

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

24 CFR Part 1000

[Docket No. FR-5109-P-01]

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: Proposed rule.

SUMMARY: This proposed rule would extend the due date 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. HUD believes that extending this deadline by an additional 30 days will provide IHBG recipients with the necessary additional time to prepare and submit their APRs.

DATES: *Comment Due Date:* May 29, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Interested persons also may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically so that HUD, in turn, can make them immediately available to the public. Commenters should follow the instructions provided on that site to submit comments electronically. Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All 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) 708-3055 (this is not a toll-free number). Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

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 (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

As authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4101 *et seq.*), the IHBG program provides housing assistance under a single block grant to eligible Indian tribes or their TDHEs. IHBG funds are allocated under a needs-based formula. The regulations governing the IHBG program are found in part 1000 of HUD's regulations in Title 24 of the Code of Federal Regulations. In accordance with section 106 of NAHASDA, HUD developed those regulations with active tribal participation and using the procedures of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561-570).

On an annual basis, IHBG recipients are required to prepare and submit an APR that provides a self-assessment of their IHBG-funded activities. As described in further detail in § 1000.512, 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 recipient's performance in accordance with HUD's performance measures, as set forth in § 1000.524. Section 404(c) of NAHASDA requires HUD to establish due dates for the submission of these APRs. As established in § 1000.514, the APRs must be submitted to HUD within 60 days of the end of the IHBG recipient's program year. The regulations also authorize HUD to extend the APR due date if the recipient submits a justified request.

HUD's experience with the APR submission deadline has been that recipients do not have sufficient time to prepare APRs within 60 days of the end of their program year. In recent years, more than 40 percent of IHBG recipients have requested extensions. This rise in extension requests may be attributed to the increasing number of complex IHBG-funded activities such as housing development and leveraged financing.

II. This Proposed Rule

This proposed rule would extend the APR deadline by an additional 30 days. Under the revised § 1000.514, IHBG recipients would be required to submit their APRs within 90 days of the end of their program year. An additional, conforming change would be made in § 1000.524(d) to reflect the extended deadline. HUD believes that the extension will provide adequate 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. Further, the additional time will reduce the need for extensions and therefore alleviate the burden on Indian tribes, TDHEs, and HUD officials related to the preparation and processing of extension requests.

III. Tribal Consultation

HUD's policy is to consult with Indian tribes early in the rulemaking process on matters that have tribal implications. Accordingly, HUD held nine consultation meetings, attended by more than 500 tribal representatives, between January 2005 through May 2005. 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 have the opportunity to comment on this proposed rule, and HUD welcomes such comment.

IV. Findings and Certifications

Paperwork Reduction Act

The information collection requirements contained in this proposed 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).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) 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 proposed rule would extend 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.

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

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 proposes to amend 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 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: February 16, 2007.

Orlando J. Cabrera,

Assistant Secretary for Public and Indian Housing.

[FR Doc. E7-5738 Filed 3-28-07; 8:45 am]

BILLING CODE 4210-67-P