



U. S. Department of Housing and Urban Development Public and Indian Housing

Special Attention of:

Tribes; Tribally
Designated Housing Entities;
and ONAP Administrators

Notice PIH 2014-06 (TDHEs)

Issued: April 16, 2014

Effective until revoked, superseded,
or amended

Cross Reference(s):

24 CFR Part 1000

24 CFR Part 1003

24 CFR Part 1006

24 CFR Part 85

2 CFR Part 200

2 CFR Part 225

OMB Circular A-133

Subject: Financial Audit Requirements for Tribal Participants in Public and Indian Housing Programs

Purpose: This Notice rescinds and supersedes PIH Letter L-2007-03, issued June 29, 2007, to provide specific guidance on the financial audit requirements for the tribal participants in the following programs: the Indian Housing Block Grant (IHBG), the Indian Community Development Block Grant (ICDBG), the Native Hawaiian Housing Block Grant (NHHBG), Residential Opportunity and Self-Sufficiency (ROSS) Service Coordinators, the Rural Innovation Fund (RIF), and Rural Housing and Economic Development (RHED). The Notice incorporates revisions to the IHBG regulation at 24 CFR Part 1000, which became effective January 2, 2013.

Background: Grant recipients are required to comply with the Single Audit Act (SAA) and Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations* (Circular A-133), in accordance with 24 CFR § 85.26. Audits are to be conducted by an independent auditor in accordance with generally accepted auditing standards covering financial audits. Circular A-133 sets forth standards for obtaining consistency and uniformity for audits of non-federal entities expending federal awards. Circular A-133 can be downloaded at: http://www.whitehouse.gov/omb/circulars_default.

Circular A-133 requires that non-federal entities that expend federal funds equal to or in excess of a threshold amount specified by OMB (currently set at \$500,000 in a fiscal year) shall have a single or program-specific audit conducted for that year in accordance with the provisions of Circular A-

133. Non-federal entities that expend less than the threshold are exempt from the audit requirement for that year; however, records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accountability Office pursuant to Circular A-133 §___.200(d).

Annual audits are required in Circular A-133 except as permitted in Circular A-133 §___.220(a) where a tribe is required by tribal law, which was in effect on January 1, 1987, to undergo its audits less frequently than annually. If this requirement is still in effect for the biennial period under audit, the tribe may undergo its audits biennially; or in §___.220(b) where a non-profit organization that for the periods between July 1, 1992, and January 1, 1995, had biennial audits may continue with biennial audits.

Grant recipients should note that new Federal government regulations on Administrative Requirements, Cost Principles, and Audit Requirements were promulgated on December 26, 2013 at 2 C.F.R. Part 200. HUD intends to update its regulations by December 26, 2014 to implement these new requirements in its programs. Audits covering recipients' final years that begin in January 2015 will be subject to the revised audit requirements. In the meantime, applicable OMB Circulars and the regulations at 2 C.F.R. Part 225 will continue to apply to grants until implementation of the new requirements.

Responsibilities of ONAP recipients: All federal awards received and expended and the federal programs, including CFDA number, award number, and name of federal agency under which funds were received must be identified in its accounts pursuant to Circular A-133 §___.300. The recipient must maintain internal control over federal programs that provides reasonable assurance that the recipient is managing federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of the federal programs. The recipient must comply with laws, regulations, and the provisions of contracts and grant agreements related to each of its federal programs. The recipient must prepare appropriate financial statements, including the Schedule of Expenditures of Federal Awards (SEFA) in accordance with §___.310. The recipient must ensure that the audits required by Circular A-133 are properly performed and submitted when due. In order to ensure compliance with Circular A-133 and applicable audit requirements, ICDBG recipients must send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC, or submit the signed audit certification with the Annual Status and Evaluation Report (ASER) if the audit threshold was not met. The recipient must follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with §___.315(b) and §___.315(c), respectively.

A chart follows detailing requirements and length of record retention along with their relevant citations for the IHBG and Title VI Loans, ICDBG, NHHBG, ROSS, RIF, and RHED programs.

NAME	CITATIONS	REQUIREMENTS	RECORDS RETENTION
IHBG Program	24 CFR §§ 1000.544, 1000.548, 1000.550 and 1000.10. Section 405(a) of NAHASDA. Records retention in 24 CFR § 1000.552.	Comply with SAA and Circular A-133. Send a copy of audit to the Area ONAP at the same time the audit is submitted to the FAC or indicate in the APR if the audit threshold was not met. Tribal program year means fiscal year. <u>TDHEs Additionally:</u> If the audit threshold was met, the TDHE must be audited separately and cannot meet its audit requirements by being included in the Tribe's annual audit because, in accordance with Section 405(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), an entity designated by an Indian tribe as a housing entity shall be treated for purposes of Chapter 75 of Title 31, United States Code, as a non-federal entity that is subject to the audit requirements that apply to non-Federal entities under that chapter. The TDHE must provide a copy of the audit report to the Indian Tribe as grant beneficiary. <u>TRIBES:</u> The Indian Tribe as grant beneficiary must receive a copy of the TDHE's audit report so that it can fully carry out its oversight responsibilities with NAHASDA.	All financial and programmatic records, supporting documents and statistical records must be maintained by recipients of IHBG programs for 3 years from the end of the tribal program year during which the funds were expended. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.
ICDBG Program	24 CFR § 1003.501, 24 CFR § 85.26, and A-133 § .__320(f). Records retention in 24 CFR § 85.42.	Comply with SAA and Circular A-133. Send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC or submit the signed audit certification with the Annual Status and Evaluation Report (ASER) if the audit threshold was not met. The ASER reminder letter will include a blank certification.	Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of 3 years from the date of submission of the ASER. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.
NHHBG Program	24 CFR §§ 1006.375(d) and 85.26. Records retention in 24 CFR § 85.42.	Comply with SAA and Circular A-133. Send a copy of the audit to the Native Hawaiian Housing Specialist in Honolulu, HI at the same time the audit is submitted to the FAC.	Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of 3 years from the date of submission of the final expenditure report. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records

			must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.
ROSS Program	24 CFR § 85.26. Records retention in 24 CFR § 85.42.	Comply with SAA and Circular A-133. Send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC.	Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of 3 years from the date of submission of the final expenditure report. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.
RIF Program	24 CFR § 85.26. Records retention in 24 CFR § 85.42	Comply with SAA and Circular A-133. Send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC.	Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of 3 years from the date of submission of the final expenditure report. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.
RHED Program	NOFA, 24 CFR § 85.26. Records retention in 24 CFR § 85.42	Comply with SAA and Circular A-133. Send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC.	Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of 3 years from the date of submission of the final expenditure report. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.
Title VI Loans	24 CFR § 1000.502. Records retention in 24 CFR § 1000.552.	Comply with SAA and Circular A-133. Include the balance of all previous year Title VI loans when determining audit threshold. Send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC.	All financial and programmatic records, supporting documents and statistical records must be maintained by recipients of IHBG programs for 3 years from the end of the tribal program year during which the funds were expended. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

Subrecipients: Subrecipients that spend Federal funds in excess of the threshold amount are subject to the SAA and Circular A-133. The subrecipient is required to submit audits. The determination of when a federal award is expended should be based on when the activity related to the award occurs as stated in Circular A-133 § ____.205(a). Generally, the activity pertains to events that require the non-federal entity to comply with laws, regulations, and the provisions of contracts or grant agreements such as: expenditure/expense transactions associated with grants, cost-reimbursement contracts, cooperative agreements, and direct appropriations; the disbursement of funds passed through to subrecipients; the use of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income, the distribution or consumption of food commodities; the disbursement of amounts entitling the non-federal entity to an interest subsidy; and, their period when the insurance is in force. Specifically, the disbursement of funds passed through to the subrecipient is cited in § ____.205(a) as when a federal award is expended. A subrecipient's expense is incurred when the work by force labor is begun or a contract with a third party is signed.

The recipient must monitor the subrecipient as governed by 24 CFR 85.26(b). The recipient must include the amount of pass-through grant funds when determining whether the recipient qualified for the A-133 audit. The recipient must include the grant as a direct award on its Schedule of Expenditures of Federal Awards in the audit package, even if the funds are passed through to another entity. The recipient must identify in the SEFA the cumulative grant and current period expenditures for each open grant. The recipient is also required to ensure that the subrecipient includes all of the pass-through funds in the subrecipient's audit.

The subrecipient must also include in the audit the pass-through funds on its SEFA and identify the funds as pass-through. Regardless of whether an audit finding or questioned cost is disclosed, pursuant to Circular A-133 § ____.320(e), subrecipients shall submit to each pass-through entity one copy of the audit reporting package including auditor letters and work papers. When a subrecipient's audit discloses no audit findings or questioned costs, a copy of the audit is requested to be sent to the pass-through entity rather than notification only per § ____.320(e)(2).

Audit report package: The audit report package as instructed in Circular A-133 §§ ____.320(b) and .320(c) is comprised of the completed data collection form with the financial statements and Schedule of Expenditures of Federal Awards, Summary Schedule of Prior Audit Findings, the auditor's report(s), and a corrective action plan.

Audit due dates: Recipients are to submit a complete audit report package to the Federal Audit Clearinghouse (FAC) within 30 days of receipt from the auditor, or 9 months after the end of the recipient's fiscal year, whichever occurs earlier as required in Circular A-133 § ____.320(a).

Submission to the Federal Audit Clearinghouse: The Circular A-133 audit report package and a Data Collection Form for Reporting on Audits of States, Local Governments, and NonProfit Organizations (Form SF-SAC) are to be submitted to the FAC as instructed in Circular A-133 §§ ____.320(i) and ____.320(j). All audits for fiscal periods ending in 2008 or later must use the Internet Data Entry System (IDES) to submit Form SF-SAC and Single Audit reporting

package to the FAC electronically at the website:

<https://harvester.census.gov/fac/collect/ddeindex.html>.

Audit as eligible cost: Circular A-133 §__.225 provides that no audit costs may be charged to federal awards when required audits have not been made or have been made but not in accordance with Circular A-133.

24 CFR § 1000.546 states that audit costs or financial review costs that are attributable to NAHASDA-funded activities are an eligible program or administrative expense under the IHBG program. 24 CFR § 1003.206(a)(a)(ix)(3) for the ICDBG program states that audit services are an eligible part of general services, which combined with total general services and eligible planning services listed under §§ 1003.206 and 1003.205, cannot exceed 20 percent of grant fund plus program income received. 24 CFR § 1006.230(a)(1)(vi)(3) for the NHHBG program includes audit costs as eligible program administration costs. For all other programs included in this Notice, 2 CFR part 225, Appendix B, provides that the costs of audits required by, and performed in accordance with the SAA, as implemented by Circular A-133 are allowable.

Recipient Responsibilities: As an awarding agency, HUD has the responsibility to issue a Management Decision Letter (MDL) on audit findings related to its federal awards as cited in the OMB Circular A-133 §__.400 (c)(5). The recipient is responsible pursuant to §__.315 for follow up and corrective action as shown on the MDL for all audit findings, including the preparation of a corrective action plan for current year findings and preparation of a summary schedule of prior year audit findings. The recipient is responsible for responding to the MDL issued by HUD in a timely manner.

The recipient is also responsible for the issuance and follow up of an MDL to its subrecipients in accordance with OMB Circular A-133 §__.400(d)(5). The recipient shall provide a copy of the MDL issued to subrecipients and follow-up correspondence to ONAP.

The recipient shall respond to requests by a Federal agency or pass-through entity with appropriate copies of the reporting package and a copy of any management letters issued by the auditor pursuant to Circular A-133 §__.320(f).

CFDA titles and numbers: CFDA titles and numbers may be found on the Internet at <https://www.cfda.gov/>. The applicable CFDA titles and numbers for the most common ONAP programs are provided below:

- 14.250 Rural Housing and Economic Development
- 14.263 Rural Innovation Fund
- 14.862 Indian Community Development Block Grant Program
- 14.865 Section 184 Public and Indian Housing: Loan Guarantees for Indian Housing
- 14.867 Indian Housing Block Grants
- 14.869 Title VI Federal Guarantees for Financing Tribal Housing Activities
- 14.870 Resident Opportunity and Supportive Services
- 14.873 Native Hawaiian Housing Block Grant

- 14.874 Section 184A Public and Indian Housing: Loan Guarantees for Native Hawaiian Housing
- 14.893 Training and Technical Assistance for the IHBG Program
- 14.894 Training and Technical Assistance for the NHHBG Program

Permitted review of auditor's work papers: Audit working papers as required in Circular A-133 §___.515(b) shall be made available upon request to the cognizant or oversight agency for audit or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office. ONAP has delegated its responsibility to conduct quality control reviews of audit working papers to the Real Estate Assessment Center's Quality Assurance Subsystem (QASS) Team for those entities for which HUD is the oversight agency. This delegation does not limit ONAP's ability to access and review auditor work papers. The auditor is required to retain working papers and reports for a minimum of 3 years after the date of issuance of the audit pursuant to §___.515(a).

Failure to Comply with Circular A-133 Requirements: The imposition by HUD of any sanction for failure by an IHBG recipient to meet the audit requirements of Circular A-133 would follow the process provided for in Title IV of NAHASDA as implemented by Subpart F of 24 CFR Part 1000. In a similar manner, the imposition by HUD of any sanction for failure by an ICDBG recipient to meet the audit requirements of Circular A-133 would follow the process provided for in Subpart H of 24 CFR Part 1003. This responsibility includes enforcement for any ONAP program, including RHED, RIF, and ROSS.

Paperwork Reduction Act: The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-35200) and assigned OMB control number 2577-0218 (Exp. 09/30/2014). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Technical Assistance: If you have any questions regarding this policy, please contact the local ONAP Area Office. Persons with hearing or speech impairments may access their Area ONAP via TTY by calling the Federal Information Relay Service at (800) 877-8339.

/s/

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