

DEPARTMENT OF HEALTH AND HUMAN SERVICES**45 CFR Part 96**

RIN 0991-AA92

Block Grant Programs: Implementation of OMB Circular A-133**AGENCY:** Department of Health and Human Services (HHS).**ACTION:** Interim final rule with request for comments.**SUMMARY:** This interim final rule implements Office of Management and Budget (OMB) Circular A-133 for Department of Health and Human Services (HHS) block programs.**DATES:** This interim final rule is effective September 29, 1997. Comments must be received on or before October 28, 1997 to be assured of consideration.**ADDRESSES:** Comments should be submitted to Charles Gale, Director, Office of Grants Management, Department of Health and Human Services, Room 517-D, 200 Independence Ave. SW, Washington, DC 20201. A copy of the comments received will be available for public inspection and copying during regular business hours (9:00 a.m. to 5:30 p.m. eastern time) at the above address.**FOR FURTHER INFORMATION CONTACT:** Charles Gale, 202-690-6377; for the hearing impaired only: TDD 202-690-6415.**SUPPLEMENTARY INFORMATION:** Elsewhere in this issue of the **Federal Register**, Federal grant-making agencies have published interim final amendments to the grants management common rule for State and local governments (codified by HHS at 45 CFR part 92) and to their codification of OMB Circular A-110 (codified by HHS at 45 CFR part 74) for the purpose of implementing the Single Audit Act Amendments of 1996 (110 Stat. 1396) and the revision of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," published in the **Federal Register** on June 30, 1997. (62 FR 35278.)

In addition, it is necessary for HHS to amend its block grant regulation (45 CFR part 96) in a similar way. This interim final rule implements the Single Audit Act Amendments of 1996 and the revised Circular A-133 in the same manner as, and in conjunction with, the common rule amendments referred to above. The supplementary information, impact analyses, and the justification for the waiver of proposed rulemaking of the common rule amendments apply equally to this action.

This amendment of 45 CFR part 96 essentially adopts today's amendment to the grants management common rule (45 CFR 92.26 (a) through (b)(1)) together with most of the remainder of the existing audit policy found at 45 CFR 92.26(b) (2) through (5). The provision on auditor selection, found at 45 CFR 92.26(c), has not been adopted in part 96 because the block grant rules do not contain procurement standards as contemplated by that section.

List of Subjects in 45 CFR Part 96

Accounting, Administrative practice and procedures, Audit requirements, Block grants, Grants administration, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance does not apply)

Dated: August 18, 1997.

Donna E. Shalala,
Secretary.

Part 96 of title 45 of the Code of Federal Regulations is amended as follows:

PART 96—BLOCK GRANTS

1. The authority citation for part 96 is revised to read as follows:

Authority: 31 U.S.C. 1243 note, 7501-7507; 42 U.S.C. 300w *et seq.*, 300x *et seq.*, 300y *et seq.*, 701 *et seq.*, 8621 *et seq.*, 9901 *et seq.*, 1397 *et seq.*

2. Section 96.31 is revised to read as follows:

§ 96.31 Audits.

(a) *Basic rule.* Grantees and subgrantees are responsible for

obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of State, Local Governments, and Non-Profit Organizations." The audits shall be made by an independent auditor in accordance with generally accepted Government auditing standards covering financial audits.

(b) *Subgrantees.* State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee, expending \$300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

(1) Determine whether subgrantees have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;

(2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

(3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;

(4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

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