

OMB Circular A-133 supersedes Attachment F, subparagraph 2h, of OMB Circular A-110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Institutions." This part incorporates the requirements set forth in OMB Circular A-133.

(b) Nonprofit institutions (except for those participating in the HUD programs listed in paragraph (c) of this section), as defined in OMB Circular A-133, (including hospitals that are not affiliated with an institution of higher education) that receive financial assistance from HUD directly or as sub-recipients, or have an outstanding HUD direct, guaranteed or insured loan balance are required to have audits conducted in accordance with the following requirements:

(1) Nonprofit institutions that have combined receipts of Federal financial assistance and outstanding Federal direct, guaranteed or insured loan balances totalling \$100,000 or more a year shall have an audit conducted in accordance with the requirements of OMB Circular A-133. However, nonprofit institutions meeting the above criteria but participating in only one Federal financial assistance program have the option of having an audit of their institution made in accordance with the provisions of OMB Circular A-133 or a program-specific financial audit. Such program-specific financial audits shall be performed in accordance with the Government Auditing Standards covering financial audits issued by the Comptroller General of the United States. In addition, the program-specific audit shall be performed in accordance with any applicable HUD audit guide. If the program does not have an applicable HUD audit guide, the audit shall include the compliance tests described in any applicable OMB Compliance Supplement for the specific program involved. If the program is not covered by an applicable HUD audit guide or OMB Compliance Supplement, the auditor shall design appropriate compliance tests in accordance with Government Auditing Standards.

(2) Nonprofit institutions that have combined receipts of Federal financial

assistance and outstanding Federal direct, guaranteed or insured loan balances totalling between \$25,000 and \$100,000 a year shall have an audit conducted in accordance with the requirements of OMB Circular A-133, or a program-specific financial audit. Such program specific financial audits shall be performed in accordance with the Government Auditing Standards covering financial audits issued by the Comptroller General of the United States. In addition, the program-specific audits shall be performed in accordance with any applicable HUD audit guides. For those programs that do not have an applicable HUD audit guide, the audits shall include the compliance tests described in any applicable OMB Compliance Supplement for each of the programs involved. For those programs not covered by an applicable HUD audit guide or OMB Compliance Supplement, the auditor shall design appropriate compliance tests in accordance with Government Auditing Standards.

(3) Nonprofit institutions that have combined receipts of Federal financial assistance and outstanding Federal direct, guaranteed or insured loan balances totalling less than \$25,000 shall be exempt from Federal audit requirements, but records must be available for review by appropriate officials of HUD or the subgranting entity.

(4) Nonprofit institutions having only outstanding HUD direct, guaranteed or insured loans that were made, guaranteed or insured prior to the effective date of this part, are required to conduct audits in accordance with HUD program-specific audit requirements. Such program specific financial audits shall be performed in accordance with the Government Auditing Standards covering financial audits issued by the Comptroller General of the United States. In addition, the program-specific audits shall be performed in accordance with any applicable HUD audit guides. For those programs that do not have an applicable HUD audit guide, the audits shall include the compliance tests described in any applicable OMB Compliance Supplement for each of the programs involved. For

those programs not covered by an applicable HUD audit guide or OMB Compliance Supplement, the auditor shall design appropriate compliance tests in accordance with Government Auditing Standards.

(c) For HUD programs whose regulations are set forth in 24 CFR parts 207, 213, 221, 232, 236, 242, 277, 880, 881, 883, 884, 885, and 886, a nonprofit institution is the nonprofit corporation which owns the individual property receiving the HUD assistance. Each project under the Parts 200 series and many projects under the Parts 800 series are required to complete project-specific audits because they are deemed to be separate entities. The audits currently conducted under applicable HUD audit guides for these programs will serve in full satisfaction of the organization-wide audit requirements of OMB Circular A-133 and this part. In performing the compliance review required by paragraph 13.c. of OMB Circular A-133, auditors should consider the compliance requirements set forth in the HUD audit guides applicable to these programs, in addition to the OMB Compliance Supplement. In accordance with the regulatory agreement incident to the insured mortgage, the audit reports pertaining to nonprofit organizations subject to these regulations are to be submitted within 60 days after the end of the fiscal year audited.

(d) The requirements of this part are applicable to nonprofit institutions with respect to any fiscal year that begins on or after January 1, 1990.

§ 45.2 Scope of audit.

The audit shall be made by an independent auditor, as defined in OMB Circular A-133, in accordance with Government Auditing Standards covering financial audits issued by the Comptroller General of the United States and the requirements of OMB Circular A-133.

§ 45.3 Frequency of audit.

Audits shall be made annually unless the specific audit requirements for all of the programs involved permit a lesser frequency in which case the audit shall be made every two years.

§ 45.4 Submission of reports.

(a) Except for the organizations subject to the requirements set forth in § 45.1(c), the report shall be due within 30 days after the completion of the audit, but the audit should be completed and the report submitted not later than 13 months after the end of the recipient's fiscal year unless a longer period is agreed to with the cognizant or oversight agency.

(b)(1) HUD may provide by program notice that:

(i) Reports are not required to be sent to HUD if HUD is not the cognizant agency for the recipient and if the report meets all the following conditions: an unqualified opinion was expressed on the financial statements; the report identified no material instances of noncompliance; the report identified no reportable condition of material weakness in internal controls; the report contains no schedule of findings and questions applicable to a HUD program; the report identified no potential illegal act which could result in criminal prosecution; and the report contained no uncorrected significant finding from a prior audit; and

(ii) Reports are required to be sent to HUD in all cases where HUD is the cognizant agency; however in those cases where a report meets the conditions specified in paragraph (b)(1) of this section, the report shall be accompanied by a transmittal letter indicating that such conditions have been met.

(2) If no report is required to be submitted as provided in paragraph (b)(1)(i) of this section, the recipient must notify the appropriate HUD office in writing that report met the conditions set forth in paragraph (b)(1) of this section; indicate the report date, fiscal year audited, and identifying information on the independent auditor; and attach a copy of the Schedule of Federal Financial Assistance.

[60 FR 15483, Mar. 24, 1995]

§ 45.5 Audit costs.

The cost of audits made in accordance with the provisions of this part are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with

the provisions of Circular A-21, "Cost Principles for Universities" or Circular A-122, "Cost Principles for Nonprofit Organizations," FAR subpart 31, or other applicable cost principles or regulations.

PART 50—PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

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AUTHORITY: 42 U.S.C. 3535(d) and 4332; and Executive Order 11991, 3 CFR, 1977 Comp., p. 123.

SOURCE: 61 FR 50916, Sept. 27, 1996, unless otherwise noted.

Subpart A—General: Federal Laws and Authorities

§ 50.1 Purpose, authority, and applicability.

(a) This part implements the policies of the National Environmental Policy Act (NEPA) and other environmental requirements (as specified in § 50.4).

(b) NEPA (42 U.S.C. 4321 *et seq.*), establishes national policy, goals and procedures for protecting, restoring and enhancing environmental quality. NEPA is implemented by Executive Order 11514 of March 5, 1970, (3 CFR, 1966–1970 Comp., p. 902) as amended by Executive Order 11991 of May 24, 1977, (3 CFR, 1977 Comp., p. 123) and by the Council on Environmental Quality (CEQ) Regulations, 40 CFR parts 1500–1508.

(c) The regulations issued by CEQ at 40 CFR parts 1500–1508 establish the basic procedural requirements for compliance with NEPA. These procedures are to be followed by all Federal agencies and are incorporated by reference into this part. This part, therefore, provides supplemental instructions to reflect the particular nature of HUD programs, and is to be used in tandem with 40 CFR parts 1500–1508 and regulations that implement authorities cited at § 50.4.

(d) These regulations apply to all HUD policy actions (as defined in § 50.16), and to all HUD project actions (see § 50.2(a)(2)). Also, they apply to projects and activities carried out by recipients subject to environmental policy and procedures of 24 CFR part 58, when the recipient that is regulated under 24 CFR part 58 claims the lack of legal capacity to assume the Secretary's environmental review responsibilities and the claim is approved by HUD or when HUD determines to conduct an environmental review itself in place of a nonrecipient responsible entity. For programs, activities or actions not specifically identified or