

CHAPTER 2. BYRD AMENDMENT REQUIREMENTS

2-1 CERTIFICATION REQUIREMENTS.

- A. Form HUD-50071. The PHA/IHA or RMC that applies for, or receives, an individual grant under paragraph 1-4A exceeding \$100,000 shall submit Form HUD-50071, Certification for Contracts, Grants, Loans and Cooperative Agreements, certifying that it has not and will not make any prohibited payment from federally appropriated funds. This certification is required at the time the application for the grant assistance is submitted. If special circumstances require that a Letter of Intent (LOI) be used to obligate Section 23 Leased Housing adjustment funds in excess of \$100,000, the LOI will require the PHA/IHA to submit Form HUD-50071 within 30 calendar days after the LOI has been approved. A sample Form HUD-50071 is contained in Appendix I.
- B. Award Clause. The Award Clause is attached to and made a part of each award in excess of \$100,000 between HUD and the PHA/IHA or RMC and brings the award documents into compliance with Byrd Amendment requirements. The clause covers required Byrd Amendment certifications, disclosure statements, provisions governing subcontractors and subrecipients, and penalties. A copy of the Award Clause is contained in Appendix II.
 - 1. For the CGP, CIAP, Development, MROP, and the Section 8 Programs, the Award Clause is attached to the Annual Contributions Contract (ACC).
 - 2. For Operating Subsidy and Section 23 Leased Housing adjustments, the Award Clause is attached to the operating budget.
 - 3. For other grants, the Award Clause is attached to the grant agreement.

2-2 DISCLOSURE REQUIREMENTS. The PHA/IHA or RMC that applies for, or receives, an individual grant under paragraph 1-4A exceeding \$100,000 shall submit Standard Form (SF)-LLL, Disclosure of Lobbying Activities, disclosing any payment made, or agreement to make a payment, with other than federally appropriated funds for influencing or attempting to influence executive or legislative branch personnel in connection with a covered Federal action, as defined in subparagraph A. A sample SF-LLL is contained in Appendix III.

- A. Covered Federal Action. A covered Federal action is the award of any Federal contract, the making of any Federal grant or loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. Responsibility for Determination. It is the responsibility of the PHA/IHA or RMC to determine whether it is required to submit the SF-LLL to HUD.

C. Timing of Submission.

1. Where required, the PHA/IHA or RMC shall submit the SF-LLL at the time of application or operating budget submission.
2. The PHA/IHA or RMC shall submit a new SF-LLL at the end of each calendar quarter in which there occurs any event that requires disclosure after application or operating budget submission or that materially affects the accuracy of the information contained in any disclosure form previously filed. An event that materially affects the accuracy of the information reported includes:
 - a. A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - b. A change in the persons(s) or individual(s) influencing or attempting to influence a covered Federal action; or
 - c. A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

2-3 RESPONSIBILITIES OF PHA/IHA OR RMC. The PHA/IHA or RMC is responsible for ensuring that its contractors, including architects, engineers and other consultants which are contractors, submit Form HUD-50071 and, where applicable, the SF-LLL for each contract exceeding \$100,000. The PHA/IHA or RMC shall retain the submitted Forms HUD-50071 in its files, but shall forward the submitted SF-LLL to the HUD Field Office.

2-4 RESPONSIBILITIES OF PHA/IHA OR RMC CONTRACTOR. The PHA/IHA or RMC contractor, excluding the owner of Section 23 Leased Housing, is responsible for ensuring that its subcontractors and other

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subrecipients submit Form HUD-50071 and, where applicable, the SF-LLL for each subcontract or subgrant exceeding \$100,000. The contractor shall retain the submitted Forms HUD-50071 in his/her files, but shall forward the submitted SF-LLL to the PHA/IHA or RMC.

2-5 RESPONSIBILITIES OF SUBCONTRACTOR AND OTHER SUBRECIPIENT. The subcontractor or other subrecipient of each subcontract or subgrant exceeding \$100,000 is responsible for submitting Form HUD-50071 and, where applicable, SF-LLL, to the PHA/IHA or RMC contractor.

2-6 RESPONSIBILITIES OF HUD FIELD OFFICE.

- A. Certifications. The Field Office shall review each submitted Form HUD-50071 to determine that it is complete before award of funds or approval of the operating budget. The Field Office shall retain a copy of the certification in the appropriate application, project, budget or program file.
- B. Disclosures. The Field Office shall forward the original of the SF-LLL within 21 calendar days of receipt from the PHA/IHA or RMC to the Office of Ethics in Headquarters. The Field Office shall retain a copy of the SF-LLL in the appropriate application, project, budget or program file.
- C. Suspected Violations. It is emphasized that even if the grant amounts are not large enough (i.e., \$100,000 or less) to trigger the certification and disclosure requirements, the prohibition against the use of federally appropriated funds for influencing or attempting to influence the actions of Federal officials apply. Accordingly, the Field Office shall be alert to possible violations of the prohibition against lobbying using federally appropriated funds. If the Field Office becomes aware of possible violations, the Field Office shall immediately send a short, written report to the Office of Ethics in Headquarters.