

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 1000

[Docket No. FR-5109-F-02]

RIN 2577-AC74

### Indian Housing Block Grant Program—Extension of Annual Performance Report Due Date

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule extends the due date, by an additional 30 days, for Indian Housing Block Grant (IHBG) recipients to submit annual performance reports (APRs). Through the IHBG program, HUD provides housing assistance to Indian tribes and tribally designated housing entities (TDHEs). Currently, HUD's regulations require IHBG recipients to submit APRs 60 days after the end of the recipient's program year. This rule follows publication of a March 29, 2007, proposed rule and takes into consideration the comments received on the proposed rule. Because all of the comments offered support for extending this deadline by an additional 30 days, HUD adopts the proposed rule without change.

**DATES:** *Effective Date:* August 27, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Bullough, Director of Grants Evaluation, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 5156, Washington, DC 20410-5000; telephone number (202) 402-4274 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

#### I. Background—The March 29, 2007, Proposed Rule

Through the IHBG program, HUD provides housing assistance to Indian tribes and TDHEs. HUD's regulations for the IHBG program are codified at 24 CFR part 1000. Section 1000.512 of the regulations requires that IHBG recipients, on an annual basis, prepare and submit an APR that provides a self-assessment of their IHBG-funded activities. The APR includes a description of the use of grant funds, a comparison of accomplishments, an analysis and explanation of cost overruns or high unit costs, and any information regarding the recipients' performance in accordance with HUD's

performance measures, as set forth in 24 CFR 1000.524. The current regulations at § 1000.514 require IHBG recipients to submit APRs within 60 days of the end of their program year.

On March 29, 2007, HUD published a proposed rule (72 FR 15001), to extend the APR deadline by 30 days. As proposed, the revised 24 CFR 1000.514 would require IHBG recipients to submit their APRs within 90 days of the end of their program year. HUD proposed the extension to provide additional time to IHBG recipients to obtain, review, and analyze accurate financial and programmatic data, and allow for community consideration, before submission of the completed APR to HUD. A conforming change was also proposed to § 1000.524(d), to clarify that the timely submission of an accurate APR is an IHBG program performance measure.

For a detailed discussion of the proposed regulations, please see the preamble to the proposed rule, at 72 FR 15001.

#### II. This Final Rule

This final rule follows publication of the March 29, 2007, proposed rule and takes into consideration the ten public comments received on the proposed rule. After careful consideration of the public comments, which all offered support for the rule, HUD has decided to adopt the proposed rule's 90-day deadline, without change.

The public comment period closed on May 29, 2007, and the commenters included Indian tribes and their TDHEs. All of the commenters supported the APR due date extension that will provide IHBG recipients with 30 additional days during which they can complete and submit the APR. Several of the commenters explained that the additional time will improve the accuracy of the APR, as well as ensure timeliness of the submission. One commenter stated that because of the number and diversity of its housing activities, the current 60-day deadline is often insufficient to prepare a detailed and comprehensive APR. The commenters all supported the additional 30 days as adequate to meet their needs.

#### III. Tribal Consultation

HUD's policy is to consult with Indian tribes early in the rulemaking process on matters that have tribal implications. Accordingly, prior to publication of the March 29, 2007, proposed rule, HUD held nine consultation meetings which were attended by more than 500 tribal representatives. During these meetings,

attendees expressed support for extending the due date for the APR to 90 days after the end of the recipient's program year. Further, tribes had the opportunity to submit comments on the proposed rule. As noted above in this preamble, all of the tribes submitting comments offered support for the proposed regulatory changes.

#### IV. Findings and Certifications

##### *Paperwork Reduction Act*

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number 2577-0218. In accordance with the Paperwork Reduction Act, an agency 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.

##### *Environmental Impact*

This rule does not directly provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, review, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a 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. The final rule extends the period of time, by 30 days, for IHBG funding recipients to submit their APRs. In the past, many IHBG recipients have reported that they need additional time to prepare their APRs and, as a result, request extensions to the current requirement. By extending the due date, IHBG recipients will have the additional time they need to prepare thorough APRs without the added burden of requesting additional time. The regulatory change is procedural and does not revise or establish new binding requirements on owners. Accordingly,

the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule does not impose any federal mandate on state, local, or tribal governments or the private sector within the meaning of UMRA.

#### *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 that Executive Order. This rule does not have federalism

implications and does not impose substantial direct compliance costs on state and local governments, nor does it preempt state law within the meaning of Executive Order 13132.

#### *Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance number is 14.867.

#### **List of Subjects in 24 CFR Part 1000**

Aged, Community development block grants, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Public housing, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, HUD amends 24 CFR part 1000, as follows:

#### **PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES**

■ 1. 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).

■ 2. Revise § 1000.514 to read as follows:

#### **§ 1000.514 When must the annual performance report be submitted?**

The annual performance report must be submitted within 90 days of the end of the recipient’s program year. If a justified request is submitted by the recipient, the Area ONAP may extend the due date for submission of the annual performance report.

■ 3. Revise § 1000.524(d) to read as follows:

#### **§ 1000.524 What are HUD’s performance measures for the review?**

\* \* \* \* \*

(d) Accurate annual performance reports were submitted to HUD in accordance with § 1000.514.

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Dated: July 20, 2007.

**Orlando J. Cabrera,**

*Assistant Secretary for Public and Indian Housing.*

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