


DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 4, 5, 92, 115, 125, 135, 200, 202, 214, 236, 242, 248, 266, 401, 570, 573, 574, 576, 578, 582, 583, 700, 761, 880, 881, 882, 883, 884, 886, 891, 902, 905, 943, 963, 964, 965, 970, 982, 990, 1000, 1003, and 1006

[Docket No. FR-5783-F-02]

RIN 2501-AD66


Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: Conforming Amendments

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: On December 19, 2014, the Office of Management and Budget (OMB) published a joint, Governmentwide interim rule with all Federal award-making agencies, entitled “Federal Awarding Agency Regulatory Implementation of Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.” In that rule, all Federal award-making agencies, including HUD, implemented the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. HUD also amended its administrative requirements for grants and cooperative agreements. This final rule conforms HUD’s regulations to OMB’s rule, revises cross references within affected HUD regulations, and makes other conforming changes and corrections.

DATES: *Effective Date:* January 6, 2016.

FOR FURTHER INFORMATION CONTACT: Scott Moore, Financial Operations Analyst, Office of the Chief Financial Officer, Financial Policy & Procedures Division, 451 7th Street SW., Room 3210, Washington, DC 20410, telephone number 202-402-2277, or Loyd LaMois, Supervisory Program Analyst, Office of Strategic Planning and Management, 451 7th Street SW., Room 3156, Washington, DC 20410, telephone number 202-402-3964. These are not a toll-free numbers. Persons with hearing or speech impairments may access these numbers through TTY by calling the Federal Relay Service, toll-free, at 800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

On December 19, 2014 (79 FR 75867), OMB published a joint, Governmentwide interim rule of all Federal award-making agencies entitled,

“Federal Awarding Agency Regulatory Implementation of Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.” In the joint interim rule, HUD and all other Federal award-making agencies implemented OMB’s final guidance entitled, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance) published on December 26, 2013 (78 FR 78589). The Uniform Guidance followed publication of a Notice of Proposed Guidance published on February 1, 2013 (78 FR 7282), and an Advance Notice of Proposed Guidance published on February 28, 2012 (77 FR 11778), and incorporated public comments received on those two documents. The Uniform Guidance is codified at 2 CFR part 200.

OMB’s Uniform Guidance provides a Governmentwide framework for Federal grant management designed to reduce administrative burden for non-Federal entities receiving Federal awards, while reducing the risk of waste, fraud, and abuse. The Uniform Guidance establishes requirements and responsibilities for all Federal agencies that award Federal financial assistance and all non-Federal entities that receive Federal awards. In developing the Uniform Guidance, OMB consolidated existing OMB circulars into a single set of requirements. OMB circulars consolidated and superseded by the Uniform Guidance include:

- A-21, “Cost Principles for Educational Institutions”;
- A-87, “Cost Principles for State, Local and Indian Tribal Governments”;
- A-102, “Grant Awards and Cooperative Agreements with State and Local Governments”;
- A-110, “Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations”;
- A-133, “Audits of States, Local Governments and Non-Profit Organizations”.

The Uniform Guidance also replaces provisions of OMB circulars that relate to Single Audit Act audits. OMB’s consolidation of prior guidance was aimed at eliminating duplicative or nearly duplicative language in order to clarify existing guidance. The Uniform Guidance does not broaden the scope of applicability of the guidance superseded.

The policy reforms brought about by the Uniform Guidance include:

- Eliminating duplicative/conflicting guidance;

- Focusing on performance over compliance for accountability;
- Encouraging efficient use of information technology (IT)/shared services;
- Providing for consistent treatment of costs;
- Limiting allowable costs for the best use of Federal resources;
- Incorporating standard business processes using data definitions;
- Strengthening oversight; and
- Targeting audit requirements on risk of waste, fraud, and abuse.

The Uniform Guidance also streamlines audit procedures by:

- Raising the Single Audit threshold from \$500,000 to \$750,000;
- Raising the questioned cost limit in Single Audits from \$10,000 to \$25,000; and
- Requiring assessment of Governmentwide audit quality to be conducted every 6 years (beginning in 2018).

A. Applicability of Uniform Guidance to HUD Grantees

In the December 19, 2014, joint, interim rule, HUD adopted and codified the Uniform Guidance as requirements for Federal awards at a new part, 2 CFR part 2400. HUD also amended 24 CFR parts 84 and 85, which had codified OMB Circulars superseded by 2 CFR part 200, by removing all substantive provisions and including a saving provision that provides that Federal awards made prior to December 26, 2014, will continue to be governed by parts 84 or 85 as codified in the 2013 edition of the Code of Federal Regulations (CFR) or as provided under the terms of the Federal award.

HUD implemented OMB Circular A-102 in 1988, by codifying its provisions in 24 CFR part 85 (March 11, 1988, 53 FR 8025, 8650). In 1994, HUD implemented OMB Circular A-110 by codifying its provisions in 24 CFR part 84 (September 13, 1994, 59 FR 47011). HUD codified the provisions of OMB Circular A-133 in 24 CFR parts 84 and 85 in 1997 (November 18, 1997, 62 FR 61617). In the intervening years since codifying the guidance in these circulars, HUD has cross-referenced applicable provisions of 24 CFR parts 84 and 85 throughout program regulations. Because HUD has implemented 2 CFR part 200 and removed, with certain exceptions, 24 CFR parts 84 and 85, this final rule conforms 24 CFR to the Uniform Guidance by removing references to 24 CFR parts 84 and 85 and replacing them with corresponding references to 2 CFR part 200.

Grant recipients and those who monitor grants are strongly encouraged to review the Uniform Guidance to obtain a better understanding of the Uniform Guidance and its implications for their Federal awards. The Federal Council on Financial Assistance Reform (COFAR) has provided additional tools to assist in the transition to the Uniform Guidance. These tools include:

- Frequently Asked Questions for New Uniform Guidance at 2 CFR part 200: <https://cfo.gov/wp-content/uploads/2014/11/2014-11-26-Frequently-Asked-Questions.pdf>.
- Uniform Guidance Crosswalk from Existing Guidance to Final Guidance: www.whitehouse.gov/sites/default/files/omb/fedreg/2013/uniform-guidance-crosswalk-from-predominate-source-in-existing-guidance.pdf.
- COFAR webcast trainings and slides: Available through the COFAR Web site <https://cfo.gov/cofar/>; specifically, through that Web site's page on Resources for Understanding the Uniform Guidance, <https://cfo.gov/cofar/#RUUG>.

Additional tools are available through links from COFAR's Web site homepage, <https://cfo.gov/cofar/>, in such sections (as of the date of this rule) as Resources for Understanding the Uniform Guidance, Measuring the Impact of the Uniform Guidance, the COFAR Training Webcast Series, Federal Spending Transparency, and Related Links.

In addition, grant recipients are encouraged to review guidance issued by HUD on February 26, 2015, entitled "Transition to 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance" (Notice SD-2015-01). This guidance is available at <http://portal.hud.gov/hudportal/documents/huddoc?id=15-01sdn.pdf>.

B. Other Conforming Changes

As noted above, HUD implemented OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," in 24 CFR parts 84 and 85 in 1997. In HUD's 1997 interim rule, HUD also removed and reserved 24 CFR part 44—Non-Federal Audit Requirements for State and Local Government, and 24 CFR part 45—Non-Federal Audit Requirements for Institutions of Higher Education and Other Nonprofit Institutions, since these parts were no longer applicable because of HUD's implementation of the circular. In drafting this final rule, HUD discovered the inadvertent retention of references to 24 CFR parts 44 and 45. HUD is using this final rule to correct this oversight and is replacing outdated

references to parts 44 and 45 with references to 2 CFR part 200, subpart F—Audit Requirements, or section(s) of that subpart, as applicable.

HUD is revising § 4.5 to conform to Section 233 of the Department of Housing and Urban Development Appropriations Act, 2009 (Pub. L. 111-8, March 11, 2009). HUD is revising § 570.402(a)(1) to conform to HUD's final rule entitled "Removal of Obsolete Community Planning and Development (CPD) Regulations (79 FR 51893, September 2, 2014). HUD is also correcting other copy and typographical errors.

II. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). This rule updates references to regulatory provisions that have been removed by HUD in implementing the Uniform Guidance, and substitutes references to appropriate sections of the Uniform Guidance, corrects outdated references to 24 CFR parts 44 and 45, and makes other conforming changes. As a result, HUD finds that good cause exists to publish this rule for effect without first soliciting public comment.

III. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)) generally requires an agency to conduct regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this rule without prior public comment, this rule is not subject to the requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute or the rule preempts

State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This final rule will not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Unfunded Mandates Reform

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA)¹ requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year. If a budgetary impact statement is required, section 205 of UMRA also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule.² However, the UMRA applies only to rules for which an agency publishes a general notice of proposed rulemaking. As discussed above, HUD has determined, for good cause, that prior notice and public comment is not required on this rule and, therefore, the UMRA does not apply to this final rule.

List of Subjects

24 CFR Part 4

Administrative practice and procedure, Government employees, Grant programs—housing and community development, Investigations, Loan programs—housing and community development, Penalties, Reporting and recordkeeping requirements.

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Crime, Government contracts, Grant programs—housing and community development, Individuals with disabilities, Intergovernmental relations, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

¹ 2 U.S.C. 1532.

² 2 U.S.C. 1534.

§ 965.215 [Amended]

■ 158. Amend § 965.215(d) by removing “part 85 of this title” and adding in its place “2 CFR part 200”.

§ 965.308 [Amended]

■ 159. Amend § 965.308 as follows:

■ a. In paragraph (a)(1), remove “24 CFR 85.36(d)(3)” and “§ 85.36(d)(3)(i) of this title” and add in their place “2 CFR 200.320(d)”; and

■ b. In paragraph (a)(2), remove “24 CFR 85.36(d)(4)(i)(A)” and add in its place “2 CFR 200.320(f)”.

PART 970—PUBLIC HOUSING PROGRAM—DEMOLITION OR DISPOSITION OF PUBLIC HOUSING PROJECTS

■ 160. The authority citation for part 970 continues to read as follows:

Authority: 42 U.S.C. 1437p and 3535(d).

§ 970.1 [Amended]

■ 161. Amend § 970.1 by removing “24 CFR part 85” and adding in its place “2 CFR part 200”.

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

■ 162. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

§ 982.159 [Amended]

■ 163. Amend § 982.159(b) by removing “24 CFR part 44” and adding in its place “2 CFR part 200, subpart F”.

PART 990—THE PUBLIC HOUSING OPERATING FUND PROGRAM

■ 164. The authority citation for part 990 continues to read as follows:

Authority: 42 U.S.C. 1437g; 42 U.S.C. 3535(d).

§ 990.190 [Amended]

■ 165. Amend § 990.190(d) by removing “24 CFR part 85” and adding in its place “2 CFR part 200, subpart F”.

§ 990.195 [Amended]

■ 166. Amend § 990.195(e) by removing “24 CFR 85.25” everywhere it appears and adding in its place “24 CFR 85.25 (as revised April 1, 2013)”.

§ 990.280 [Amended]

■ 167. Amend § 990.280(b)(2) by removing “e.g., OMB Circulars” and adding in its place “e.g., 2 CFR part 200”.

§ 990.310 [Amended]

■ 168. Amend § 990.310 by removing “24 CFR 85.20, 85.40, and 85.41” and adding in its place “2 CFR part 200”.

§ 990.320 [Amended]

■ 169. Amend § 990.320 by removing “24 CFR 85.26” and adding in its place “2 CFR part 200, subpart F”.

PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

■ 170. The authority citation for part 1000 continues to read as follows:

Authority: 25 U.S.C. 4101 *et seq.*; 42 U.S.C. 3535(d).

■ 171. Amend § 1000.26 as follows:

■ a. Revise paragraph (a);

■ b. In paragraph (b)(1) introductory text:

■ i. Remove “Attachment B of OMB Circular A-87” and add in its place “2 CFR part 200, subpart E,”; and

■ ii. Remove “Attachment A of this circular” and add in its place “2 CFR part 200, subpart E,”;

■ c. Revise paragraphs (b)(1)(i) and (ii); and

■ d. Add paragraph (b)(1)(iii).

The revisions and addition read as follows:

§ 1000.26 What are the administrative requirements under NAHASDA?

(a) Except as addressed in § 1000.28, recipients shall comply with the requirements and standards of 2 CFR part 200, “Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards”, except for the following sections:

(1) Section 200.113 applies, except that, in lieu of the remedies described in § 200.338, HUD shall be authorized to seek remedies under subpart F of this part.

(2) Section 200.302(a), “Financial management.”

(3) Section 200.305, “Payment,” applies, except that HUD shall not require a recipient to expend retained program income before drawing down or expending IHBG funds.

(4) Section 200.306, “Cost sharing or matching.”

(5) Section 200.307, “Program income.”

(6) Section 200.308, “Revision of budget and program plans.”

(7) Section 200.311, “Real property,” except as provided in 24 CFR 5.109.

(8) Section 200.313, “Equipment,” applies, except that in all cases in which the equipment is sold, the proceeds shall be program income.

(9) Section 200.314, “Supplies,” applies, except in all cases in which the

supplies are sold, the proceeds shall be program income.

(10) Section 200.317, “Procurement by states.”

(11) Sections 200.318 through 200.326 apply, as modified in this paragraph (a)(11):

(i) *De minimis procurement.* A recipient shall not be required to comply with 2 CFR 200.318 through 200.326 with respect to any procurement, using a grant provided under NAHASDA, of goods and services with a value of less than \$5,000.

(ii) *Utilizing Federal supply sources in procurement.* In accordance with Section 101(j) of NAHASDA, recipients may use Federal supply sources made available by the General Services Administration pursuant to 40 U.S.C. 501.

(12) Section 200.325, “Bonding requirements,” applies. There may be circumstances under which the bonding requirements of 2 CFR 200.325 are inconsistent with other responsibilities and obligations of the recipient. In such circumstances, acceptable methods to provide performance and payment assurance may include:

(i) Deposit with the recipient of a cash escrow of not less than 20 percent of the total contract price, subject to reduction during the warranty period, commensurate with potential risk;

(ii) Letter of credit for 25 percent of the total contract price, unconditionally payable upon demand of the recipient, subject to reduction during any warranty period commensurate with potential risk; or

(iii) Letter of credit for 10 percent of the total contract price, unconditionally payable upon demand of the recipient, subject to reduction during any warranty period commensurate with potential risk, and compliance with the procedures for monitoring of disbursements by the contractor.

(13) Section 200.328(b) through (d) and (f), “Monitoring and reporting program performance.”

(14) Section 200.333, “Retention requirements for records.”

(15) Section 200.338, “Remedies for noncompliance.”

(16) Section 200.343, “Closeout.”

(b) * * *

(1) * * *

(i) Depreciation method for fixed assets shall not be changed without the approval of the Federal cognizant agency.

(ii) Penalties, damages, fines and other settlements are unallowable costs to the IHBG program.

(iii) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances

and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees (2 CFR 200.445) requires HUD prior approval.

* * * * *

§ 1000.30 [Amended]

■ 172. Amend § 1000.30(a) by removing “24 CFR 85.36” in the two places where it appears and adding in its place “2 CFR 200.318”.

§ 1000.52 [Amended]

■ 173. Amend § 1000.52 as follows:
 ■ a. In paragraph (c)(2)(iii), remove “24 CFR 85.36” and add in its place “2 CFR 200.318 through 200.326”; and
 ■ b. In paragraph (c)(3):
 ■ i. Remove “24 CFR 85.36” in the two places where it appears and add in its place “2 CFR 200.320”; and
 ■ ii. Remove “of paragraph (c)(1) of this section”.

§ 1000.503 [Amended]

■ 174. Amend § 1000.503 as follows:
 ■ a. In paragraph (a)(4), remove “Office of Management and Budget (OMB) Circular A-133 audits” and add in its place “audits under 2 CFR part 200, subpart F”;
 ■ b. In paragraph (a)(5), remove “OMB Circular A-133” and add in its place “2 CFR part 200, subpart F.”; and
 ■ c. In paragraph (a)(6), remove “OMB Circular A-133” and add in its place “2 CFR part 200, subpart F.”.

§ 1000.544 [Amended]

■ 175. Amend § 1000.544 by:
 ■ a. Removing “including OMB Circular A-133” and adding in its place “implemented by 2 CFR part 200, subpart F”; and
 ■ b. Removing “in OMB Circular A-133, subpart B, section 200” and adding in its place “in 2 CFR 200.501”.

■ 176. Revise § 1000.548 to read as follows:

§ 1000.548 Must a copy of the recipient's audit pursuant to the Single Audit Act relating to NAHASDA activities be submitted to HUD?

No. A copy of the recipient audit under the Single Audit Act relating to NAHASDA activities is only required to be submitted to the Federal Audit Clearinghouse pursuant to 2 CFR part 200, subpart F.

PART 1003—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKA NATIVE VILLAGES

■ 177. The authority citation for part 1003 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301 *et seq.*

§ 1003.4 [Amended]

■ 178. In § 1003.4, amend the definition of “Subrecipient” by:
 ■ a. Removing “§ 1003.201(o)” and adding in its place “§ 1003.201(l)”; and
 ■ b. Removing “24 CFR 85.36 or in 24 CFR part 84, as applicable” and adding in its place “2 CFR 200.318 through 200.326”.

§ 1003.206 [Amended]

■ 179. Amend § 1003.206 as follows:
 ■ a. In paragraph (a)(4):
 ■ i. Remove “or use allowances for such items in accordance with OMB Circulars A-21, A-87 or A-122, as applicable” and add in its place “for such items in accordance with 2 CFR part 200, subpart E”; and
 ■ ii. Remove “(OMB Circulars are available from the Executive Office of the President, Publication Service, 725 17th Street NW., Suite G-2200, Washington, DC 20503, Telephone, 202-395-7332.)”; and
 ■ b. In paragraph (c), remove “OMB Circular A-21, A-87, or A-122, as applicable” and add in its place “2 CFR part 200, subpart E”.

§ 1003.207 [Amended]

■ 180. Amend § 1003.207 as follows:
 ■ a. In paragraph (a)(2), remove “OMB Circular A-87” and add in its place “2 CFR part 200, subpart E”; and
 ■ b. In paragraph (b)(1)(i), remove “leasing, depreciation or use allowances pursuant to OMB Circular A-21, A-87 or A-122 as applicable” and add in its place “leasing or depreciation pursuant to 2 CFR part 200, subpart E.”.

■ 181. Amend § 1003.501 as follows:
 ■ a. Revise paragraph (a);
 ■ b. Remove paragraph (b) and redesignate paragraph (c) as paragraph (b);
 ■ c. Revise the heading of newly redesignated paragraph (b);
 ■ d. In newly redesignated paragraph (b)(1):
 ■ i. Remove “Attachment B of OMB Circulars A-21, A-87, or A-123, as applicable,” and add in its place “2 CFR part 200, subpart E”; and
 ■ ii. Remove “Attachment A of such circulars” and add in its place “2 CFR part 200, subpart E.”.

■ e. In newly redesignated paragraph (b)(1)(i), remove “specific approval of HUD or, if charged through a cost allocation plan,” and add in its place “the approval of”;
 ■ f. In newly redesignated paragraph (b)(1)(ii), remove “and penalties” and add in its place “, penalties, damages, and other settlements”; and

■ g. Add paragraphs (b)(1)(iii) and (iv). The revision and additions read as follows:

§ 1003.501 Applicability of uniform administrative requirements and cost principles.

(a) Grantees and subrecipients shall comply with the requirements and standards of 2 CFR part 200, except for the following sections:

- (1) Paragraph (a) of § 200.302, “Financial management.”
- (2) Section 200.306, “Cost sharing or matching.”
- (3) Section 200.307, “Program income” applies as modified by § 1003.503.
- (4) Section 200.308, “Revisions of budget and program plans.”
- (5) Section 200.311, “Real property,” except as provided in § 1003.600.
- (6) Section 200.313, “Equipment” applies, except that in all cases in which the equipment is sold, the proceeds shall be program income.
- (7) Section 200.314, “Supplies,” applies, except in all cases in which the supplies are sold, the proceeds shall be program income.
- (8) Section 200.325, “Bonding requirements” applies. However, there may be circumstances under which the bonding requirements of 2 CFR 200.325 are inconsistent with other responsibilities and obligations of the grantee. In such circumstances, acceptable methods to provide performance and payment assurance may include:
 - (i) Deposit with the grantee of a cash escrow of not less than 20 percent of the total contract price, subject to reduction during the warranty period, commensurate with potential risk; or
 - (ii) Letter of credit for 25 percent of the total contract price, unconditionally payable upon demand of the grantee, subject to reduction during the warranty period commensurate with potential risk.
- (9) Paragraphs (b) through (d) and (f) of § 200.328, “Monitoring and reporting program performance.”
- (10) Section 200.333, “Retention requirements for records” applies. However, the retention period referenced in 2 CFR 200.333 pertaining to individual ICDBG activities starts from the date of the submission of the final status and evaluation report as prescribed in § 1003.506(a) in which the specific activity is reported.
- (11) Section 200.343, “Closeout.”
 - (b) *Cost principles.* (1)* * *
 - (iii) Costs of housing (*e.g.*, depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses (goods or

services for personal use), regardless of whether reported as taxable income to the employees (2 CFR 200.445), require HUD prior approval.

(iv) Organization costs (2 CFR 200.455) require HUD prior approval.

■ 182. Amend § 1003.502 as follows:

■ a. In paragraph (b)(3), remove “§ 85.25” and add in its place “2 CFR 200.307”.

■ b. Revise paragraph (b)(7).

The revision reads as follows:

§ 1003.502 Agreements with subrecipients.

* * * * *

(b) * * *

(7) *Suspension and termination.* The agreement shall set forth remedies for noncompliance and provisions on termination in accordance with 2 CFR part 200, subpart D.

* * * * *

§ 1003.503 [Amended]

■ 183. Amend § 1003.503 as follows:

■ a. In paragraph (a), remove “24 CFR 85.25” and add in its place “2 CFR 200.307”;

■ b. In paragraph (b)(6), remove “24 CFR 85.25” and add in its place “2 CFR 200.307”; and

■ c. In paragraph (b)(7), remove “24 CFR 85.25(g)(2)” and add in its place “2 CFR 200.307(e)(2)”.

§ 1003.507 [Amended]

■ 184. Amend § 1003.507 by removing “24 CFR 85.42(f)” and adding in its place “2 CFR 200.337”.

§ 1003.508 [Amended]

■ 185. Amend § 1003.508 as follows:

■ a. In paragraph (b)(4), remove “24 CFR part 44” and add in its place “2 CFR part 200, subpart F”;

■ b. In paragraph (d), remove “24 CFR 85.44” and add in its place “2 CFR 200.339”; and

■ c. In paragraph (e), remove “24 CFR 85.43(c)” and add in its place “2 CFR 200.342”.

§ 1003.509 [Amended]

■ 186. Amend § 1003.509(e) by removing “24 CFR 85.36” and adding in its place “2 CFR part 200, subpart D”.

§ 1003.510 [Amended]

■ 187. Amend § 1003.510 as follows:

■ a. In paragraph (d)(2)(iii), remove “24 CFR 85.36” and add in its place “2 CFR 200.320”;

■ b. In paragraph (d)(3), remove “24 CFR 85.36” in the two places where it appears and add in their place “2 CFR 200.320”.

§ 1003.511 [Amended]

■ 188. Amend § 1003.511(a)(2) by removing “24 CFR 85.36” and adding in its place “2 CFR part 200, subpart D”.

§ 1003.600 [Amended]

■ 189. Amend § 1003.600(f) by removing “24 CFR parts 84 and 85” and adding in its place “2 CFR 200.311(c).”

§ 1003.606 [Amended]

■ 190. Amend § 1003.606 as follows:

■ a. In paragraph (a)(1), remove “24 CFR 85.36 and 24 CFR 84.42” and add in its place “2 CFR 200.112, 200.318(c), and 200.319(a)(5)”;

■ b. In paragraph (a)(2), remove “24 CFR 85.36 and 24 CFR 84.42” and add in its place “2 CFR 200.318”.

PART 1006—NATIVE HAWAIIAN HOUSING BLOCK GRANT PROGRAM

■ 191. The authority citation for part 1006 continues to read as follows:

Authority: 25 U.S.C. 4221 *et seq.*; 42 U.S.C. 3535(d).

§ 1006.230 [Amended]

■ 192. Amend § 1006.230(d) by removing “OMB Circulars A–87 or A–122 as applicable” and adding in its place “2 CFR part 200, subpart E”.

§ 1006.340 [Amended]

■ 193. Amend § 1006.340(b)(3) by removing “24 CFR part 85” and adding in its place “2 CFR 200.305”.

§ 1006.360 [Amended]

■ 194. Amend § 1006.360 by removing “24 CFR 85.36 or 24 CFR 84.42” and adding in its place “2 CFR 200.317 (for DHHL) and 2 CFR 200.318 (for subrecipients)”.

§ 1006.365 [Amended]

■ 195. Amend § 1006.365(b) by removing “24 CFR 85.36” and adding in its place “2 CFR part 200, subpart D”.

■ 196. Revise § 1006.370 to read as follows:

§ 1006.370 Uniform administrative, requirements, cost principles, and audit requirements for Federal awards.

(a) The DHHL and subrecipients receiving NHHBG funds shall comply with the requirements and standards of 2 CFR part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”.

(b)(1) With respect to the applicability of cost principles, all items of cost listed in 2 CFR part 200, subpart E, which require prior Federal agency approval are allowable without the prior approval of HUD to the extent that they comply

with the general policies and principles stated in 2 CFR part 200, subpart E, and are otherwise eligible under this part, except for the following:

(i) Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency.

(ii) Fines, penalties, damages, and other settlements are unallowable costs to the NHHBG program.

(iii) Costs of housing (*e.g.*, depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 CFR 200.445).

(iv) Organization costs (2 CFR 200.455).

(2) In addition, no person providing consultant services in an employer-employee type of relationship shall receive funds. In no event, however, shall such compensation exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule. The Executive Pay Schedule may be obtained by <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages>.

§ 1006.375 [Amended]

■ 197. Amend § 1006.375(d) by:

■ a. Removing “OMB Circular A–133” and adding in its place “2 CFR part 200, subpart F”;

■ b. Removing “HUD concurrent with submittal to the Audit Clearinghouse” and adding in its place “the Federal Audit Clearinghouse”.

§ 1006.420 [Amended]

■ 198. Amend § 1006.420(b)(3) by removing “the DHHL” and adding in its place “the DHHL, including their retention under 2 CFR 200.333, noting that the NHHBG Annual Performance Report is the program’s final expenditure report”.

Dated: October 28, 2015.

Julián Castro,

Secretary.

[FR Doc. 2015–29692 Filed 12–4–15; 8:45 am]

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ELECTRONIC CODE OF FEDERAL REGULATIONS**e-CFR data is current as of April 28, 2016**[Title 24](#) → [Subtitle B](#) → [Chapter IX](#) → [Part 1000](#) → [Subpart A](#) → §1000.26

Title 24: Housing and Urban Development
[PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES](#)
[Subpart A—General](#)

§1000.26 What are the administrative requirements under NAHASDA?

(a) Except as addressed in §1000.28, recipients shall comply with the requirements and standards of 2 CFR part 200, “Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards”, except for the following sections:

(1) Section 200.113 applies, except that, in lieu of the remedies described in §200.338, HUD shall be authorized to seek remedies under subpart F of this part.

(2) Section 200.302(a), “Financial management.”

(3) Section 200.305, “Payment,” applies, except that HUD shall not require a recipient to expend retained program income before drawing down or expending IHBG funds.

(4) Section 200.306, “Cost sharing or matching.”

(5) Section 200.307, “Program income.”

(6) Section 200.308, “Revision of budget and program plans.”

(7) Section 200.311, “Real property,” except as provided in 24 CFR 5.109.

(8) Section 200.313, “Equipment,” applies, except that in all cases in which the equipment is sold, the proceeds shall be program income.

(9) Section 200.314, “Supplies,” applies, except in all cases in which the supplies are sold, the proceeds shall be program income.

(10) Section 200.317, “Procurement by states.”

(11) Sections 200.318 through 200.326 apply, as modified in this paragraph (a)(11):

(i) *De minimis procurement.* A recipient shall not be required to comply with 2 CFR 200.318 through 200.326 with respect to any procurement, using a grant provided under NAHASDA, of goods and services with a value of less than \$5,000.

(ii) *Utilizing Federal supply sources in procurement.* In accordance with Section 101(j) of NAHASDA, recipients may use Federal supply sources made available by the General Services Administration pursuant to 40 U.S.C. 501.

(12) Section 200.325, “Bonding requirements,” applies. There may be circumstances under which the bonding requirements of 2 CFR 200.325 are inconsistent with other responsibilities and obligations of the recipient. In such circumstances, acceptable methods to provide performance and payment assurance may include:

(i) Deposit with the recipient of a cash escrow of not less than 20 percent of the total contract price, subject to reduction during the warranty period, commensurate with potential risk;

(ii) Letter of credit for 25 percent of the total contract price, unconditionally payable upon demand of the recipient, subject to reduction during any warranty period commensurate with potential risk; or

(iii) Letter of credit for 10 percent of the total contract price, unconditionally payable upon demand of the recipient, subject to reduction during any warranty period commensurate with potential risk, and compliance with the procedures for monitoring of disbursements by the contractor.

(13) Section 200.328(b) through (d) and (f), “Monitoring and reporting program performance.”

(14) Section 200.333, "Retention requirements for records."

(15) Section 200.338, "Remedies for noncompliance."

(16) Section 200.343, "Closeout."

(b)(1) With respect to the applicability of cost principles, all items of cost listed in 2 CFR part 200, subpart E, which require prior Federal agency approval are allowable without the prior approval of HUD to the extent that they comply with the general policies and principles stated in 2 CFR part 200, subpart E and are otherwise eligible under this part, except for the following:

(i) Depreciation method for fixed assets shall not be changed without the approval of the Federal cognizant agency.

(ii) Penalties, damages, fines and other settlements are unallowable costs to the IHBG program.

(iii) Costs of housing (*e.g.*, depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees (2 CFR 200.445) requires HUD prior approval.

(2) In addition, no person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with IHBG funds. In no event, however, shall such compensation exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule.

[63 FR 12349, Mar. 12, 1998, as amended at 77 FR 71523, Dec. 3, 2012; 80 FR 75943, Dec. 7, 2015]

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ELECTRONIC CODE OF FEDERAL REGULATIONS**e-CFR data is current as of April 28, 2016**[Title 24](#) → [Subtitle B](#) → [Chapter IX](#) → [Part 1003](#) → [Subpart F](#) → §1003.501

Title 24: Housing and Urban Development

[PART 1003—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKA NATIVE VILLAGES](#)[Subpart F—Grant Administration](#)**§1003.501 Applicability of uniform administrative requirements and cost principles.**

(a) Grantees and subrecipients shall comply with the requirements and standards of 2 CFR part 200, except for the following sections:

- (1) Paragraph (a) of §200.302, “Financial management.”
- (2) Section 200.306, “Cost sharing or matching.”
- (3) Section 200.307, “Program income” applies as modified by §1003.503.
- (4) Section 200.308, “Revisions of budget and program plans.”
- (5) Section 200.311, “Real property,” except as provided in §1003.600.

(6) Section 200.313, “Equipment” applies, except that in all cases in which the equipment is sold, the proceeds shall be program income.

(7) Section 200.314, “Supplies,” applies, except in all cases in which the supplies are sold, the proceeds shall be program income.

(8) Section 200.325, “Bonding requirements” applies. However, there may be circumstances under which the bonding requirements of 2 CFR 200.325 are inconsistent with other responsibilities and obligations of the grantee. In such circumstances, acceptable methods to provide performance and payment assurance may include:

(i) Deposit with the grantee of a cash escrow of not less than 20 percent of the total contract price, subject to reduction during the warranty period, commensurate with potential risk; or

(ii) Letter of credit for 25 percent of the total contract price, unconditionally payable upon demand of the grantee, subject to reduction during the warranty period commensurate with potential risk.

(9) Paragraphs (b) through (d) and (f) of §200.328, “Monitoring and reporting program performance.”

(10) Section 200.333, “Retention requirements for records” applies. However, the retention period referenced in 2 CFR 200.333 pertaining to individual ICDBG activities starts from the date of the submission of the final status and evaluation report as prescribed in §1003.506(a) in which the specific activity is reported.

(11) Section 200.343, “Closeout.”

(b) *Cost principles.* (1) All items of cost listed in 2 CFR part 200, subpart E, which require prior Federal agency approval are allowable without the prior approval of HUD to the extent that they comply with the general policies and principles stated in 2 CFR part 200, subpart E, and are otherwise eligible under subpart C of this part, except for the following:

(i) Depreciation methods for fixed assets shall not be changed without the approval of the Federal cognizant agency.

(ii) Fines, penalties, damages, and other settlements are unallowable costs to the ICDBG program.

(iii) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees (2 CFR 200.445), require HUD prior approval.

(iv) Organization costs (2 CFR 200.455) require HUD prior approval.

(2) No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with ICDBG funds. In no event, however, shall such compensation exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule.

(Approved by the Office of Management and Budget under control number 2577-0191)

[62 FR 12349, Mar. 12, 1998, as amended at 80 FR 75944, Dec. 7, 2015]

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