

■ 4. Section 51.25 is amended by removing the phrase "photographs of the size" and adding in its place "photographs as" in paragraph (a).

■ 5. Section 51.27 is amended by redesignating paragraphs (b)(2)(i), (ii), (iii), (iv), (v), (vi), and (vii), as paragraphs (b)(2)(ii), (iii), (iv), (v), (vi), (vii), and (viii), and adding a new paragraph (b)(2)(i) to read as follows:

§ 51.27 Minors.

* * * * *

(b) * * *

(2) *Minors under the age of 14.* (i) Minors under 14 years of age applying for a passport shall appear in person, unless the personal appearance of the minor is specifically waived by a senior passport specialist at the issuing passport agency in the United States, or by a senior consular officer at the issuing overseas consular office, pursuant to guidance issued by the Department of State. In cases where such a waiver is granted, the person executing the passport application on behalf of the minor shall appear in person and verify the application by oath or affirmation before a person authorized by the Secretary to give oaths unless, in the case of applications received overseas, these requirements are also waived by a senior consular officer, pursuant to guidance issued by the Department of State.

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Dated: March 16, 2004.

Maura Harty,

*Assistant Secretary for Consular Affairs,
Department of State.*

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 5

[Docket No. FR-4876-I-01]

RIN 2501-AD01

Implementation of Requirement in HUD Programs for Use of Data Universal Numbering System (DUNS) Identifier

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule implements an Office of Management and Budget (OMB) policy directive that requires grant applicants, other than individuals, to provide a Data Universal Numbering System (DUNS) number when applying for federal grants or other assistance agreements on or after October 1, 2003.

HUD is applying this policy widely to its assistance programs in order to have a single identifier for applicants and facilitate the transition to electronic application submission.

DATES: *Comment Due Date:* May 25, 2004.

Effective Date: April 26, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-5000.

Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Facsimile (FAX) comments are not acceptable.

FOR FURTHER INFORMATION CONTACT:

Barbara Dorf, Director, Office of Departmental Grants Management and Oversight, Room 3156, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-3000, telephone (202) 708-0667 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published on October 30, 2002 (67 FR 66177), OMB proposed to establish the Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number as the universal identifier for federal grant and cooperative agreement applicants. The OMB notice solicited public comments and included a proposal to establish this policy as a governmentwide requirement.

On June 27, 2003 (68 FR 38402), OMB published a final policy directive that implemented a governmentwide requirement for applicants to provide a DUNS number when applying for federal grants or cooperative agreements on or after October 1, 2003.

OMB has determined that there is a governmentwide need for improved statistical reporting of federal grants and cooperative agreements.

Governmentwide use of the DUNS number will provide a means to identify entities receiving those awards, as well as their business relationships. The identifier will be used for tracking purposes and to validate address and point-of-contact information. The DUNS number already is in use by the federal

government generally to identify entities receiving federal contracts and by some federal agencies in their grant and cooperative agreement processes. Among existing numbering systems, DUNS is the only one that provides the federal government the ability to determine hierarchical and family-tree data for related organizations.

Based on the OMB directive, HUD is extending this policy to all assistance awards unless the recipient is specifically exempted under this policy or the program is granted an exemption by OMB. For purposes of the DUNS requirement, assistance awards subject to this policy include, but are not limited to, such financial assistance awards as Section 8 contract administration and Section 108 loan guarantees. At this time, the DUNS requirement does not extend to FHA insurance or loan guarantee transactions that are not associated with a grant program or grant award.

The objective of this DUNS policy is to help ensure that HUD is able to identify funding received by the various entities that receive HUD program awards. Recipients affected include but are not limited to: state, local, and tribal governments, public housing agencies (PHAs), tribally designated housing entities (TDHEs), universities and colleges, nonprofit organizations, for-profit organizations, owners of assisted housing and resident management organizations, and resident councils. It is HUD's intent to make all funding opportunities and applications for assistance available online at <http://www.grants.gov> and this requirement is consistent with the intent and direction of the OMB Policy Directive issued on June 27, 2003. Use of the DUNS number will be required for all submissions through <http://www.grants.gov>.

II. This Interim Rule

HUD is implementing OMB's DUNS policy and making it widely applicable to HUD funding programs by amending 24 CFR part 5 to add a new subpart K that requires organizations that apply for HUD grants or financial assistance to provide a DUNS number with the application. This policy covers funds awarded as a grant, cooperative agreement, capital fund or operating fund subsidy, capital advance, or other assistance. Every application for a new grant or assistance award or renewal of an award or plan (including PHA plans) under all discretionary and formula grant programs, must include a DUNS number for the applicant.

The DUNS requirement will also apply to groups of organizations applying for HUD grants or financial

assistance as consortia. Applicants or groups of applicants under consortia arrangements must have a DUNS number for the organization that submits an application for federal assistance on behalf of the other applicants and manages the funds. If each organization is submitting a separate application for federal assistance, then each organization must have a separate DUNS submitted with its application for assistance. If an organization is managing funds for a group of organizations (as may be the case with several small PHAs utilizing a single management organization to apply for and manage funds on their behalf), a DUNS number must be submitted for the managing organization if it is drawing down HUD funds directly. If an organization, such as a PHA, draws down funds directly from HUD and subsequently turns the funds over to a management organization, then the management organization must obtain a DUNS number and provide the number to HUD.

Unless an exemption is granted by OMB, an application will not be considered complete until a valid DUNS number is provided by the applicant.

Individuals who would personally receive an assistance award from HUD, apart from any business or nonprofit organization with which they may operate or participate, are exempt from this requirement. Specifically, individuals may continue to apply under programs for which they are eligible without providing a DUNS number. In addition, an applicant is not required to submit DUNS numbers for entities with which it may enter into subawards.

The DUNS number does not replace existing identifiers, such as the Employer Identification Number (EIN), the Tax Identification Number (TIN), and State Application Identifier (SAI) numbers that are required by statute, Executive Order, or regulation.

Obtaining a DUNS number is free for all entities doing business with the federal government. This includes grant and cooperative agreement applicants and prospective applicants. Applicants should identify their organizations as a federal grant applicant or prospective applicant when they contact D&B, as explained below.

The DUNS Number is site-specific, therefore each distinct physical location of an entity (such as branches, divisions, and headquarters) may be assigned a DUNS number. If an organization already has a DUNS number in connection with the federal acquisition process, or requested or had one assigned for another purpose, the

applicant may use that number for its application. When possible, organizations should avoid establishing new numbers. Organizations should take responsibility for updating and validating the DUNS information associated with the existing numbers. To help organizations manage multiple DUNS, an entity may request D&B to supply a family-tree report of the DUNS numbers associated with the organization. Organizations should work with D&B to ensure the correct information is on the report. If an organization wishes to determine if it has an existing DUNS number or to request a family tree report, it can contact D&B using the toll-free number, (866) 705-5711.

Organizations can receive a DUNS number by calling the dedicated toll-free DUNS Number request line at (866) 705-5711 between 8 a.m. and 6 p.m. (local time of the caller when calling from within the United States). Speech- or hearing-impaired individuals may access the toll-free DUNS Number request line through TTY by calling (866) 814-7818. Organizations may also apply online at <http://www.dunandbradstreet.com>. For faster service, HUD recommends using the telephone request line to obtain the DUNS number. The telephone call to receive the DUNS number takes approximately five to ten minutes and the number will be assigned at the conclusion of the call. Applicants can expect that the following information will be requested: legal name; name and address for the organization's headquarters; "doing business as" (DBA) or other name by which the organization is commonly known or recognized; physical address, city, state and ZIP Code; mailing address (if separate from headquarters or physical address); telephone number; contact name and title; and number of employees.

III. Findings and Certifications

Justification for Interim Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. Part 10, however, provides for exceptions from that general rule where the Department finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is "impracticable, unnecessary, or contrary to the public interest."

The Department finds that good cause exists to publish this interim rule for effect without first soliciting public

comment. This rule will require organizations that apply for HUD assistance to obtain and provide a DUNS number in their applications. Organizations that call the DUNS dedicated, toll-free telephone number can immediately obtain a DUNS number. Therefore, the burden placed on organizations is a minimal amount of time, and there are no additional costs associated with acquiring the DUNS. In addition, OMB, by its October 30, 2002, notice, already has solicited and received comments from the public concerning this governmentwide requirement.

The Department, however, is soliciting additional public comment on this rule. All comments received on this rule will be considered in adopting the final rule.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This interim rule does not impose any federal mandates on any state, local, or tribal government or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Order. This interim rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Order.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this interim rule and in so doing has certified that this rule will not have a significant economic impact on a substantial number of small entities. DUNS numbers are immediately obtained at no cost with minimal time and effort. Although HUD has determined that this interim rule does not have a significant economic impact on a substantial number of small entities, HUD invites comments

regarding less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Environmental Impact

In accordance with 24 CFR 50.19(c)(1) of the Department's regulations, this interim rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

List of Subjects in 24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Information and statistics, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

■ For the reasons described in the preamble, 24 CFR part 5 is amended as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

■ 1. The authority citation for 24 CFR part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

■ 2. A new subpart K is added to part 5 to read as follows:

Subpart K—Application submission requirements

5.1001 Applicability.

5.1003 Use of a universal identifier for organizations applying for HUD grants.

Subpart K—Application Submission Requirements

§ 5.1001 Applicability.

This subpart applies to all applicants for HUD grants, cooperative agreements, capital fund or operating fund subsidy, capital advance, or other assistance under HUD programs, including grant programs that are classified by OMB as including formula grant programs or activities, but excluding FHA insurance and loan guarantees that are not associated with a grant program or grant award.

§ 5.1003 Use of a universal identifier for organizations applying for HUD grants.

(a) Every application for a new or renewal of a grant, cooperative agreement, capital fund or operating fund subsidy, capital advance, or other assistance, including an application or plan under a grant program that is classified by OMB as including formula grant programs, must include a Data Universal Numbering System (DUNS) number for the applicant.

(b) (1) Applicants or groups of applicants under a consortium arrangement must have a DUNS number for the organization that is submitting the application for federal assistance as the lead applicant on behalf of the other applicants. If each organization is submitting a separate application as part of a group of applications, then each organization must include its DUNS number with its application submission.

(2) If an organization is submitting an application as a sponsor or on behalf of other applicants, and the other entities will be receiving funds directly from HUD, then the applicant or sponsor must submit an application for funding that includes the DUNS number of each applicant that would receive funds directly from HUD.

(3) If an organization is managing funds for a group of organizations, a DUNS number must be submitted for the managing organization, if it is drawing down funds directly from HUD.

(4) If an organization is drawing down funds directly from HUD and subsequently turning the funds over to a management organization, then the management organization must obtain a DUNS number and submit the number to HUD.

(c) Individuals who would personally receive a grant or other assistance from HUD, independent from any business or nonprofit organization with which they may operate or participate, are exempt from this requirement.

(d) In cases where individuals apply for funding, but the funding will be awarded to an institution or other entity on the individual's behalf, the institution or entity must obtain a DUNS number and the individual must submit the institution's DUNS number with the application.

(e) Unless an exemption is granted by OMB, HUD will not consider an application as complete until a valid DUNS number is provided by the applicant. For classes of grants and grantees subject to this part, exceptions to this rule must be submitted to OMB for approval in accordance with procedures prescribed by the Department.

Dated: March 3, 2004.

Alphonso Jackson,

Secretary (Acting).

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9120]

RIN 1545-BA92

Allocation and Apportionment of Expenses; Alternative Method for Determining Tax Book Value of Assets

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulation.

SUMMARY: This document contains temporary regulations providing an alternative method of valuing assets for purposes of apportioning expenses under the tax book value method of § 1.861-9T. The alternative tax book value method, which is elective, allows taxpayers to determine, for purposes of apportioning expenses, the tax book value of all tangible property that is subject to a depreciation deduction under section 168 by using the straight line method, conventions, and recovery periods of the alternative depreciation system under section 168(g)(2). The alternative method provided in the temporary regulations is intended to minimize basis disparities between foreign and domestic assets of taxpayers that may arise when taxpayers use adjusted tax basis to value assets under the tax book value method of expense apportionment. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective March 26, 2004.

Applicability Date: For dates of applicability, see §§ 1.861-9(h)(5)(iii) and 1.861-9T(i)(3).

FOR FURTHER INFORMATION CONTACT: Margaret A. Hogan, (202) 622-3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to regulations under section 864(e) of the Internal Revenue Code (Code). Section 864(e) was enacted by the Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2121) to address concerns