barrier Resources Act.

A recipient may not use, within the Coastal Barrier Resources System, funds made available under a program administered by the Secretary for any purpose prohibited by 31 U.S.C. chapter 55 (sections 3501-3510).

(Authority: 20 U.S.C. 1221e-3 and 3474, 31 U.S.C. 3504, 3505) [57 FR 30339, July 8, 1992]