

§ 761.40

Housing Programs, the grantee shall use the form SF-269A, Financial Status Report-Long Form, to report the status of funds for nonconstruction programs. The grantee shall use SF-269A, block 12, "Remarks," to report on the status of programs, functions, or activities within the program.

(2) *Reporting period.* Semi-annual financial status reports (SF-269A) must be submitted as follows:

(i) For purposes of the Assisted Housing Program, semi-annual financial status reports covering the first 180 days of funded activities must be submitted to the local HUD Office between 190 and 210 days after the date of the grant agreement. If the SF-269A is not received on or before the due date (210 days after the date of the grant agreement) by the local HUD Office, grant funds will not be advanced until the reports are received.

(ii) For purposes of the Public Housing Program, semi-annual financial status reports (for periods ending June 30 and December 31) must be submitted to the local HUD Office or the local Office of Indian Programs, as applicable, by July 30 and January 31 of each year. If the local HUD Office or the local HUD Office of Native American Programs, as applicable, does not receive the SF-269A on or before the due date, the grant funds will not be advanced until the reports are received.

(d) *Final financial status report (SF-269A).* For purposes of both the Assisted Housing Program and the Public Housing Program, the following provisions in paragraph (d) of this section apply:

(1) *Cumulative summary.* The final report will be a cumulative summary of expenditures to date and must indicate the exact balance of unexpended funds. The grantee shall remit all Drug Elimination Program funds owed to HUD, including any unexpended funds, as follows:

(i) For purposes of the Assisted Housing Program, the grantee must remit such funds to HUD within 90 days after the termination of the grant agreement.

(ii) For purposes of the Public Housing Program, the local HUD Office or the local HUD Office of Native American Programs shall notify the grantee, in writing, of the requirement to remit

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such funds to HUD. The grantee shall remit such funds prior to or upon receipt of the notice.

(2) *Reporting period.* The final financial status report shall cover the period from the date of the grant agreement to the termination date of the grant agreement. The report is due to the local HUD Office or the local HUD Office of Native American Programs, as applicable, within 90 days after the termination of the grant agreement.

§ 761.40 Other Federal requirements.

In addition to the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, subpart A, use of grant funds requires compliance with the following Federal requirements:

(a) *Labor standards.* (1) When grant funds are used to undertake physical improvements to increase security under § 761.15(b)(3), the following labor standards apply:

(i) The grantee and its contractors and subcontractors must pay the following prevailing wage rates, and must comply with all related rules, regulations and requirements:

(A) For laborers and mechanics employed in the program, the wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a et seq.) to be prevailing in the locality with respect to such trades;

(B) For laborers and mechanics employed in carrying out nonroutine maintenance in the program, the HUD-determined prevailing wage rate. As used in paragraph (a) of this section, nonroutine maintenance means work items that ordinarily would be performed on a regular basis in the course of upkeep of a property, but have become substantial in scope because they have been put off, and that involve expenditures that would otherwise materially distort the level trend of maintenance expenses. Nonroutine maintenance may include replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind. Work that constitutes reconstruction, a substantial improvement in the quality or kind of original

equipment and materials, or remodeling that alters the nature or type of housing units is not nonroutine maintenance.

(ii) The employment of laborers and mechanics is subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333).

(2) The provisions of paragraph (a)(1) of this section shall not apply to labor contributed under the following circumstances:

(i) Upon the request of any resident management corporation, HUD may, subject to applicable collective bargaining agreements, permit residents (for purposes of the Public Housing Program, residents of a program managed by the resident management corporation) to volunteer a portion of their labor.

(ii) An individual may volunteer to perform services if:

(A) The individual does not receive compensation for the voluntary services, or is paid expenses, reasonable benefits, or a nominal fee for voluntary services; and

(B) Is not otherwise employed at any time in the work subject to paragraphs (a)(1)(i)(A) or (a)(1)(i)(B) of this section.

(b) *Flood insurance.* Grants will not be awarded for proposed activities that involve acquisition, construction, reconstruction, repair or improvement of a building or mobile home located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program in accordance with 44 CFR parts 59 through 79; or

(2) Less than a year has passed since FEMA notification to the community regarding such hazards; and

(3) Flood insurance on the structure is obtained in accordance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001).

(c) *Lead-based paint.* The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, H, and R of this title.

(d) *Conflicts of interest.* In addition to the conflict of interest requirements in 24 CFR part 85 for the Public Housing Program, no person, as described in paragraphs (d)(1) and (d)(2) of this section, may obtain a personal or financial interest or benefit from an activity funded under these drug elimination programs, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure, or for one year thereafter:

(1) Who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, that receives assistance under the program and who exercises or has exercised any functions or responsibilities with respect to assisted activities; or

(2) Who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities.

(e) *For IHAs,* §950.115 of this title, "Applicability of civil rights requirements," and §950.120 of this title, "Compliance with other Federal requirements," apply and control to the extent they may differ from other requirements of this section;

(f) *Intergovernmental Review.* The requirements of Executive Order 12372 (3 CFR, 1982 Comp., p. 197) and the regulations issued under the Order in part 52 of this title, to the extent provided by FEDERAL REGISTER notice in accordance with 24 CFR 52.3, apply to these programs.

(g) *Environmental review.* Certain eligible activities under this part 761 are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and are not subject to review under related laws, in accordance with 24 CFR 50.19(b)(4), (b)(12), or (b)(13). If the PHDEP plan proposes the use of grant funds to assist any non-exempt activities, HUD will perform an environmental review to the extent required by 24 CFR part 50, prior to grant award.

[61 FR 13987, Mar. 28, 1996, as amended at 64 FR 49921, Sept. 14, 1999; 64 FR 50227, Sept. 15, 1999]

PARTS 762-790 [RESERVED]**PART 791—ALLOCATIONS OF HOUSING ASSISTANCE FUNDS****Subpart A—General Provisions**

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Subparts B-C [Reserved]**Subpart D—Allocation of Budget Authority for Housing Assistance**

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AUTHORITY: 42 U.S.C. 1439 and 3535(d).

SOURCE: 61 FR 10849, Mar. 15, 1996, unless otherwise noted.

Subpart A—General Provisions**§ 791.101 Applicability and scope.**

This part describes the role and responsibility of HUD in allocation of budget authority (pursuant to section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439)) for housing assistance under the United States Housing Act of 1937 (Section 8 and public housing) and under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and of budget authority for housing assistance under section 202 of the Housing Act of 1959 (12 U.S.C. 1710q). This part does not apply to budget authority for the public housing operating fund or capital fund.

[64 FR 26639, May 14, 1999]

§ 791.102 Definitions.

Act. The Housing and Community Development Act of 1974 (42 U.S.D. 1437), as amended.

Allocation area. A municipality, county, or group of municipalities or counties identified by the HUD field office for the purpose of allocating housing assistance.

Assistant Secretary. The Assistant Secretary for Housing or the Assistant

Secretary for Public and Indian Housing, as appropriate to the housing assistance under consideration.

Budget authority. The maximum amount authorized by the Congress for payments over the term of assistance contracts.

Fiscal year. The official operating period of the Federal government, beginning on October 1 and ending on September 30.

Metropolitan area. See MSA.

MSA. A metropolitan statistical area established by the Office of Management and Budget. The term also includes primary metropolitan statistical areas (PMSAs), which are the component parts of larger urbanized areas designated as consolidated metropolitan statistical areas (CMSAs). Where an MSA is divided among two or more field offices, references to an MSA mean the portion of the MSA within the State/Area Office jurisdiction.

Public housing agency (PHA). (1) Any State, county, municipality, or other governmental entity or public body which is authorized to administer a program under the 1937 Act (or an agency or instrumentality of such an entity).

(2) In addition, for purposes of the program of Section 8 tenant-based assistance under part 982 of this title, the term PHA also includes any of the following:

(i) A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members);

(ii) Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) in effect on October 21, 1998; or

(iii) For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a