

§ 1000.544

making a grant on behalf of an Indian tribe, the Indian tribe shall agree that, notwithstanding any other provisions of law, HUD may, only in the circumstances discussed below, require that a replacement TDHE serve as the recipient for the Indian tribe.

(b) HUD may require a replacement TDHE for an Indian tribe only upon a determination by HUD on the record after opportunity for hearing that the recipient for the Indian tribe has engaged in a pattern or practice of activities that constitute substantial or willful noncompliance with the requirements of NAHASDA.

§ 1000.544 What audits are required?

Pursuant to NAHASDA section 405(a), the recipient must comply with the requirements of the Single Audit Act (chapter 75 of title 31, United States Code), implemented by 2 CFR part 200, subpart F, which require annual audits of recipients that expend federal funds equal to or in excess of an amount specified by the Office of Management and Budget (OMB), as set out in 2 CFR 200.501. If applicable, a certification that the recipient has not expended federal funds in excess of the audit threshold that is set by OMB shall be included in the recipient's Annual Performance Report.

[77 FR 71529, Dec. 3, 2012, as amended at 80 FR 75944, Dec. 7, 2015]

§ 1000.546 Are audit costs eligible program or administrative expenses?

Yes, audit costs are an eligible program or administrative expense. If the Indian tribe is the recipient then program funds can be used to pay a prorated share of the tribal audit or financial review cost that is attributable to NAHASDA funded activities. For a recipient not covered by the Single Audit Act, but which chooses to obtain a periodic financial review, the cost of such a review would be an eligible program expense.

§ 1000.548 Must a copy of the recipient's audit pursuant to the Single Audit Act relating to NAHASDA activities be submitted to HUD?

No. A copy of the recipient audit under the Single Audit Act relating to NAHASDA activities is only required

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to be submitted to the Federal Audit Clearinghouse pursuant to 2 CFR part 200, subpart F.

[80 FR 75944, Dec. 7, 2015]

§ 1000.550 If the TDHE is the recipient, does it have to submit a copy of its audit to the Indian tribe?

Yes. The Indian tribe as the grant beneficiary must receive a copy of the audit report so that it can fully carry out its oversight responsibilities with NAHASDA.

§ 1000.552 How long must the recipient maintain program records?

(a) This section applies to all financial and programmatic records, supporting documents, and statistical records of the recipient which are required to be maintained by the statute, regulation, or grant agreement.

(b) Except as otherwise provided herein, records must be retained for 3 years from the end of the tribal program year during which the funds were expended.

(c) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

[63 FR 12349, Mar. 12, 1998, as amended at 77 FR 71530, Dec. 3, 2012]

§ 1000.554 Which agencies have right of access to the recipient's records relating to activities carried out under NAHASDA?

(a) HUD and the Comptroller General of the United States, and any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of recipients which are pertinent to NAHASDA assistance, in order to make audits, examinations, excerpts, and transcripts.

(b) The right of access in this section lasts as long as the records are maintained.