



November 10, 2020

GENERAL NEWS

HUD Publishes Interim Final Rule on Guidance Documents

Today in the *Federal Register*, HUD's Office of General Counsel ([OGC](#)) published an [interim final rule](#) (IFR), which implements Executive Order 13891, "Promoting the Rule of Law Through Improved Agency Guidance Documents." The executive order requires federal agencies to publish regulations that establish processes and procedures for issuing guidance documents.

The IFR defines *guidance document* as "a statement of general applicability, designed to shape or intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation."

Among other things, Executive Order 13891 requires that federal agencies make their guidance documents available at a single, searchable, indexed website. Such website is required to include a statement that guidance documents lack the force and effect of law, except as authorized by law or as incorporated into a contract. Federal agencies must also review their guidance documents, rescind those that are no longer in effect, and inform the public of these actions by *Federal Register* notice. The IFR states that guidance documents not posted on the guidance website will no longer have effect and will not be cited except to establish historical fact.

As you recall, on March 4, 2020, HUD's Office of General Counsel ([OGC](#)) published a [notice](#) in the *Federal Register* announcing the launch of a new [HUD guidance portal](#), which complies with Executive Order 13891. According to the notice, HUD will continue to work to refine this site in order to archive documents that are no longer in effect.

Today's IFR would create a new part 11 in title 24 of the Code of Federal Regulations (CFR) that sets forth the Department's policy and procedures for issuing guidance documents applicable to all HUD programs, and it will supplement existing part 10, which establishes the policy and procedures for promulgating regulations. The IFR would also establish a procedure by which the public may petition HUD for the withdrawal or modification of guidance documents.

The effective date of the IFR is **December 10, 2020**, and the due date for comments is **January 11, 2021**. Further details can be found in the [interim final rule](#).



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