

impact on a substantial number of small entities.

*Unfunded Mandates Reform Act of 1995*

The DEA has determined and certifies pursuant to the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.*, that this action would not result in any Federal mandate that may result “in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted for inflation) in any one year \* \* \*”. Therefore, neither a Small Government Agency Plan nor any other action is required under provisions of UMRA.

*Paperwork Reduction Act of 1995*

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*Congressional Review Act*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act (CRA)). This rule will not result in: an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. However, pursuant to the CRA, the DEA has submitted a copy of this final rule to both Houses of Congress and to the Comptroller General.

*Administrative Procedure Act*

The APA requires the publication of a substantive rule to be made not less than 30 days before its effective date. 5 U.S.C. 553(d). However, one exception is “as otherwise provided by the agency for good cause found and published with the rule.” As fully discussed above in response to the comment suggesting an immediate effective date, an immediate effective date is necessary in this case because there are limited therapeutic options currently available

to patients with IBS–D and the eluxadoline NDA received priority review with FDA. Therefore, it is unnecessary to delay the effective date of this final rule by 30 days, and this rule shall take effect immediately upon publication.

**List of Subjects in 21 CFR Part 1308**

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is amended to read as follows:

**PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES**

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

**Authority:** 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. Amend § 1308.14 by adding paragraph (g)(3) to read as follows:

**§ 1308.14 Schedule IV.**

\* \* \* \* \*

(g) \* \* \*

(3) Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl]](1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino)methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers (9725).

Dated: November 5, 2015.

**Chuck Rosenberg,**

*Acting Administrator.*

[FR Doc. 2015–28718 Filed 11–10–15; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Parts 91 and 570**

[Docket No. FR 5797–I–01]

**RIN 2506–AC39**

**Changes to Accounting Requirements for the Community Development Block Grants (CDBG) Program**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Interim final rule.

**SUMMARY:** This rule makes several changes to the existing Community Development Block Grant (CDBG) program regulations in order to better track the use of grant funds and improve accounting procedures in the program. Through this rule, HUD requires grantees to commence tracking the

obligations and expenditures of funds for each specific fiscal year grant, rather than track such information cumulatively. In order to effectively implement this accounting change, changes are needed to the regulations applicable to affected grants, such as the program-specific regulations, consolidated plan regulations, and methods to calculate the cap on administrative and planning expenses. While amending these regulations to conform to and support this accounting practice in applicable regulations, HUD is also making certain grammatical and other technical corrections in those regulations.

**DATES:** *Effective date:* December 14, 2015.

*Comment due date:* January 11, 2016.

**ADDRESSES:** Interested persons are invited to submit comments regarding this interim rule. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the

above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-402-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service, toll-free, at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:**

Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development, 451 7th Street SW., Suite 7286, Washington, DC 20410 at 202-708-3587, (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service, toll-free, at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. The CDBG Program*

The CDBG program is a flexible program that provides communities with resources to address a wide range of unique community development needs. The CDBG program provides annual grants on a formula basis to units of general local government and States. The annual CDBG appropriation is allocated between metropolitan cities and urban counties, which are referred to as “entitlement areas,” and States, which must distribute the funds to their units of general local government, referred to as “nonentitlement areas.” HUD determines the amount of each grant by using a formula comprised of several measures of community need, including the extent of poverty, population, housing overcrowding, age of housing, and population growth lag.

A grantee must develop and follow a consolidated plan describing the planned use of CDBG funds, which includes a detailed plan that provides for and encourages citizen participation. This integral process emphasizes participation by persons of low or moderate income, particularly residents of predominantly low- and moderate-income neighborhoods, slum or blighted areas, and areas in which the grantee proposes to use CDBG funds. Not less than 70 percent of CDBG funds must be used for activities that benefit low- and moderate-income persons. In addition, each funded activity must meet one of the following national objectives for the program: Benefit low- and moderate-

income persons, prevent or eliminate slums or blight, or address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community for which other funding is not available.

The regulations for the CDBG program are codified in 24 CFR part 570 (entitled “Community Development Block Grants”). The regulations governing the CDBG annual plan and citizen participation requirements are codified at 24 CFR part 91 (entitled “Consolidated Submissions for Community Planning and Development Programs”).

*B. CDBG Accounting Requirements*

CDBG grants funds are currently disbursed through the Integrated Disbursement and Information System (IDIS) on a “first-in, first-out” (FIFO) basis. Under this methodology, CDBG grantees do not designate a specific fiscal year grant in IDIS when funding an activity or when creating an expenditure voucher. In general, all obligations and disbursements are recorded against the earliest annual grant with an available balance, thereby exhausting the oldest grant available before recording expenditures against the next grant.

Grantees’ accounting systems, on the other hand, typically track expenditures according to each annual grant. During any given time period, grantees expend funds from multiple grants for a range of activities that have a variety of implementation schedules. Expenditures are incurred against more recent grants for activities that are on schedule; and, often simultaneously, expenditures are incurred against earlier annual grants for activities that experience acceptable delays.

These two distinct accounting methods often complicate reconciliation between grantees’ accounting records and IDIS’s FIFO records. The revised methodology will simplify reconciliation by aligning the accounting practices used by HUD and those used by grantees.

HUD is cognizant that Fiscal Year (FY) 2015 funding and formula allocations are underway, but the revised methodology is now available and, through this rule, HUD directs CDBG grantees to commence using the revised methodology. For the FY 2015 and subsequent fiscal year grants, IDIS will support grant-specific accounting. Therefore, as of the effective date of this interim rule, when obligating funds to be expended for a CDBG activity (*i.e.*, when funding an activity in IDIS), grantees must identify the specific

annual grant that is the source of the funds. When creating an expenditure voucher, HUD, through IDIS, will disburse the funds according to the specific annual grant that was obligated to that activity.

In order to complement and support this accounting change, conforming changes are needed to the regulations covering affected FY grants to reflect this accounting practice, such as clarifying which accounting practice is utilized, revising records retention requirements, and conforming the calculation of the cap on administrative and planning expenses. Conforming changes are not only needed to the CDBG regulations in 24 CFR part 570 but also to the CDBG planning and citizen participation regulations in part 91. In addition, certain grammatical and other technical corrections need to be made to the CDBG regulations.

The following section of this preamble provides a section-by-section overview of the regulatory changes.

**II. This Interim Rule—Section-by-Section Changes**

*Action Plans (§§ 91.220, 91.320, 91.325 and 91.505)*

HUD revises those provisions regarding the CDBG program components of the action plans for entitlements at § 91.220(l) and states at § 91.320(l). The interim rule adds clarifying language to reiterate that the available resources for that annual action plan may include a variety of sources of funding in addition to the annual grant.

For State CDBG recipients, HUD clarifies § 91.320(l) to address program income funds that are retained by units of general local government. By including locally retained program income funds, such as general program income and revolving loan funds, the State’s action plan will include all the CDBG funds available throughout the State, regardless of whether those funds are retained by the State or units of general local government.

For state CDBG recipients, HUD amends § 91.325(b)(4)(ii), which provides that the State shall certify that 70 percent of the amount expended shall principally benefit low- and moderate-income families, on a program year basis. This regulatory provision is inconsistent with § 570.484, which requires the same certification to be provided on an annual grant basis. Therefore, § 91.325(b)(4)(ii) is amended to be consistent with § 570.484.

HUD amends § 91.505(a)(2) to clarify that an amendment would be necessary for the use of program income,

repayments, or reallocations that were not previously included in an action plan.

*Definition of Origin Year (§§ 570.3 and 570.481)*

The interim rule adds a definition to §§ 570.3 and 570.481(a)(3) for the term “origin year” to mean the Federal fiscal year in which the annual grant funds were appropriated. Current regulations use the term “grant year,” which has often been confused with a grantee’s program year. The term “origin year” is intended to reinforce specificity concerning any one annual grant and support grant-specific accounting. In addition to the new definition, the interim rule makes corresponding language changes throughout parts 91 and 570.

*Treasury Account Cancellations (§§ 570.480(i) and 570.200(k))*

The interim rule adds §§ 570.480(i) and 570.200(k) to incorporate the requirements of 31 U.S.C. 1552, which states that on September 30 of the 5th fiscal year after the period of availability for obligation of a fixed appropriation account ends, the United States Treasury account shall be canceled and any remaining balance (whether obligated or unobligated) shall be canceled and therefore not available for obligation or expenditure for any purpose. HUD’s obligation period for CDBG is typically 3 fiscal years, including the origin year (as stated in each annual appropriations act). HUD obligates and makes the funds available to grantees as soon as possible, but has until the end of 3 fiscal years to do so. For example, a CDBG grant appropriated for Fiscal Year 2015 must be obligated by HUD by the end of Fiscal Year 2017, and any unexpended funds will be canceled and cease to be available on September 30, 2022. HUD reserves the right, however, to require an earlier expenditure and drawdown deadline under a grant agreement due to end-of-year accounting and timing issues. This provision is applicable to funds in the grantee’s line of credit and any funds returned to the line of credit. However, this statute does not apply to funds repaid to a local account or program income deposited in a local account. CDBG funds have rarely been canceled because the FIFO accounting method disperses funds from the oldest source grant first, and timely expenditure of grant funds would prevent the grantee from having as many years’ worth of grant funds in its line of credit.

*Entitlement Administration and Planning Cap (§ 570.200)*

In annual appropriations acts, Congress limits the amount grantees may use for planning, management development, and administration to not more than 20 percent of each grant. Under the FIFO method of accounting in IDIS, grantees would draw funds without distinguishing funds by origin year, making the application of a 20 percent limit to any one grant impractical for HUD to monitor. Current regulations at § 570.200(g) base the 20 percent limit upon obligations in a given program year, relative to the amount of the most recent grant plus program income. Therefore, § 570.200(g) is revised to better reflect the limitations imposed by annual appropriations acts.

Through this rule, HUD divides § 570.200(g) into two distinct compliance tests. The current test, retained and redesignated § 570.200(g)(2), which determines compliance based upon *obligations* of both grant funds and program income, will apply to all prior and future program years. For grants made in FY 2015 and subsequent years, an additional test is included at § 570.200(g)(1), which would limit planning and administration *expenditures* to no more than 20 percent of each separate origin year grant (excluding program income). This new test will be used to determine compliance with the annual appropriations acts requirement at the end of the grant. The key difference between the two tests is that the existing test addresses program income and the new test does not. The reason that two tests are necessary is because the existing test allows program income to be used in lieu of grant funds for planning, management development, and administration costs, thereby ensuring that grantees are compliant with the cash management principles that require program income to be spent ahead of draws of Treasury funds.

These two tests measure different things over different time periods. The existing test (the *program year test*) limits *obligations* of funds made by the grantee during a program year. The amount of funds obligated for planning and administrative costs is limited to 20 percent of the sum of the origin year grant amount for that program year plus the amount of program income received by the grantee (and all subrecipients) during that program year. Compliance is determined at the end of each program year based on the grantee’s annual performance report submission. This test allows obligations of program

income for planning and general administration cost to support grantee compliance with § 570.504(b)(2), which requires that program income be substantially disbursed before withdrawals of grant funds from the United States Treasury.

The *origin year grant test* limits *expenditures* for planning and administrative costs against a given origin year’s grant. For any given origin year grant, compliance will be determined during the grant closeout. For purposes of the second test, it does not matter when the funds were obligated or expended. Beginning with origin year 2015 grants and with FY 2015 program years, grantees must ensure that they comply with both tests. Grantees are cautioned that compliance with one test does not automatically ensure compliance with the other test.

HUD recognizes that CDBG grantees are administering programs that typically have multiple grants open at any given time. The interim rule adds language at § 570.200(g) to reiterate that administration and planning costs support the general operation of a grantee’s CDBG program, and thus are not tied to any specific origin year or CDBG grant. A grantee may use funds from any origin year grant for administration and planning costs for any CDBG grant. This provision is limited to only administration and planning costs and does not include staff and overhead costs directly related to carrying out activities eligible under § 570.201 through § 570.204, since those costs are eligible as part of such activities and allocable to specific origin year grants.

*Eligible Activities: Public Services (§ 570.201)*

HUD revises regulations at § 570.201 in order to clarify that the public service cap determination is applicable to nonentitlement grantees in Hawaii and recipients of insular area funds under the CDBG program.

*State CDBG Program Administrative Requirements (§ 570.489)*

HUD revises the regulations for State administrative costs in § 570.489. Redundancies are removed and clarifying language is added to § 570.489(a)(1)(i)(ii) and (iii) and § 570.489(e)(3). Current regulations at § 570.489(a)(1)(v) allow State CDBG grantees the option of using cumulative accounting of administrative costs, consistent with the FIFO accounting method. Under the new grant-based accounting, for origin year 2015 grants and subsequent grants, State CDBG grantees will no longer have the option

of cumulative accounting of the State's administrative costs and instead must use year-to-year tracking. The cumulative method will only continue to be available for State administrative expenses charged to FY 2014 and prior fiscal year grants.

HUD clarifies § 570.489(a)(3) to explain how HUD determines compliance with the planning and administration cost cap. While this provision is already grant-specific, the current calculation incorporates program income into the 20 percent administrative and planning cap. Therefore, the interim rule clarifies the compliance test at § 570.489(a)(3) by dividing it into multiple parts. Section 570.489(a)(3)(i) describes administration costs for both States and units of general local government. Section 570.489(a)(3)(ii) maintains current language of the administrative and planning cap, with added clarity. Section 570.489(a)(3)(iii) adds a second compliance test based solely upon use of funds from each annual grant (excluding program income) beginning with origin year 2015 and subsequent years' grants. The second compliance test will demonstrate compliance with annual appropriations acts limiting the amount grantees may use for planning, management development, and administration to not more than 20 percent of each grant.

As noted under the discussion of changes made to § 570.200, HUD recognizes that CDBG grantees are administering programs that typically have multiple grants open at any given time. Similar to the change made to § 570.200(g), the interim rule revises § 570.489(a)(3)(iv) to reiterate that administration and planning costs support the general operation of a grantee's CDBG program, and thus are not tied to any specific origin year or CDBG grant. A grantee may use funds from any origin year grant for administration and planning costs for any CDBG grant. This provision is limited to only administration and planning costs and does not include staff and overhead costs directly related to carrying out other eligible activities, since those costs are eligible as part of such activities and allocable to specific origin year grants.

Section 570.489(e)(3) is edited for clarity and to remove redundancies.

#### *Records To Be Maintained (§ 570.506)*

This rule adds language in § 570.506 specifying that grantees' records pertaining to obligations, expenditures, and drawdowns must be able to relate financial transactions to either a specific

origin year's grant or to program income received during a specific program year.

#### *Grant Closeout Procedures—Entitlement CDBG (§§ 570.509, 570.513)*

The current regulations at § 570.509 have primarily applied when an entitlement CDBG grantee discontinued its participation in the program as a grantee. The interim rule will now permit and necessitate close out of each origin year grant from HUD. Starting with FY 2015 origin year grants, each year's grant will be closed out when all activity associated with the grant is completed.

This necessitates several changes to the closeout process, which also result in conforming changes to other portions of the regulations. The grant funds, as well as program income received during the program year corresponding to the grant's origin year, must be fully expended before the grant can be closed out. In addition, the grantee must enter final accomplishment data and all activities on which those funds were expended must be reported as completed in a final annual report. The interim rule clarifies that, in order to close out a grant, any unexpended program income received during the program year associated with the grant's origin year must be included in a subsequent year's action plan, thereby rolling forward those available resources onto a more recent action plan with ongoing activities. The funds will be included in the section describing the CDBG funds available pursuant to § 91.220(l), thereby allowing that prior origin year's grant to be closed out.

In addition, the interim rule adds closeout criteria based upon the changes to the administration and planning cap at § 570.200(g).

The interim rule change regarding expenditure of associated program income before grant closeout triggers corresponding changes to § 570.513, lump sum drawdown. A grant cannot be closed out if grant funds or associated program income remain unexpended in a deposit account subject to an existing lump sum drawdown agreement. The change to § 570.513 will require a grantee to execute a new lump sum drawdown agreement covering any unexpended funds, and that program income must be identified in the current program year action plan.

#### *Minor and Technical Changes*

The interim rule makes minor changes to §§ 91.505, 570.206, 570.410, and 570.503 for regulatory and statutory cross-references and grammar. The interim rule also makes various technical changes to incorporate

administrative requirements in 2 CFR part 200. These changes include a new paragraph § 570.485(d) to clarify that HUD is authorized to establish specific conditions on grants to States in accordance with 2 CFR 200.207; changes to § 570.489(g) to make clear that States can make subrecipient and contractor determinations in accordance with 2 CFR 200.330; and a new paragraph § 570.489(o), which states that HUD will close out grants to States in accordance with 2 CFR 200.343.

### **III. Specific Issues for Comment**

HUD solicits and welcomes comments on all aspects of this interim rule. HUD also specifically solicits comment on the following topics related to the accounting methodology changes for CDBG. HUD seeks the view of grantees, other program participants and interested members of the public. HUD may, at a future date, offer regulatory changes addressing one or more of these topics.

#### *1. Retention of Program Income by Local Governments (§ 570.489(e))*

HUD solicits comments about the revisions made to § 570.489(e)(3)(ii)(B) beyond those made by this interim rule. The intent of the section is to reinforce the requirement that program income remains subject to CDBG requirements regardless of the status of any State award to a unit of general local government. The current language of this section uses terms such as "activity closeout" and "grant close out", as well as concepts such as "part of the unit of general local government's grant" and "part of the state's program year," and this language may not reflect HUD's intent as explicitly as contemplated by HUD. HUD therefore seeks comment on whether the regulatory language clearly reflects HUD's intent and, if not, what revisions are recommended to better convey the intent of this section.

#### *2. Limitations on Local Retention of Program Income (§ 570.489(e))*

HUD seeks information that better informs the nature of activities that continue with program income. For States that limit the local retention of program income, what types of limitations do States place upon the definition of the "same activity"? Do the limitations restrict the program income for the same activity in a very strict sense (*i.e.*, limited to the same work, at the same address, with the same beneficiaries)? Do the limitations generally reflect an activity type, such as housing rehabilitation; and, if so, what are the considerations for not classifying this as a revolving loan fund?

Do the limitations reflect multiple activities that are bundled into a single effort, such as a main street revitalization plan that might use program income from business loans for other activities in the vicinity, such as façade and side walk improvements along the same main street? Is tracking and reporting the use of these funds problematic, and what solutions have States found (especially for States that do not limit the local retention of program income)?

### 3. Entitlement Administration and Planning Cap (§§ 570.200 and 570.201(e))

HUD has some flexibility in the manner program income applies to the administration and planning cap at § 570.200(g) and the public service cap at § 570.201(e). Currently, program income received during the current program year is considered in the determination of compliance with § 570.200(g) and program income received during the prior program year is considered in the determination of compliance with § 570.201(e). HUD solicits comments regarding the possibility of making these two determinations match in terms of which program year is considered for compliance. In this regard, HUD seeks comment on whether compliance with both caps should be based on prior year receipts of program income or current year receipts, or whether the current distinction between the two should be maintained.

### IV. Justification for Interim Rulemaking

HUD generally publishes rules for advance public comment in accordance with its rule on rulemaking at 24 CFR part 10. However, under 24 CFR 10.1, HUD may omit prior public notice and comment if it is “impracticable, unnecessary, or contrary to the public interest.” In this instance, HUD has determined that it is unnecessary to delay the effectiveness of this rule for advance public comment.

The interim rule provides that, for FY 2015 grants, Entitlement CDBG grantees are to track their obligations and expenditures of funds for each specific grant year. The scope of the interim regulatory amendments is limited to the change in the input of this information in IDIS and to those additional changes necessary to conform the regulations to the grant accounting system, such as the time periods of affected grants, records retention, and the calculation of the cap on administrative and planning expenses, along with minor clarifications and technical corrections.

This interim rule does not establish new and unfamiliar requirements for CDBG grantees. Rather the regulatory changes eliminate administrative burden on grantees by aligning CDBG accounting methodology, as reflected in IDIS, with the grant accounting system typically used by grantees, and the standard accounting practice of keeping track of grant commitments and expenditures on an annual grant basis.

Although, under the current regulations, Entitlement CDBG recipients have the option to track expenditures in a cumulative manner, HUD estimates that 80 to 90 percent of grantees adhere to the grant-specific accounting. In addition, the selection of the grant year is already required for State CDBG recipients when requesting funds, so grantees are already tracking this information.

Given that the overwhelming majority of CDBG grantees use grant-specific accounting (the use of which is also strongly recommended by HUD’s Office of Inspector General) HUD has the justification necessary to issue this rule as an interim rule. While a small percentage of CDBG grantees are not using this system, it is not a system that is unfamiliar to them. In addition, IDIS itself provides the reports and tools necessary to document compliance with the regulatory changes for all grantees.

And with the grant year-specific accounting, it is now possible for HUD to determine compliance with the administrative expenditure cap on a grant-specific basis. The revised accounting methods also necessitate these additional regulatory changes specifying how grantees are to handle closeout procedures and maintain records. Since the accounting changes are required by existing appropriations law, HUD believes that it is appropriate for the remaining regulatory changes to be effective for the current grant year through an interim rule.

Although HUD has determined that good cause exists to publish this rule for effect without prior solicitation of public comment, HUD recognizes the value and importance of public input in the rulemaking process. Accordingly, HUD is issuing these regulatory amendments on an interim basis and providing a 60-day public comment period. All comments will be considered in the development of the final rule.

### V. Findings and Certifications

#### *Executive Order 12866, Regulatory Planning and Review*

The Office of Management and Budget (OMB) reviewed this proposed rule

under Executive Order 12866 (entitled “Regulatory Planning and Review”). OMB determined that this rule was significant under the order, but not an economically significant regulatory action. The docket file is available for public inspection in the Regulations Division, Office of General Counsel, 451 7th Street SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at 202-402-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 800-877-8339. The docket file is available for public inspection at the above address, or it may be viewed online at [www.regulations.gov](http://www.regulations.gov), under the above docket number. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

#### *Information Collection Requirements*

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. The information collection requirements contained in this interim rule have been submitted to the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2506-0117.

#### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) 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 will not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of UMRA.

#### *Environmental Review*

This interim rule does not direct, 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, revise, 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).

**Impact on Small Entities**

The Regulatory Flexibility Act (RFA) (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. As an initial matter, HUD notes that the scope of the rule is limited to accounting methodology, and does not add or modify other CDBG program requirements other than to provide grammatical and technical corrections. Further, accounting for grant funds by specific funding allocations is a practice used in other Federal programs, and so the requirements are not unfamiliar to, and may already be used by, CDBG grantees that also receive funding under such programs.

With respect to burden on small entities, as part of the development of HUD's Affirmatively Furthering Fair Housing (AFFH) final rule, HUD identified small entities participating in the CDBG program as those receiving a grant in FY 2015 of \$500,000 or less (small CDBG grantees).<sup>1</sup> The number of small CDBG grantees totaled 357 out of 1,258 CDBG grantees in FY 2015.

In this rule, HUD is now requiring small actions that were previously optional, but which many grantees were already performing. Further, any necessary accounting system changes would be one-time updates, rather than a recurring expense, and such costs would be reimbursed from the grantee's administrative expense account, funded by the CDBG grant. Therefore, the undersigned certifies that this rule will not have a significant impact on a substantial number of small entities.

Notwithstanding HUD's belief that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

**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 rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments nor preempt State law within the meaning of the Executive order.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance numbers applicable to the program that would be affected by this rule are 14.218, 14.225, 14.228, and 14.248.

**List of Subjects**

**24 CFR Part 91**

Aged, Grant programs—housing and community development, Homeless, Individuals with disabilities, Low and moderate income housing, Reporting and recordkeeping requirements.

**24 CFR Part 570**

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Loan programs—housing and community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and recordkeeping requirements, Student aid, Virgin Islands.

Accordingly, for the reasons stated in the preamble, HUD is amending 24 CFR parts 91 and 570 as follows:

**PART 91—CONSOLIDATED SUBMISSIONS FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS**

■ 1. The authority citation for part 91 continues to read as follows:

**Authority:** 42 U.S.C. 3535(d), 3601–3619, 5301–5315, 11331–11388, 12701–12711, 12741–12756, and 12901–12912.

■ 2. In § 91.220, revise paragraphs (l)(1)(i) and (ii) to read as follows:

**§ 91.220 Action plan.**

- \* \* \* \* \*
- (l) \* \* \*
- (1) \* \* \*

(i) A jurisdiction must describe activities planned with respect to all CDBG funds expected to be available during the program year, except that an amount generally not to exceed 10 percent of such total available CDBG funds may be excluded from the funds for which eligible activities are described if it has been identified for the contingency of cost overruns.

(ii) "CDBG funds expected to be available during the program year" includes all of the following:

- (A) The CDBG origin year grant.
- (B) Any program income expected to be received during the program year.
- (C) Any program income amounts not included in a prior action plan.
- (D) Any program income previously generated under a lump sum drawdown agreement for which a new agreement will be executed during the program year pursuant to 24 CFR 570.513(b).
- (E) Proceeds from Section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in its strategic plan.
- (F) Surplus from urban renewal settlements.
- (G) Reimbursements, other than program income, made to a local account.
- (H) Income from float-funded activities: The full amount of income expected to be generated by a float-funded activity must be shown, whether or not some or all of the income is expected to be received in a future program year. To assure that citizens understand the risks inherent in undertaking float-funded activities, the recipient must specify the total amount of program income expected to be received and the month(s) and year(s) that it expects the float-funded activity to generate such program income.

\* \* \* \* \*

- 3. Amend § 91.320 as follows:
  - a. Capitalize the word "state" and "state's" each time it appears; and
  - b. Revise paragraph (k)(1).

The revision reads as follows:

**§ 91.320 Action plan.**

\* \* \* \* \*

(k) \* \* \*

(1) CDBG. The action plan must set forth the State's method of distribution.

(i) The method of distribution must contain a description of all criteria used to select applications from local governments for funding, including the relative importance of the criteria, where applicable. The method of distribution must provide sufficient information so that units of general local government will be able to understand

<sup>1</sup> See AFFH final rule published on July 16, 2015, at 80 FR 42272 (<http://www.gpo.gov/fdsys/pkg/FR-2015-07-16/pdf/2015-17032.pdf>).

and comment on it, understand what criteria and information their application will be judged on, and be able to prepare responsive applications. The method of distribution may provide a summary of the selection criteria, provided that all criteria are summarized and the details are set forth in application manuals or other official State publications that are widely distributed to eligible applicants.

(ii) The action plan must include a description of how all CDBG resources will be allocated among funding categories and the threshold factors and grant size limits that are to be applied. The total CDBG resources to be described in the action plan include all of the following:

- (A) The CDBG origin year grant.
- (B) Any program income expected to be returned to the State in accordance with 24 CFR 570.489(e)(3)(i) in the program year or not included in a prior action plan, and any program income expected to be received by any State revolving fund in accordance with 24 CFR 570.489(f)(2) in the program year or not included in a prior action plan.

(C) Reimbursements, other than program income, made to a local account.

(iii) If the State intends to help nonentitlement units of general local government apply for guaranteed loan funds under 24 CFR part 570, subpart M, it must describe available guarantee amounts and how applications will be selected for assistance. If a State elects to allow units of general local government to carry out community revitalization strategies, the method of distribution shall reflect the State's process and criteria for approving local government's revitalization strategies.

(iv) If the State permits units of general local government to retain program income per 24 CFR 570.489(e)(3) or establish local revolving funds per 24 CFR 570.489(f)(1), the State must include a description of each of the local accounts including the name of the local entity administering the funds, contact information for the entity administering the funds, the amounts expected to be available during the program year, the eligible activity type(s) expected to be carried out with the program income, and the national objective(s) served with the funds.

(iv) HUD may monitor the method of distribution as part of its audit and review responsibilities, as provided in 24 CFR 570.493(a)(1), in order to determine compliance with program requirements.

\* \* \* \* \*

- 4. In § 91.325, revise paragraph (b)(4)(ii) to read as follows:

**§ 91.325 Certifications.**

\* \* \* \* \*

- (b) \* \* \*
- (4) \* \* \*

(ii) In the aggregate, not less than 70 percent of the CDBG funds received by the State during a period specified by the State, not to exceed three years, will be used for activities that benefit persons of low and moderate income. The period selected and certified to by the State shall be designated by fiscal year of annual grants, and shall be for one, two, or three consecutive annual grants. (See 24 CFR 570.481 for definition of "CDBG funds"); and

\* \* \* \* \*

**[§ 91.505 Amended]**

- 5. In § 91.505, amend paragraph (a)(2) by adding " , reimbursements, or reallocations from HUD" after "including program income".

**PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS**

- 6. The authority citation for part 570 continues to read as follows:

**Authority:** 42 U.S.C. 3535(d) and 5301–5320.

- 7. In § 570.3, revise the definition of "Entitlement amount" and add the definition of "Origin year" in alphabetical order to read as follows:

**§ 570.3 Definitions.**

\* \* \* \* \*

*Entitlement amount* means the amount of funds which a metropolitan city or urban county is entitled to receive under the Entitlement grant program, as determined by formula set forth in section 106 of the Act

\* \* \* \* \*

*Origin year* means the specific Federal fiscal year during which the annual grant funds were appropriated.

\* \* \* \* \*

- 8. In § 570.200, revise paragraph (g) and add paragraph (k) to read as follows:

**§ 570.200 General policies.**

(g) *Limitation on planning and administrative costs*—(1) *Origin year grant expenditure test.* For origin year 2015 grants and subsequent grants, no more than 20 percent of any origin year grant shall be expended for planning and program administrative costs, as defined in §§ 570.205 and 570.206, respectively. Expenditures of program income for planning and program administrative costs are excluded from this calculation.

(2) *Program year obligation test.* For all grants and recipients subject to

subpart D, the amount of CDBG funds obligated during each program year for planning plus administrative costs, as defined in §§ 570.205 and 570.206, respectively, shall be limited to an amount no greater than 20 percent of the sum of the grant made for that program year (if any) plus the program income received by the recipient and its subrecipients (if any) during that program year. For origin year 2015 grants and subsequent grants, recipients must apply this test consistent with paragraph (g)(1) of this section.

(3) Funds from a grant of any origin year may be used to pay planning and program administrative costs associated with any grant of any origin year.

\* \* \* \* \*

(k) Any unexpended CDBG origin year grant funds in the United States Treasury account on September 30 of the fifth Federal fiscal year after the end of the origin year grant's period of availability for obligation by HUD will be canceled. HUD may require an earlier expenditure and draw down deadline under a grant agreement.

**[§ 570.201 Amended]**

- 9. Amend § 570.201 as follows:
  - a. In paragraph (e)(1), add "nonentitlement CDBG grants in Hawaii, and for recipients of insular area funds under section 106 of the Act," following "subpart D of this part," both times such language appears; and
  - b. In paragraph (e)(2), remove "Federal fiscal year" and add in its place "origin year".

**[§ 570.206 Amended]**

- 10. Amend § 570.206 as follows:
  - a. In the introductory text, add "program" after "reasonable"; and
  - b. In paragraph (a)(1) introductory text, remove "(or the grant period for grants under subpart F)".

**[§ 570.410 Amended]**

- 11. Amend § 570.410 as follows:
  - a. In paragraph (c)(2)(ii), remove "federal fiscal year" and add in its place "origin year"; and
  - b. In paragraph (c)(2)(iii), remove "(e)(3)" and add in its place "(e)(2)", and remove "federal fiscal year" and add in its place "origin year".
- 12. In § 570.480, add paragraph (h) to read as follows:

**§ 570.480 General.**

\* \* \* \* \*

(h) Any unexpended CDBG origin year grant funds in the United States Treasury account on September 30 of the fifth Federal fiscal year after the end of the origin year grant's period of

availability for obligation by HUD will be canceled. HUD may require an earlier expenditure and draw down deadline under a grant agreement.

■ 13. In § 570.481, revise paragraph (a)(2) and add paragraph (a)(3) to read as follows:

**§ 570.481 Definitions.**

(a) \* \* \*

(2) *CDBG funds* means Community Development Block Grant funds, in the form of grants under this subpart including any reimbursements, program income, and loans guaranteed under section 108 of the Act.

(3) *Origin year* means the specific Federal fiscal year during which the annual grant funds were appropriated.

\* \* \* \* \*

■ 14. In § 570.485, add paragraph (d) to read as follows:

**§ 570.485 Making of grants.**

\* \* \* \* \*

(d) *Specific conditions*.—HUD may impose additional specific award conditions on States in accordance with 2 CFR 200.207.

■ 15. Amend § 570.489 as follows:

■ a. Capitalize the words “state” and “state’s” each time they appear; and  
 ■ b. In § 570.489, revise paragraphs (a)(1)(i), (ii), (iii), and (v) and (a)(2) and (3), paragraphs (e)(3) introductory text, (e)(3)(i) and (ii), and paragraph (g) and add paragraph (o) to read as follows:

**§ 570.489 Program administrative requirements.**

(a) *Administrative and planning costs*.—(1) *State administrative and technical assistance costs*. (i) The State is responsible for the administration of all CDBG funds. The State may use CDBG funds not to exceed \$100,000, plus 50 percent of administrative expenses incurred in excess of \$100,000. Amounts of CDBG funds used to pay administrative expenses in excess of \$100,000 shall not, subject to paragraph (a)(1)(iii) of this section, exceed the sum of 3 percent of the State’s annual grant; 3 percent of program income received by units of general local government during each program year, regardless of the origin year in which the State grant funds that generate the program income were appropriated (whether retained by units of general local government or paid to the State); and 3 percent of funds reallocated by HUD to the State.

(ii) To pay the costs of providing technical assistance to local governments and nonprofit program recipients, a State may, subject to paragraph (a)(1)(iii) of this section, use CDBG funds received on or after January

23, 2004, in an amount not to exceed the sum of 3 percent of its annual grant; 3 percent of program income received by units of general local government during each program year, regardless of the origin year in which the State grant funds that generate the program income were appropriated (whether retained by units of general local government or paid to the State); and 3 percent of funds reallocated by HUD to the State during each program year.

(iii) The amount of CDBG funds used to pay the sum of administrative costs in excess of \$100,000 paid pursuant to paragraph (a)(1)(i) of this section and technical assistance costs paid pursuant to paragraph (a)(1)(ii) of this section must not exceed the sum of 3 percent of the State’s annual grant; 3 percent of program income received by units of general local government during each program year, regardless of the origin year in which the State grant funds that generate the program income were appropriated (whether retained by the unit of general local government or paid to the State); and 3 percent of funds reallocated by HUD to the state.

\* \* \* \* \*

(v) In regard to its administrative costs, for grants before origin year 2015, the State has the option of selecting its approach for demonstrating compliance with the requirements of paragraph (a)(1) of this section. For grants beginning with origin year 2015 grants and subsequent grants, the State must use the approach in paragraph (a)(1)(v)(A) of this section. Any State whose matching cost contributions toward State administrative expense matching requirements are in arrears must bring matching cost contributions up to the level of CDBG funds expended for such costs. A State grant may not be closed out if the State’s matching cost contribution is not at least equal to the amount of CDBG funds in excess of \$100,000 expended for administration. The two approaches for demonstrating compliance with this paragraph (a)(1) are:

(A) *Year-to-year tracking and limitation on drawdown of funds*. The State will calculate the maximum allowable amount of CDBG funds that may be used for State administrative expenses from the sum of each origin year grant, program income received during that associated program year and reallocations by HUD to the State during that associated program year. The State will draw down amounts of those funds only upon its own expenditure of an equal or greater amount of matching funds from its own resources after the expenditure of the initial \$100,000 for

State administrative expenses. The State will be considered to be in compliance with the applicable requirements if the actual amount of CDBG funds spent on State administrative expenses does not exceed the maximum allowable amount, and if the amount of matching funds that the state has expended for that grant year is equal to or greater than the amount of CDBG funds in excess of \$100,000 spent during that same grant year. Under this approach, the State must demonstrate that it has paid from its own funds at least 50 percent of its administrative expenses in excess of \$100,000 by the closeout of each grant.

(B) *Cumulative accounting of administrative costs incurred by the State since its assumption of the CDBG program for grants before origin year 2015*. Under this approach, the State will identify, for each grant it has received, the CDBG funds eligible to be used for State administrative expenses, as well as the minimum amount of matching funds that the State is required to contribute. The amounts will then be aggregated for all grants received. The State must keep records demonstrating the actual amount of CDBG funds from each grant received that was used for State administrative expenses, as well as matching amounts that were contributed by the State. The State will be considered to be in compliance with the applicable requirements if the aggregate of the actual amounts of CDBG funds spent on State administrative expenses does not exceed the aggregate maximum allowable amount and if the aggregate amount of matching funds that the State has expended is equal to or greater than the aggregate amount of CDBG funds in excess of \$100,000 (for each annual grant within the subject period) spent on administrative expenses during its 3- to 5-year Consolidated Planning period. If the State grant for any grant year within the 3- to 5-year period has been closed out, the aggregate amount of CDBG funds spent on State administrative expenses, the aggregate maximum allowable amount, the aggregate matching funds expended, and the aggregate amount of CDBG funds in excess of \$100,000 (for each annual grant within the subject period) will be reduced by amounts attributable to the grant year for which the State grant has been closed out.

(2) The State may not charge fees of any entity for processing or considering any application for CDBG funds, or for carrying out its responsibilities under this subpart.

(3)(i) Administrative costs are those described at § 570.489(a)(1) for states and, for units of general local

government, are those described at sections 105(a)(12) and (a)(13) of the Act.

(ii) For grants before origin year 2015, the combined expenditures by the State and its funded units of general local government for planning, management, and administrative costs shall not exceed 20 percent of the aggregate amount of the origin year grant, any origin year grant funds reallocated by HUD to the State, and the amount of any program income received during the program year.

(iii) For origin year 2015 grants and subsequent grants, no more than 20 percent of any annual grant (excluding program income) shall be expended by the State and its funded units of general local government for planning, management, and administrative costs. In addition, the combined expenditures by the States and its unit of general local government for planning, management, and administrative costs shall not exceed 20 percent of any origin year grant funds reallocated by HUD to the State.

(iv) Funds from a grant of any origin year may be used to pay planning and program administrative costs associated with any grant of any origin year.

\* \* \* \* \*

(e) \* \* \*

(3) The State may permit the unit of general local government which receives or will receive program income to retain it, subject to the requirements of paragraph (e)(3)(ii) of this section, or may require the unit of general local government to pay the program income to the State. The State, however, must permit the unit of general local government to retain the program income if it will be used to continue the activity from which it was derived. The State will determine when an activity is being continued.

(i) *Program income paid to the State.* Except as described in paragraph (e)(3)(ii)(A) of this section, the State may require the unit of general local government that receives or will receive program income to return the program income to the State. Program income that is paid to the State is treated as additional CDBG funds subject to the requirements of this subpart. Except for program income retained and used by the State for administrative costs or technical assistance under paragraph (a) of this section, program income paid to the State must be distributed to units of general local government in accordance with the method of distribution in the action plan under 24 CFR 91.320(k)(1)(i) that is in effect at the time the program income is distributed. To the maximum

extent feasible, the State must distribute program income before it makes additional withdrawals from the United States Treasury, except as provided in paragraph (f) of this section.

(ii) *Program income retained by a unit of general local government.* A State may permit a unit of general local government that receives or will receive program income to retain it. Alternatively, a State may require that the unit of general local government pay any such income to the State unless the exception in paragraph (e)(3)(ii)(A) of this section applies.

(A) A State must permit the unit of general local government to retain the program income if the program income will be used to continue the activity from which it was derived. A State will determine when an activity is being continued. In making such a determination, a State may consider whether the unit of general local government is or will be unable to comply with the requirements of paragraph (e)(3)(ii)(B) of this section or other requirements of this part, and the extent to which the program income is unlikely to be applied to continue the activity within the reasonably near future. When a State determines that the program income will be applied to continue the activity from which it was derived, but the amount of program income held by the unit of general local government exceeds projected cash needs for the reasonably near future, the State may require the local government to return all or part of the program income to the State until such time as it is needed by the unit of general local government. When a State determines that a unit of local government is not likely to apply any significant amount of program income to continue the activity within a reasonable amount of time, or that it is not likely to apply the program income in accordance with applicable requirements, the State may require the unit of general local government to return all of the program income to the State for disbursement to other units of local government. A State that intends to require units of general local government to return program income in accordance with this paragraph must describe its approach in the State's action plan required under 24 CFR 91.320 of this title or in a substantial amendment if the State intends to implement this option after the action plan is submitted to and approved by HUD.

(B) Program income that is received and retained by the unit of general local government is treated as additional CDBG funds and is subject to all applicable requirements of this subpart,

regardless of whether the activity that generated the program income has been closed out. If the grant between the State and the unit of general local government that generated the program income is still open when it is generated, program income permitted to be retained will be considered part of the unit of general local government's grant that generated the program income. If the grant between the State and the unit of general local government is closed out, program income permitted to be retained will be considered to be part of the unit of general local government's most recently awarded open grant. If the unit of general local government has no open grants with the State, the program income retained by the unit of general local government will be counted as part of the State's program year in which the program income was received. A State must employ one or more of the following methods to ensure that units of general local government comply with applicable program income requirements:

(1) Maintaining contractual relationships with units of general local government for the duration of the existence of the program income;

(2) Closing out the underlying activity, but requiring as a condition of closeout that the unit of general local government obtain advance State approval of either a unit of general local government's plan for the use of program income or of each use of program income by grant recipients via regularly occurring reports and requests for approval;

(3) Closing out the underlying activity, but requiring as a condition of closeout that the unit of general local government report to the State when new program income is received; or

(4) With prior HUD approval, other approaches that demonstrate that the State will ensure compliance with the requirements of this subpart by units of general local government.

\* \* \* \* \*

(g) *Procurement.* When procuring property or services to be paid for in whole or in part with CDBG funds, the State shall follow its procurement policies and procedures. The State shall establish requirements for procurement policies and procedures for units of general local government, based on full and open competition. Methods of procurement (e.g., small purchase, sealed bids/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability shall be specified by the State. Cost plus a percentage of cost and percentage of construction costs

methods of contracting shall not be used. The policies and procedures shall also include standards of conduct governing employees engaged in the award or administration of contracts. (Other conflicts of interest are covered by § 570.489(h).) The State shall ensure that all purchase orders and contracts include any clauses required by Federal statutes, Executive orders, and implementing regulations. The State shall make subrecipient and contractor determinations in accordance with the standards in 2 CFR 200.330.

\* \* \* \* \*

(o) *Grant Closeout*.—HUD will close grants to States in accordance with the grant closeout requirements of 2 CFR 200.343.

**[§ 570.503 Amended]**

- 16. In § 570.503, amend paragraph (b) introductory text by removing the second occurrence of the word “following”.
- 17. Amend § 570.506 as follows:
  - a. In paragraph (d), add “§ 570.503(b)(7) or” before “§ 570.505”; and
  - b. Revise paragraph (h).  
The revision reads as follows:

**§ 570.506 Records to be maintained.**

\* \* \* \* \*

(h) Financial records, in accordance with the applicable requirements listed in § 570.502, including source documentation for entities not subject to 2 CFR part 200. Grantees shall maintain evidence to support how the CDBG funds provided to such entities are expended. Such documentation must include, to the extent applicable, invoices, schedules containing comparisons of budgeted amounts and actual expenditures, construction progress schedules signed by appropriate parties (e.g., general contractor and/or a project architect), and/or other documentation appropriate to the nature of the activity. Grantee records pertaining to obligations, expenditures, and drawdowns must be able to relate financial transactions to either a specific origin year grant or to program income received during a specific program year.

\* \* \* \* \*

- 18. Amend § 570.509 as follows:
  - a. Revise paragraph (a);
  - b. Remove paragraph (b)(1) and redesignate paragraphs (b)(2) through (4) as paragraphs (b)(1) through (3), respectively;
  - c. In newly redesignated paragraph (b)(2), add a sentence at the end;
  - d. In newly redesignated paragraph (b)(3), remove “24 CFR part 44” and add

in its place “HUD regulations implementing the Single Audit Act requirements at 2 CFR part 200”;  
 ■ e. Remove paragraph (c)(3) and redesignate paragraphs (c)(4) and (5) as paragraphs (c)(3) and (4), respectively; and  
 ■ f. Revise newly redesignated paragraph (c)(3).

The revisions and additions read as follows:

**§ 570.509 Grant closeout procedures.**

(a) *Criteria for closeout*. HUD may make grant closeout determinations for individual grants or multiple grants simultaneously. A grant will be closed out when HUD determines, in consultation with the recipient, that the following criteria have been met:

(1) All costs to be paid with CDBG funds from a given origin year’s grant have been expended and drawn down, with the exception of closeout costs (e.g., audit costs) and costs resulting from contingent liabilities described in the closeout agreement pursuant to paragraph (c) of this section. Contingent liabilities include, but are not limited to, third-party claims against the recipient, as well as related administrative costs.

(2) All activities for which funds were expended from the origin year grant are physically completed, are eligible, have met a national objective under § 570.208, and the grantee has reported on all accomplishments resulting from the activity.

(3) A final performance and expenditure report for completed activities has been submitted to HUD pursuant to 24 CFR 91.520, and HUD has determined the plan is satisfactory.

(4) All program income received by the grantee during the grantee program year associated with the origin year grant has been expended, or identified in a more recent program year’s Action Plan, pursuant to 24 CFR 91.220(l).

(5) For origin year 2015 grants and subsequent grants, the grantee has expended no more than 20 percent of the origin year grant for planning and program administrative costs, under § 570.200(g)(1).

(6) Other responsibilities of the recipient under the grant agreement and applicable laws and regulations appear to have been carried out satisfactorily or there is no further Federal interest in keeping the grant agreement open for the purpose of securing performance.

(b) \* \* \*

(2) \* \* \* Any funds which have exceeded the statutory time limit on the use of funds will be recaptured by the U.S. Treasury pursuant to 24 CFR 570.200(k).

\* \* \* \* \*

(c) \* \* \*

(3) Description of the recipient’s responsibility after closeout for:

(i) Compliance with all program requirements, certifications, and assurances in using any remaining CDBG funds available for closeout costs and contingent liabilities;

(ii) Use of real property assisted with CDBG funds in accordance with the principles described in §§ 570.503(b)(7) and 570.505;

(iii) Compliance with requirements governing future program income or receivables generated from activities funded from the origin year grant, as described in § 570.504(b)(4) and (5);

(iv) Ensuring that flood insurance coverage for affected property owners is maintained for the mandatory period; and

\* \* \* \* \*

- 19. In § 570.513, amend paragraph (b)(7) by adding after the first sentence a new second sentence to read as follows:

**§ 570.513 Lump sum drawdown for financing of property rehabilitation activities.**

\* \* \* \* \*

(b) \* \* \*

(7) \* \* \* Any program income which will be governed by a new agreement must be identified in the current program year Action Plan, pursuant to 24 CFR 91.220(l). \* \* \*

\* \* \* \* \*

Dated: September 18, 2015.

**Harriet Tregoning,**

*Principal Deputy Assistant, Secretary for Community Planning and Development.*

Approved on: October 13, 2015.

**Nani A. Coloretti,**

*Deputy Secretary.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100.701**

**[Docket No. USCG–2015–0955] Special Local**

**Regulations; Recurring Marine Events in the Seventh Coast Guard District**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the regulation pertaining to the Savannah Harbor Boat Parade of Lights