

Administrative Requirements Side by Side Comparison Chart
Exceptions and Conforming Changes Implementing the Uniform Guidance for IHBG Recipients

Final Administrative Requirements with Exceptions of 24 CFR 1000.26 as published in the Federal Register on December 7, 2015	Prior Administrative Requirements with Exceptions of 24 CFR 1000.26 for IHBG Recipients
<p>§ 1000.26 What are the administrative requirements under NAHASDA?</p> <p>(a) Except as addressed in §1000.28, recipients shall comply with the requirements and standards of 24 CFR part 200, “Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards”, except for the following sections:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>[NOTE: previously, 1000.26 (a)(1-17) inserted the <u>applicable</u> sections to the Uniform Administrative Requirements (24 CFR Part 85), however, this amendment provides the <u>excepted</u> sections to the new Uniform Guidance (2 CFR 200).</p> </div> <p>(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.</p> <p>(2) Section 200.302(a), “Financial management.”</p> <p>(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.</p> <p>(4) Section 200.306, “Cost sharing or matching.”</p> <p>(5) Section 200.307, “Program income.”</p> <p>(6) Section 200.308, “Revision of budget and program plans.”</p> <p>(7) Section 200.311, “Real property,” except as provided in 24 CFR 5.109.</p> <p>(8) Section 200.313, “Equipment,” applies, except that in all cases in which the equipment is sold, the proceeds shall be program income.</p> <p>(9) Section 200.314, “Supplies,” applies, <u>except in all cases in which the supplies are sold, the proceeds shall be program income.</u></p> <p>(10) Section 200.317, “Procurement by states.”</p> <p>(11) Sections 200.318 through 200.326 apply, as modified in this paragraph (a)(11):</p> <p style="padding-left: 20px;">(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.</p> <p style="padding-left: 20px;">(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.</p>	<p>§ 1000.26 What are the administrative requirements under NAHASDA?</p> <p>(a) Except as addressed in § 1000.28, recipients shall comply with the requirements and standards of OMB Circular No. A–87, “Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally recognized Indian Tribal Governments,” and with the following sections of 24 CFR part 85 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.” For purposes of this part, “grantee” as defined in 24 CFR part 85 has the same meaning as “recipient.”</p> <p>(1) Section 85.3, “Definitions.”</p> <p>(2) Section 85.6, “Exceptions.”</p> <p>(3) Section 85.12, “Special grant or subgrant conditions for ‘high risk’ grantees.”</p> <p>(4) Section 85.20, “Standards for financial management systems,” except paragraph (a).</p> <p>(5) Section 85.21, “Payment,.” except that HUD shall not require a recipient to expend retained program income before drawing down or expending IHBG funds.</p> <p>(6) Section 85.22, “Allowable costs.”</p> <p>(7) Section 85.26, “Non-federal audits.”</p> <p>(8) Section 85.32, “Equipment,” except in all cases in which the equipment is sold, the proceeds shall be program income.</p> <p>(9) Section 85.33, “Supplies.”</p> <p>(10) Section 85.35, “Subawards to debarred and suspended parties.”</p> <p>(11)(i) General. Section 85.36, of this title, “Procurement,” except paragraph (a), subject to paragraphs (a)(11)(ii) and (a)(11)(iii) of this section.</p> <p style="padding-left: 20px;">(iii) De minimis procurement. A recipient shall not be required to comply with § 85.36 of this title with respect to any procurement, using a grant provided under NAHASDA, of goods and services with a value of less than \$5,000.</p> <p style="padding-left: 20px;">(iv) 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.</p>

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<p>(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:</p> <ul style="list-style-type: none"> (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. <p>(13) Section 200.328(b) through (d) and (f), “Monitoring and reporting program performance.”</p> <p>(14) Section 200.333, “Retention requirements for records.”</p> <p>(15) Section 200.338, “Remedies for noncompliance.”</p> <p>(16) Section 200.343, “Closeout.”</p> <p>(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:</p> <ul style="list-style-type: none"> (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. 	<p>(ii) Bonding requirements. There may be circumstances under which the bonding requirements of § 85.36(h) are inconsistent with other responsibilities and obligations of the recipient. In such circumstances, acceptable methods to provide performance and payment assurance may include:</p> <ul style="list-style-type: none"> (A) 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; (B) 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 (C) 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. <p>(12) Section 85.37, “Subgrants.”</p> <p>(13) Section 85.40, “Monitoring and reporting program performance,” except paragraphs (b) through (d) and paragraph (f).</p> <p>(14) Section 85.41, “Financial reporting,” except paragraphs (a), (b), and (e).</p> <p>(15) Section 85.44, “Termination for convenience.”</p> <p>(16) Section 85.51 “Later disallowances and adjustments.”</p> <p>(17) Section 85.52, “Collection of amounts due.”</p> <p>(b)(1) With respect to the applicability of cost principles, all items of cost listed in Attachment B of OMB Circular A–87 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 Attachment A of this circular and are otherwise eligible under this part, except for the following:</p> <ul style="list-style-type: none"> (i) Depreciation methods for fixed assets shall not be changed without specific approval of HUD or, if charged through a cost allocation plan, the Federal cognizant agency. (ii) Fines and penalties are unallowable costs to the IHBG program.

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<p>(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.</p>	<p>(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.</p>

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