

APPENDIX I

FEDERAL PROGRAMS EXCLUDED FROM THE FORMER A-102 COMMON RULE AND PORTIONS OF 2 CFR PART 200

Background

Certain grant programs (block grant programs enacted under the Omnibus Budget Reconciliation Act of 1981, one special program, open-ended entitlement programs, and other specified programs) were originally exempted from the provisions of the former A-102 Common Rule and current 2 CFR 200. On September 8, 2003 (68 FR 52843-52844), the Department of Health and Human Services (HHS) amended its implementation of the A-102 Common Rule at 45 CFR Part 92 to eliminate the exemption for all of its programs other than the HHS block grants under the Omnibus Budget Reconciliation Act of 1981. The Department of Agriculture previously included its entitlement grants in its implementation of the A-102 Common Rule.

Administrative Requirements

The programs that remain exempt from the former A-102 Common Rule and the administrative requirements in 2 CFR Part 200 are listed below. These exemptions from the administrative requirements in the former A-102 Common Rule were carried forward into 2 CFR Part 200 (2 CFR Part 200, Subpart D), with the exception of 2 CFR sections 200.330 through 200.332. Consult Part 4 - Agency Program Requirements, II, "Program Procedures - Source of Governing Requirements," for the governing requirements for these programs.

Note that, in some cases, the administrative requirements for entitlement programs in federal agency regulations are not identical to those in the former A-102 Common Rule/2 CFR Part 200. Rather than identify for testing each instance where the requirements differ, this Supplement addresses only those differences that warrant special attention. One difference is in the area of procurement (see below). With respect to all other administrative requirements, the auditor must rely on the provisions of the former A-102 Common Rule/2 CFR Part 200 and agency program requirements (see Part 4).

Differences Pertaining to Procurement

Subpart F of 45 CFR Part 95, ADP equipment and services, applies to certain HHS programs as specified in Part 4 of this Supplement. Subpart F requires prior federal written approval for the acquisition of ADP equipment and services of \$5 million or more when the federal government funds at regular matching rates and prior written approval for all ADP acquisitions when the federal government funds at enhanced matching rates. In addition, the rules require prior federal written approval for sole-source contracts between \$1 million and \$5 million when the federal government funds at regular matching rates and for certain requests for proposals (RFPs), contracts, and amendments.

Cost Principles

The programs listed below also are exempt from the provisions of the OMB cost principles circulars and their successor guidance in 2 CFR Part 200, Subpart E. State cost principles requirements apply to these programs (including their subrecipients). The HHS September 8,

2003 rulemaking did not affect the applicability of the cost principles for the HHS entitlement programs. The entitlement programs and the other listed programs are subject to the provisions of the OMB cost principles circulars/2 CFR Part 200, Subpart E.

Programs Excluded from the Requirements of the Former A-102 Common Rule and Portions of 2 CFR Part 200

Some programs (both those included in the Supplement and others) are exempted from the former A-102 Common Rule and specified portions of 2 CFR Part 200.

The following list provides the Assistance Listing number and program name as listed in the current Assistance Listing. A notation is included with the program name to indicate when only part of the awards under a Assistance Listing number are excluded from the former A-102 Common Rule/portions of 2 CFR Part 200 or to provide other clarifications.

Except for the requirement to provide public notice of federal financial assistance programs in 2 CFR section 200.202 and the requirements in 2 CFR sections 200.330 through 200.332, the guidance in 2 CFR Part 200, subparts C, D, and E, as implemented by the federal agency, does not apply to the following programs:

Section____.4(a)(2)/2 CFR section 200.101(d)(1)

The Omnibus Budget Reconciliation Act of 1981 (including Community Services):

- 93.568 Low-Income Home Energy Assistance
- 93.569 Community Services Block Grant (except to the extent that the OMB cost principles apply to subrecipients of these funds pursuant to 42 USC 9916(a)(1)(B)).
- 93.667 Social Services Block Grant
- 93.958 Block Grants for Community Mental Health Services
- 93.959 Block Grants for Prevention for Substance Use Prevention, Treatment and Recovery Services
- 93.991 Preventive Health and Health Services Block Grant (not included in the Supplement)
- 93.994 Maternal and Child Health Services Block Grant to the States

- 14.228 Community Development Block Grants/State’s Program and Non-Entitlement Grants in Hawaii (Note: Awards to non-entitlement counties in Hawaii are not considered “block grants” for this purpose.)

Section____.4(a)(9)/2 CFR section 200.101(d)(2)

Grants to local education agencies under the following sections of the Impact Aid program:

Section 8002, 20 USC 7702 (federal property payments), Section 8003(b), 20 USC 7703(b) (Basic support payments).

84.041 (excluding payments for children with disabilities and payments for construction)

Section____.4(a)(10)/2 CFR section 200.101(d)(3)

Payments under the Veterans Administration's State Home Per Diem Program (38 USC 1741):

64.014 Veterans State Domiciliary Care
64.015 Veterans State Nursing Home Care
64.016 Veterans State Hospital Care

2 CFR section 200.101(d)(4)

Grants authorized under the Child Care and Development Block Grant Act of 1990, as amended:

93.575 Child Care and Development Block Grant
93.596 Child Care Mandatory and Matching Funds of the Child Care and Development Fund