

April 7, 2008

Regulations Division
Office of General Counsel
U.S. Department of HUD
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**Re: Proposed Rule—Independent Public Accountant Roster
24 CFR Part 5, Docket No. FR-5054-P-01, RIN 2501-AD20**

The New York State Society of Certified Public Accountants, representing 30,000 CPAs in public practice, industry, government and education, submits the following comments regarding the proposed rule establishing an Independent Public Accountant (IPA) Roster for your consideration.

The NYSSCPA's Government Accounting and Auditing Committee deliberated the release and drafted the attached comments. If you would like additional discussion with us, please contact Thomas J. Goodfellow, Chair of the Government Accounting and Auditing Committee, at (518) 459-3188, or Ernest J. Markezin, NYSSCPA Staff, at (212) 719-8303.

Sincerely,



David A. Lifson
President

Attachment

New York State Society of Certified Public Accountants

Government Accounting and Auditing Committee

**Comments on Proposed Rule
U.S. Department of Housing & Urban Development (HUD)
24 CFR Part 5, Docket No. FR-5054-P-01, RIN 2501-AD20
Proposed Rule--Independent Public Accountant Roster**

April 7, 2008

Principal Drafters

**Thomas J. Goodfellow
Vincent P. Pancaldo**

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New York State Society of Certified Public Accountants

Comments on Proposed Rule--Independent Public Accountant Roster U.S. Department of Housing & Urban Development (HUD) 24 CFR Part 5, Docket No. FR-5054-P-01, RIN 2501-AD20

We wish to express our concerns with the proposed establishment of an Independent Public Accountant Roster which we believe: 1) is duplicative of government policy and procedures that already exist; 2) unnecessarily limits Independent Public Accounting firms and individuals (“IPA's”) performing audits or related services required by certain HUD programs; and 3) fails to achieve the objective of ensuring the accuracy of financial data submitted to HUD.

We understand that the purpose of the Roster is to ensure the accuracy of the financial data submitted by HUD program participants--a goal with which we concur. However, we believe that the proposed Roster places duplicative and unnecessary burdens on IPAs who already are subject to the qualifications and conditions prescribed under: 1) Generally Accepted Governmental Auditing Standards (“GAGAS”), issued by the Comptroller General of the United States in July 2007; 2) U.S. Office of Management and Budget Circular A-133--*Audits of States, Local Governments, and Non-Profit Organizations*; 3) the *Consolidated Guide for Audits of HUD Programs* issued by the HUD Office of Inspector General; 4) the AICPA Audit Guide, *Government Auditing Standards and Circular A-133 Audits*; and 5) requirements of the state CPA licensing boards, AICPA and PCAOB.

IPA's are required to have an external peer review every third year to comply with GAGAS and other professional standards established by the AICPA, several state accountancy boards and several state CPA societies. IPAs are required to submit their external peer review letter and any comment letters by the peer reviewer to their clients and prospective clients. The GAGAS requirement eliminates IPAs who do not participate in a peer review program from providing these services. An unqualified opinion on the external peer review satisfies the eligibility requirements set forth under 24 CFR 5.810(a)(2) and (3) (i), (iii)–(vii), and (x) of the proposed regulation. An unqualified opinion on peer review assures that IPAs servicing the covered entities meet or exceed the criteria in the proposed regulation (for example, the requirements for continuing professional education and criteria for ethics and independence).

There is a presumptively mandatory requirement in GAGAS that external peer review reports and letters of comment be published through posting on the AICPA's Peer Review Web site or for firms that are not members of the AICPA on the IPA's Web site or through other sources. With respect to 24 CFR 5.810(a)(1), state reciprocity rules already exist that are subject to review in the external peer review.

The remaining proposed regulation section 5.810(3)(viii) and (ix) regarding the requirement making it the responsibility of the IPA to notify HUD of any employees who have been indicted, charged with, convicted, or who were civilly liable for offenses listed in 24 CFR 24.800(a), puts an undue burden on IPAs, particularly small IPAs and sole practitioners. Smaller firms will not have the same resources to perform extensive background investigations on their present and prospective employees. This would lead to an unfair advantage to larger CPA firms who have the resources to comply with extensive new procedures.

Presently, any Certified Public Accountant who is convicted of violating a criminal law is subject to having his license removed and being expelled from memberships in the AICPA and their state CPA society. Many of the offenses listed in 24 CFR 24.800(a), are either covered in public statute or do not apply to an IPA reporting requirement because the IPA does not have a direct contractual relationship with HUD, nor should they apply in the absence of such a relationship. The HUD grantee must not knowingly do business with an ineligible person. HUD could require the grantee to review their contractors compliance with 24 CFR 24.800 (a), however, we believe the absence of a contractual relationship precludes HUD from imposing this requirement directly on the IPA firm. Having HUD deal directly with contractors would be impossible to control and oversee and imposing the requirement would create an additional and unnecessary burden that is invalid in the absence of a contractual relationship. This provision would penalize those firms that behave and perform responsibly. We again refer to the external peer review requirements in place through GAGAS as an appropriate level of assurance that HUD and the public are protected. The proposed additional requirements which fall outside of the existing external peer review process would be intuitively counterproductive.

In conclusion, it is our opinion that under current standards, IPAs already satisfy the eligibility criteria set forth in the proposed regulation, and codification of the proposed regulation would place a significant administrative burden on IPAs without enhancing the quality of the assurance reporting function over covered entities and program participants. We strongly urge HUD to pursue its objectives by working to further strengthen the external quality review/peer review processes that already exist.

We appreciate this opportunity to provide you with our comments.