APPENDIX F:
SIDE BY SIDE

Department of Housing and Urban Development 24 CFR Part 1000 Implementation of the Native American Housing Assistance and Self-Determination Act of 1996, Final Rule	Native American Housing Assistance and Self-Determination Act of 1996, as amended October 21, 1998 P.L. 104-330 (25 U.S.C. 4101 — 4212)
Regulation Cite	**Statute Cite**
General Scope of NAHASDA	**General Scope of NAHASDA**
Subpart A — General	
1000.1 What is the applicability and scope of these regulations? Under the Native American Housing Assistance and Self–Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA) the Department of Housing and Urban Development (HUD) provides grants, loan guarantees, and technical assistance to Indian tribes and Alaska Native villages for the development and operation of low–income housing in Indian areas. The policies and procedures described in this part apply to grants to eligible recipients under the Indian Housing Block Grant (IHBG) program for Indian tribes and Alaska Native villages. This part also applies to loan guarantee assistance under title VI of NAHASDA. The regulations in this part supplement the statutory requirements set forth in NAHASDA. This part, as much as practicable, does not repeat statutory language.	
1000.2 What are the guiding principles in the implementation of NAHASDA? (a) The Secretary shall use the following Congressional findings set forth in section 2 of NAHASDA as the guiding principles in the implementation of NAHASDA: (1) The Federal government has a responsibility to promote the general welfare of the Nation: (i.) By using Federal resources to aid families and individuals seeking affordable homes in safe and healthy environments and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control; (ii.) By working to ensure a thriving national economy and a strong private housing market; and (iii.) By developing effective partnerships among the Federal government, state, tribal, and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day–to–day activities. (2) There exists a unique relationship between the Government of the United States and governments of Indian tribes and a unique Federal responsibility to Indian people. (3) The Constitution of the United States invests the Congress with plenary power over the field of Indian affairs, and through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a unique trust responsibility to protect and support Indian tribes and Indian people. (4) The Congress, through treaties, statutes, and the general course of dealing with Indian tribes, has assumed a trust responsibility for the protection and preservation of Indian tribes and for working with Indian tribes and their members to improve their housing conditions and socioeconomic status so that they are able to take greater responsibility for their own economic condition. *Continued on the next page*	**Section 2. Congressional Findings** The Congress finds that – (1) the Federal Government has a responsibility to promote the general welfare of the Nation – (A) by using Federal resources to aid families and individuals seeking affordable homes in safe and healthy environments and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control; (B) by working to ensure a thriving national economy and a strong private housing market; and (C) by developing effective partnerships among the Federal Government, State, tribal, and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day–to–day activities; (2) there exists a unique relationship between the Government of the United States and the governments of Indian tribes and a unique Federal responsibility to Indian people; (3) the Constitution of the United States invests the Congress with plenary power over the field of Indian affairs, and through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a unique trust responsibility to protect and support Indian tribes and Indian people; (4) the Congress, through treaties, statutes, and the general course of dealing with Indian tribes, has assumed a trust responsibility for the protection and preservation of Indian tribes and for working with tribes and their members to improve their housing conditions and socioeconomic status so that they are able to take greater responsibility for their own economic condition; *Continue on the next page*

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(5) Providing affordable homes in safe and healthy environments is an essential element in the special role of the United States in helping Indian tribes and their members to improve their housing conditions and socioeconomic status. (6) The need for affordable homes in safe and healthy environments on Indian reservations, in Indian communities, and in Native Alaskan villages is acute and the Federal government should work not only to provide housing assistance, but also, to the extent practicable, to assist in the development of private housing finance mechanisms on Indian lands to achieve the goals of economic self–sufficiency and self–determination for Indian tribes and their members. (7) Federal assistance to meet these responsibilities should be provided in a manner that recognizes the right of Indian self–determination and tribal self–governance by making such assistance available directly to the Indian tribes or tribally designated entities under authorities similar to those accorded Indian tribes in Public Law 93–638 (25 U.S.C. 450 *et seq.*) (b) Nothing in this section shall be construed as releasing the United States government from any responsibility arising under its trust responsibilities towards Indians or any treaty or treaties with an Indian tribe or nation. **1000.4 What are the objectives of NAHASDA?** The primary objectives of NAHASDA are: (a) To assist and promote affordable housing activities to develop, maintain and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low–income Indian families; (b) To ensure better access to private mortgage markets for Indian tribes and their members and to promote self–sufficiency of Indian tribes and their members; (c) To coordinate activities to provide housing for Indian tribes and their members and to promote self–sufficiency of Indian tribes and their members; (d) To plan for and integrate infrastructure resources for Indian tribes with housing development for Indian tribes; and (e) To promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities. *Continued on the next page*	(5) providing affordable homes in safe and healthy environments is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socioeconomic status; (6) the need for affordable homes in safe and healthy environments on Indian reservations, in Indian communities, and in Native Alaskan villages is acute and the Federal Government should work not only to provide housing assistance, but also, to the extent practicable, to assist in the development of private housing finance mechanisms on Indian lands to achieve the goals of economic self–sufficiency and self–determination to tribes and their members; and (7) Federal assistance to meet these responsibilities should be provided in a manner that recognizes the right of Indian self–determination and tribal self–governance by making such assistance available directly to the Indian tribes or tribally designated entities under authorities similar to those accorded Indian tribes in Public Law 93–638 (25 U.S.C. 450 et seq.). **Section 3. Administration Through Office of Native American Programs** The Secretary of Housing and Urban Development shall carry out this Act through the Office of Native American Programs of the Department of Housing and Urban Development. **Title I: 101(a). Block Grants** (a) AUTHORITY. – For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this Act) make grants under this section on behalf of Indian tribes to carry out affordable housing activities. Under such a grant on behalf of an Indian tribe, the Secretary shall provide the grant amounts for the tribe directly to the recipient for the tribe. **Title I: 107. Effective Date** Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act shall take effect on October 1, 1997. **Title I: 108. Authorization of Appropriations** There are authorized to be appropriated for grants under this title such sums as may be necessary for each of fiscal years 1998, 1999, 2000 and 2001. This section shall take effect on the date of the enactment of this Act. *Continued on the next page*

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1000.6 What is the nature of the IHBG program? The IHBG program is formula driven whereby eligible recipients of funding receive an equitable share of appropriations made by the Congress, based upon formula components specified under subpart D of this part. IHBG recipients must have the administrative capacity to undertake the affordable housing activities proposed, including the systems of internal control necessary to administer these activities effectively without fraud, waste, or mismanagement. **1000.8 May provisions of these regulations be waived?** Yes. Upon determination of good cause, the Secretary may, subject to statutory limitations, waive any provision of this part and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q).	**Title II: 201(a). National Objectives and Eligible Families** (a) PRIMARY OBJECTIVE. – The national objectives of this Act are – (1) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low–income Indian families; (2) to ensure better access to private mortgage markets for Indian tribes and their members and to promote self–sufficiency of Indian tribes and their members; (3) to coordinate activities to provide housing for Indian tribes and their members with Federal, State and local activities to further economic and community development for Indian tribes and their members; (4) to plan for and integrate infrastructure resources for Indian tribes with housing development for tribes; and (5) to promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities. **Title III: 302(a). Allocation Formula** (a) ESTABLISHMENT. – The Secretary shall, by regulations issued not later than the expiration of the 12–month period beginning on the date of the enactment of this Act, in the manner provided under section 106, establish a formula to provide for allocating amounts available for a fiscal year for block grants under this Act among Indian tribes in accordance with the requirements of this section. **Title IV: Section 408. Public Availability of Information** Each recipient shall make any housing plan, policy, or annual report prepared by the recipient available to the general public.

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1000.10 What definitions apply in these regulations? Except as noted in a particular subpart, the following definitions apply in this part: (a) The terms *"Adjusted income," "Affordable housing, "Drug–related criminal activity," "Elderly families and near–elderly families," "Elderly person," "Grant beneficiary," "Indian," "Indian housing plan (IHP)," "Indian tribe," "Low–income family," "Near–elderly persons," "Nonprofit," "Recipient," "Secretary," "State," and "Tribally designated housing entity (TDHE),"* are defined in section 4 of NAHASDA. (b) In addition to the definitions set forth in paragraph (a) of this section, the following definitions apply to this part: *Affordable housing activities* are those activities identified in section 202 of NAHASDA. *Annual Contributions Contract (ACC)* means a contract under the 1937 Act between HUD and an IHA containing the terms and conditions under which HUD assists the IHA in providing decent, safe, and sanitary housing for low–income families. *Annual income* has one of the following meanings, as determined by the Indian tribe: (1) "Annual Income" as defined for HUD's Section 8 programs in 24 CFR part 5, subpart F (except when determining the income of a homebuyer for an owner–occupied rehabilitation project, the value of the homeowner's principal residence may be excluded from the calculation of Net Family assets); or (2) Annual income as reported under the Census long–form for the most recent available decennial Census. This definition includes: (i.) Wages, salaries, tips, commissions, etc.; (ii.) Self–employment income; (iii.) Farm self–employment income; (iv.) Interest, dividends, net rental income, or income from estates or trusts; (v.) Social security or railroad retirement; (vi.) Supplemental Security income, Aid to Families with Dependent Children, or other public assistance or public welfare programs; (vii.) Retirement, survivor, or disability pensions; and (viii.) Any other sources of income received regularly, including Veterans' (VA) payments, unemployment compensation, and alimony; or *Continued on the next page*	**Section 4. Definitions** For purposes of this Act, the following definitions shall apply: (1) ADJUSTED INCOME. – The term "adjusted income" means the annual income that remains after excluding the following amounts: (A) YOUTHS, STUDENTS, AND PERSONS WITH DISABILITIES. – $480 for each member of the family residing in the household (other than the head of the household or the spouse of the head of the household) – (i.) who is under 18 years of age; or (ii.) who is – (I.) 18 years of age or older; and (II.) a person with disabilities or a full–time student. (B) ELDERLY AND DISABLED FAMILIES. – $400 for an elderly or disabled family. (C) MEDICAL AND ATTENDANT EXPENSES. – The amount by which 3 percent of the annual income of the family is exceeded by the aggregate of – (i.) medical expenses, in the case of an elderly or disabled family; and (ii.) reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed. (D) CHILD CARE EXPENSES. – Child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education. (E) EARNED INCOME OF MINORS. – The amount of any earned income of any member of the family who is less than 18 years of age. (F) TRAVEL EXPENSES. – Excessive travel expenses, not to exceed $25 per family per week, for employment– or education–related travel. (G) OTHER AMOUNTS. – Such other amounts as may be provided in the Indian housing plan for an Indian tribe. *Continued on the next page*

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(3) Adjusted gross income as defined for purposes of reporting under Internal revenue Services (IRS) Form 1040 series for individual Federal annual income tax purposes. *Assistant Secretary* means the Assistant Secretary for Public and Indian Housing. *Department or HUD* means the Department of Housing and Urban Development. *Family* includes, but is not limited to, a family with or without children, an elderly family, a near–elderly family, a disabled family, a single person, as determined by the Indian tribe. *Homebuyer Payment* means the payment of a family purchasing a home pursuant to a lease purchase agreement. *Homeless family* means a family who is without safe, sanitary and affordable housing even though it may have temporary shelter provided by the community, or a family who is homeless as determined by the Indian tribe. *IHBG* means Indian Housing Block Grant. *Income* means annual income as defined in this subpart. *Indian Area* means the area within which an Indian tribe operates affordable housing programs or the area in which a TDHE is authorized by one or more Indian tribes to operate affordable housing programs. Whenever the term "jurisdiction" is used in NAHASDA it shall mean "Indian Area" except where specific reference is made to the jurisdiction of a court. *Indian Housing Authority (IHA)* means an entity that: (1) Is authorized to engage or assist in the development or operation of low–income housing for Indians under the 1937 Act; and (2) Is established: (i.) By exercise of the power of self–government of an Indian tribe independent of state law; or (ii.) By operation of state law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska. *Median income* for an Indian area is the greater of: (1) The median income for the counties, previous counties, or their equivalent in which the Indian area is located; or (2) The median income for the United States. *Continued on the next page*	(2) AFFORDABLE HOUSING. – The term "affordable housing" means housing that complies with the requirements for affordable housing under title II. The term includes permanent housing for homeless persons who are persons with disabilities, transitional housing, and single room occupancy housing. (3) DRUG–RELATED CRIMINAL ACTIVITY. – The term "drug–related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substance Act). (4) ELDERLY FAMILIES AND NEAR–ELDERLY FAMILIES. – The terms "elderly family" and "near–elderly family" mean a family whose head (or his or her spouse), or whose sole member, is an elderly person or a near–elderly person, respectively. Such terms include 2 or more elderly persons or near–elderly persons living together, and 1 or more such persons living with 1 or more persons determined under the Indian housing plan for the agency to be essential to their care or well–being. (5) ELDERLY PERSON. – The term "elderly person" means a person who is at least 62 years of age. (6) FAMILY. – The term "family" includes a family with or without children, an elderly family, a near–elderly family, a disabled family, and a single person. (7) GRANT BENEFICIARY. – The term "grant beneficiary'" means the Indian tribe or tribes on behalf of which a grant is made under this Act to a recipient. (8) INCOME. – The term "income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, except that the following amounts may not be considered as income under this paragraph: (A) Any amounts not actually received by the family. (B) Any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act. (9) INDIAN. – The term "Indian" means any person who is a member of an Indian tribe. *Continued on the next page*

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NAHASDA means the Native American Housing Assistance and Self–Determination Act of 1996 (25 U.S.C. 4101 *et seq.*).	(10) INDIAN AREA. – The term "Indian area" means the area within which an Indian tribe or a tribally designated housing entity, as authorized by 1 or more Indian tribes, provides assistance under this Act for affordable housing.
1937 Act means the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*).)	(11) INDIAN HOUSING PLAN. – The term "Indian housing plan" means a plan under section 102.
Office of Native American Programs (ONAP) means the office of HUD which has been delegated authority to administer programs under this part. An "Area ONAP" is an ONAP field office.	(12) INDIAN TRIBE. –
Persons with Disabilities means a person who –	(A) IN GENERAL. – The term "Indian tribe" means a tribe that is a federally recognized tribe or a State recognized tribe.
(1) Has a disability as defined in section 223 of the Social Security Act;	(B) FEDERALLY RECOGNIZED TRIBE. – The term "federally recognized tribe" means any Indian tribe, band, nation, or other organized group or community of Indians including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self–Determination and Education Assistance Act of 1975.
(2) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act;	(C) STATE RECOGNIZED TRIBE. –
(3) Has a physical, mental, or emotional impairment which –	(i.) IN GENERAL. – The term "State recognized tribe" means any tribe, band, nation, pueblo, village, or community –
(i.) Is expected to be of long–continued and indefinite duration;	(I.) that has been recognized as an Indian tribe by any State; and
(ii.) Substantially impedes his or her ability to live independently; and	(II.) for which an Indian Housing Authority has, before the effective date under section 705, entered into a contract with the Secretary pursuant to the United States Housing Act of 1937 for housing for Indian families and has received funding pursuant to such contract within the 5–year period ending upon such effective date.
(iii.) Is of such a nature that such ability could be improved by more suitable housing conditions.	(ii.) CONDITIONS. – Notwithstanding clause (i) –
(4) The term "person with disabilities" includes persons who have the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agent for acquired immunodeficiency syndrome.	(I.) the allocation formula under section 302 shall be determined for a State recognized tribe under tribal membership eligibility criteria in existence on the date of the enactment of this Act; and
(5) Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for housing assisted under this part, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with Indian tribes and appropriate Federal agencies to implement this paragraph.	*Continued on the next page*
(6) For purposes of this definition, the term "*physical, mental or emotional impairment*" includes, but is not limited to:	
(i.) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory including speech organs; cardiovascular; reproductive; digestive; genito–urinary; hemic and lymphatic; skin; and endocrine; or	
(ii.) Any mental or psychological condition, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.	
The term "*physical, mental, or emotional impairment*" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, and emotional illness.	

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	(II.) nothing in this paragraph shall be construed to confer upon a State recognized tribe any rights, privileges, responsibilities, or obligations otherwise accorded groups recognized as Indian tribes by the United States for other purposes. (13) LOW–INCOME FAMILY. – The term "low–income family" means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary or the agency that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes. (14) MEDIAN INCOME. – The term "median income" means, with respect to an area that is an Indian area, the greater of – (A) the median income for the Indian area, which the Secretary shall determine; or (B) the median income for the United States. (15) NEAR–ELDERLY PERSON. – The term "near–elderly person" means a person who is at least 55 years of age and less than 62 years of age. (16) NONPROFIT. – The term "nonprofit" means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual. (17) PERSON WITH DISABILITIES. – The term "person with disabilities" means a person who – (A) has a disability as defined in section 223 of the Social Security Act; (B) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which – (i.) is expected to be of long–continued and indefinite duration; (ii.) substantially impedes his or her ability to live independently; and *Continued on the next page*

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	(iii.) is of such a nature that such ability could be improved by more suitable housing conditions; or (C) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act. Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for housing assisted under this Act, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence. (18) RECIPIENT. – The term "recipient" means an Indian tribe or the entity for one or more Indian tribes that is authorized to receive grant amounts under this Act on behalf of the tribe or tribes. (19) SECRETARY. – Except as otherwise specifically provided in this Act, the term "Secretary" means the Secretary of Housing and Urban Development. (20) STATE. – The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States and Indian tribes. (21) TRIBALLY DESIGNATED HOUSING ENTITY. – The terms "tribally designated housing entity" and "housing entity" have the following meaning: (A) EXISTING IHA'S. – With respect to any Indian tribe that has not taken action under subparagraph (B), and for which an Indian housing authority – (i.) was established for purposes of the United States Housing Act of 1937 before the date of the enactment of this Act that meets the requirements under the United States Housing Act of 1937, (ii.) is acting upon such date of enactment as the Indian housing authority for the tribe, and *Continued on the next page*

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	(iii.) is not an Indian tribe for purposes of this Act, the terms mean such Indian housing authority. (B) OTHER ENTITIES. – With respect to any Indian tribe that, pursuant to this Act, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this Act for affordable housing for Indians, which entity is established – (i.) by exercise of the power of self–government of one or more Indian tribes independent of State law, or (ii.) by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska, the terms mean such entity. (C) ESTABLISHMENT. – A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity. **Title II: 202. Eligible Affordable Housing Activities** Affordable housing activities under this title are activities, in accordance with the requirements of this title, to develop or to support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing, through the following activities: (1) INDIAN HOUSING ASSISTANCE. – The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority. (2) DEVELOPMENT. – The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities. *Continued on the next page*

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	(3) HOUSING SERVICES. – The provision of housing–related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self–sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section. (4) HOUSING MANAGEMENT SERVICES. – The provision of management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant–based rental assistance, and management of affordable housing projects. (5) CRIME PREVENTION AND SAFETY ACTIVITIES. – The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime. (6) MODEL ACTIVITIES. – Housing activities under model programs that are designed to carry out the purposes of this Act and are specifically approved by the Secretary as appropriate for such purpose.

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1000.12 What nondiscrimination requirements are applicable? (a) The requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and HUD's implementing regulations in 24 CFR part 146. (b) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD's regulations at 24 CFR part 8 apply. (c) The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968; 25 U.S.C. 1301–1303), applies to Federally recognized Indian tribes that exercise powers of self–government. (d) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*) apply to Indian tribes that are not covered by the Indian Civil Rights Act. However, the Title VI and Title VIII requirements do not apply to actions by Indian tribes under section 201(b) of NAHASDA.	**Title I: 102(c)(5). Indian Housing Plans** (c)(5) CERTIFICATION OF COMPLIANCE. – Evidence of compliance which shall include, as appropriate – (A) a certification that the recipient will comply with title II of the Civil Rights Act of 1968 in carrying out this Act, to the extent that such title is applicable, and other applicable Federal statutes; (B) a certification that the recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this Act, in compliance with such requirements as may be established by the Secretary;
1000.14 What relocation and real property acquisition policies are applicable? The following relocation and real property acquisition policies are applicable to programs developed or operated under NAHASDA: (a) *Real Property acquisition requirements.* The acquisition of real property for an assisted activity is subject to 49 CFR part 24, subpart B. Whenever the recipient does not have the authority to acquire the real property through condemnation, it shall: (1) Before discussing the purchase price, inform the owner: (i.) Of the amount it believes to be the fair market value of the property. Such amount shall be based upon one or more appraisals prepared by a qualified appraiser. However, this provision does not prevent the recipient from accepting a donation or purchasing the real property at less than its fair market value. (ii.) That it will be unable to acquire the property if negotiations fail to result in an amicable agreement. (2) Request HUD approval of the proposed acquisition price before executing a firm commitment to purchase the property if the proposed acquisition payment exceeds the fair market value. The recipient shall include with its request a copy of the appraisal(s) and a justification for the proposed acquisition payment. HUD will promptly review the proposal and inform the recipient of its approval or disapproval.	**Title I: 104(b)(1)(2). Treatment of Program Incomes and Labor Standards** (b) LABOR STANDARDS. – (1) IN GENERAL. – Any contract or agreement for assistance, sale, or lease pursuant to this Act shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State, tribal, or local law) by the Secretary , shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the affordable housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis–Bacon Act (40 U.S.C. 276a–276a–5), shall be paid to all laborers and mechanics employed in the development of the affordable housing involved, and the Secretary shall require certification as to compliance with the provisions of this paragraph before making any payment under such contract or agreement. (2) EXCEPTIONS. – Paragraph (1) and the provisions relating to wages (pursuant to paragraph (1) in any contract or agreement for assistance, sale, or lease pursuant to this Act, shall not apply to any individual who receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work.
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(b) *Minimize displacement.* Consistent with the other goals and objectives of this part, recipients shall assure that they have taken all reasonable steps to minimize the displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part. (c) *Temporary relocation.* The following policies cover residential tenants and homebuyers who will not be required to move permanently but who must relocate temporarily for the project. Such residential tenants and homebuyers shall be provided: (1) Reimbursement for all reasonable out–of–pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly housing costs (e.g., rent/utility costs). (2) Appropriate advisory services, including reasonable advance written notice of: (i.) The date and approximate duration of the temporary relocation; (ii.) The location of the suitable, decent, safe and sanitary dwelling to be made available for the temporary period; (iii.) The terms and conditions under which the tenant may occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the repairs; and (iv.) The provisions of paragraph (c) (1) of this section. (d) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (g) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24. (e) *Appeals to the recipient.* A person who disagrees with the recipient's determination concerning whether the person qualifies as a "displaced person, " or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the recipient. (f) *Responsibility of recipient.* (1) The recipient shall certify that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The recipient shall ensure such compliance notwithstanding any third party's contractual obligation to the recipient to comply with the provisions in this section. (2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. However, such assistance may also be paid for with funds available to the recipient from any other source. (3) The recipient shall maintain records in sufficient detail to demonstrate compliance with this section. *Continued on the next page*	**Title 1: 105. Environmental Review** (a) IN GENERAL – (1) RELEASE OF FUNDS. – In order to ensure that the policies of the National Environmental Policy Act of 1969 and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this Act, and to ensure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may by regulation provide for the release of amounts for particular projects to tribes which assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulation of the Secretary specify, that would apply to the Secretary were the Secretary to undertake such projects as Federal projects. (2) REGULATIONS. – (A) IN GENERAL. – the Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. (B) CONTENTS. – The regulations issued under this paragraph shall – (i.) provide for the monitoring of the environmental reviews performed under this section. (ii.) in the discretion of the Secretary, facilitate training for the performance of such reviews; and (iii.) provide for the suspension or termination of the assumption of responsibilities under this section. (3) EFFECT ON ASSUMED RESPONSIBILITY. – the duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by a recipient of grant amounts with respect to any particular release of funds. *Continued on the next page*

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(g) *Definition of displaced person.* (1) For purposes of this section, the term "displaced person" means any person (household, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently, as a direct result of rehabilitation, demolition, or acquisition for a project assisted under this part. The term "displaced person" includes, but is not limited to: (i.) A tenant–occupant of a dwelling unit who moves from the building/complex permanently after the submission to HUD of an IHP that is later approved. (ii.) Any person, including a person who moves before the date described in paragraph (g)(1)(i) of this section, that the recipient determines was displaced as a direct result of acquisition, rehabilitation, or demolition, for the assisted project. (iii.) A tenant–occupant of a dwelling unit who moves from the building/complex permanently after the execution of the agreement between the recipient and HUD, if the move occurs before the tenant is provided written notice offering him or her the opportunity to lease and occupy a decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of: (A) The tenant–occupant's monthly rent and estimated average monthly utility costs before the agreement; or (B) 30 percent of gross household income. (iv.) A tenant–occupant of a dwelling who is required to relocate temporarily, but does not return to the building/complex, if either: (A) The tenant–occupant is not offered payment for all reasonable out–of–pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied unit, any increased housing costs and incidental expenses; or (B) Other conditions of the temporary relocation are not reasonable. (v.) A tenant–occupant of a dwelling who moves from the building/complex after he or she has been required to move to another dwelling unit in the same building/complex in order to carry out the project, if either: (A) The tenant–occupant is not offered reimbursement for all reasonable out–of–pocket expenses incurred in connection with the move; or *Continued on the next page*	(b) PROCEDURE. – The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the tribe has submitted to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c). The approval of the Secretary of any such certification shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto that are covered by such certification. (c) CERTIFICATION. – A certification under the procedures authorized by this section shall – (1) be in a form acceptable to the Secretary; (2) be executed by the chief executive officer or other officer of the tribe under this Act qualified under regulations of the Secretary; (3) specify that the tribe has fully carried out its responsibilities as described under subsection (a); and (4) specify that the certifying officer – (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to subsection (a); and (B) is authorized and consents on behalf of the tribe and such officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the certifying officer as such an official. *Continued on the next page*

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(B) Other conditions of the move are not reasonable. (2) Notwithstanding the provisions of paragraph (g)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if: (i.) The person moved into the property after the submission of the IHP to HUD, but, before signing a lease or commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" or for any assistance provided under this section as a result of the project. (ii.) The person is ineligible under 49 CFR 24.2(g)(2). (iii.) The recipient determines the person is not displaced as a direct result of acquisition, rehabilitation, or demolition for an assisted project. To exclude a person on this basis, HUD must concur in that determination. (3) A recipient may at any time ask HUD to determine whether a specific displacement is or would be covered under this section. (h) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a person displaced as a direct result of rehabilitation or demolition of the real property, the term "initiation of negotiations" means the execution of the agreement covering the rehabilitation or demolition (See 49 CFR part 24). **1000.16 What labor standards are applicable?** (a) *Davis–Bacon wage rates.* (1) As described in section 104(b) of NAHASDA, contracts and agreements for assistance, sale or lease under NAHASDA must require prevailing wage rates determined by the Secretary of Labor under the Davis–Bacon Act (40 U.S.C. 276a–276a–5) to be paid to laborers and mechanics employed in the development of affordable housing. (2) When NAHASDA assistance is only used to assist homebuyers to acquire single family housing, the Davis–Bacon wage rates apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that NAHASDA assistance will be used to assist homebuyers to buy the housing. (3) Prime contracts not in excess of $2000 are exempt form Davis–Bacon wage rates *Continued on the next page*	**Title II: 201(b)(4). National Objectives and Eligible Families** (b) ELIGIBLE FAMILIES. – (4) PREFERENCE FOR TRIBAL MEMBERS AND OTHER INDIAN FAMILIES. – The Indian housing plan for an Indian tribe may require preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this Act on behalf of such tribe, to be given (to the extent practicable) to Indian families who are members of such tribe, or to other Indian families. In any case in which the applicable Indian housing plan for an Indian tribe provides for preference under this paragraph, the recipient for the tribe shall ensure that housing activities that are assisted with grant amounts under this Act for such tribe are subject to such preferences. **Title II: 203(c). Program Requirements** (c) INSURANCE COVERAGE. – Each recipient shall maintain adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this Act.

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(b) *HUD–determined wage rates.* Section 104(b) also mandates that contracts and agreements for assistance, sale or lease under NAHASDA require that prevailing wages determined or adopted (subsequent to a determination under applicable state, tribal or local law) by HUD shall be paid to maintenance laborers and mechanics employed in the operation, and to architects, technical engineers, draftsmen and technicians employed in the development, of affordable housing. (c) *Contract Work Hours and Safety Standards Act.* Contracts in excess of $100,000 to which Davis–Bacon or HUD–determined wage rates apply are subject by law to the overtime provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327). (d) *Volunteers.* The requirements in 24 CFR part 70 concerning exemptions for the use of volunteers on projects subject to Davis–Bacon and HUD–determined wage rates are applicable. (e) *Other laws and issuances.* Recipients, contractors, subcontractors, and other participants must comply with regulations issued under the labor standards provisions cited in this section, other applicable Federal laws and regulations pertaining to labor standards, and HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs). **1000.18 What environmental review requirements apply?** The environmental effects of each activity carried out with assistance under this part must be evaluated in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and the related authorities listed in HUD's implementing regulations at 24 CFR parts 50 and 58. An environmental review does not have to be completed prior to HUD approval of an IHP. **1000.20 Is an Indian tribe required to assume environmental review responsibilities?** (a) No. It is an option an Indian tribe may choose. If an Indian tribe declines to assume the environmental review responsibilities, HUD will perform the environmental review in accordance with 24 CFR part 50. The timing of HUD undertaking the environmental review will be subject to the availability of resources. A HUD environmental review must be completed for any NAHASDA assisted activities not excluded from review under 24 CFR 50.19(b) before a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds used in conjunction with such NAHASDA assisted activities with respect to the property. (b) If an Indian tribe assumes environmental review responsibilities: (1) Its certifying officer must certify that he/she is authorized and consents on behalf of the Indian tribe and such officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the certifying officer as set forth in section 105(c) of NAHASDA; and *Continued on the next page*	

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(2) The Indian tribe must follow the requirements of 24 CFR part 58. (3) No funds may be committed to a grant activity or project before the completion of the environmental review and approval of the request for release of funds and related certification required by sections 105(b) and 105(c) of NAHASDA, except as authorized by 24 CFR part 58 such as for the costs of environmental reviews and other planning and administrative expenses. (c) Where an environmental assessment (EA) is appropriate under 24 CFR part 50, instead of an Indian tribe assuming environmental review responsibilities under paragraph (b) of this section or HUD preparing the EA itself under paragraph (a) of this section, an Indian tribe or TDHE may prepare an EA for HUD review. In addition to complying with the requirements of 40 CFR 1506.5(a), HUD shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the EA in accordance with 40 CFR 1506.5(b). **1000.22 Are the costs of the environmental review an eligible cost?** Yes, costs of completing the environmental review are eligible. **1000.24 If an Indian tribe assumes environmental review responsibility, how will HUD assist the Indian tribe in performing the environmental review?** As set forth in section 105(a)(2)(B) of NAHASDA and 24 CFR 58.77, HUD will provide for monitoring of environmental reviews and will also facilitate training for the performance for such reviews by Indian tribes. **1000.26 What are the administrative requirements under NAHASDA?** (a) Except as addressed in §1000.28, recipients shall comply with the requirements and standards of OMB Circular No. A–87, "Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally recognized Indian Tribal Governments," and with the following sections of 24 CFR part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." For purposes of this part, "grantee" as defined in 24 CFR part 85 has the same meaning as "recipient." (1) Section 85.3, "Definitions." (2) Section 85.6, "Exceptions." (3) Section 85.12, "Special grant or subgrant conditions for 'high risk' grantees." (4) Section 85.20, "Standards for financial management systems," except paragraph (a). (5) Section 85.21, "Payment." *Continued on the next page*	

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(6) Section 85.22, "Allowable costs." (7) Section 85.25, "Non–federal audits." (8) Section 85.32, "Equipment," except in all cases in which the equipment is sold, the proceeds shall be program income. (9) Section 85.33, "Supplies." (10) Section 85.35, "Subawards to debarred and suspended parties." (11) Section 85.36, "Procurement," except paragraph (a). There may be circumstances under which the bonding requirements of §85.36(h) are inconsistent with other responsibilities and obligations of the recipient. In such circumstances, acceptable methods to provide performance and payment assurance may include: (i.) Deposit with the recipient of a cash escrow of not less than 20 percent of the total contract price, subject to reduction during the warranty period commensurate with potential risk; (ii.) Letter of credit for 25 percent of the total contract price, unconditionally payable upon demand of the recipient, subject to reduction during any warranty period commensurate with potential risk; or (iii.) Letter of credit for 10 percent of the total contract price unconditionally payable upon demand of the recipient subject to reduction during any warranty period commensurate with potential risk, and compliance with the procedures for monitoring of disbursements by the contractor. (12) Section 85.37, "Subgrants," (13) Section 85.40, "Monitoring and reporting program performance, "except paragraphs (b) and paragraph (f). (14) Section 85.41, "Financial reporting," except paragraphs (a), (b) through (d), and (e). (15) Section 85.44, "Termination for convenience." (16) Section 85.51 "Later disallowances and adjustments." (17) Section 85.52, "Collection of amounts due." (b) (1) With respect to the applicability of cost principles, all items of cost listed in Attachment B of OMB Circular A–87 which require prior Federal agency approval are allowable without the prior approval of HUD to the extent that they comply with the general policies and principles stated in Attachment A of this circular and are otherwise eligible under this part, except for the following: *Continued on the next page*	

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(i.) Depreciation methods for fixed assets shall not be changed without specific approval of HUD or, if changed through a cost allocation plan, the Federal cognizant agency.

(ii.) Fines and penalties are unallowable costs to the IHBG program.

(2) In addition, no person providing consultant services in an employer–employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with IHBG funds. In no event, however, shall such compensation exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule.

1000.28 May a self–governance Indian tribe be exempted from the applicability of § 1000.26?

Yes. A self–governance Indian tribe shall certify that its administrative requirements, standards and systems meet or exceed the comparable requirements of § 100.26. For purposes of this section, a self–governance Indian tribe is an Indian tribe that participates in tribal self–governance as authorized under Public Law 93–638, as amended (25 U.S.C. 450 *et seq.*).

1000.30 What prohibitions regarding conflict of interest are applicable?

(a) *Applicability.* In the procurement of supplies, equipment, other property, construction and services by recipients and subrecipients, the conflict of interest provisions of 24 CFR 85.36 shall apply. In all cases not governed by 24 CFR 85.36, the following provisions of this section shall apply.

(b) *Conflicts prohibited.* No person who participates in the decision–making process or who gains inside information with regard to NAHASDA assisted activities may obtain a personal or financial interest or benefit from such activities, except for the use of NAHASDA funds to pay salaries or other related administrative costs. Such persons include anyone with an interest in any contract, subcontract or agreement or proceeds thereunder, either for themselves or others with whom they have business or immediate family ties. Immediate family ties are determined by the Indian tribe or TDHE in its operating policies.

(c) The conflict of interest provision does not apply in instances where a person who might otherwise be included under the conflict provision is low–income and is selected for assistance in accordance with the recipient's written policies for eligibility, admission and occupancy of families for housing assistance with IHBG funds, provided that there is no conflict of interest under applicable tribal or state law. The recipient must make a public disclosure of the nature of assistance to be provided and the specific basis for the selection of the person. The recipient shall provide the appropriate Area ONAP with a copy of the disclosure before the assistance is provided to the person.

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1000.32 May exceptions be made to the conflict of interest provisions? (a) Yes. HUD may make exceptions to the conflict of interest provisions set forth in § 1000.30(b) on a case–by–case basis when it determines that such an exception would further the primary objective of NAHASDA and the effective and efficient implementation of the recipient's program, activity, or project. (b) A public disclosure of the conflict must be made and a determination that the exception would not violate tribal laws on conflict of interest (or any applicable state laws) must also be made. **1000.34 What factors must be considered in making an exception to the conflict of interest provisions?** In determining whether or not to make an exception to the conflict of interest provisions, HUD must consider whether undue hardship will result, either to the recipient or to the person affected, when weighed against the public interest served by avoiding the prohibited conflict. **1000.36 How long must a recipient retain records regarding exceptions made to the conflict of interest provisions?** A recipient must maintain all such records for a period of at least 3 years after an exception is made. **1000.38 What flood insurance requirements are applicable?** Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001–4128), a recipient may not permit the use of Federal financial assistance for acquisition and construction purposes (including rehabilitation) in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless the following conditions are met: (a) The community in which the area is situated is participating in the National Flood Insurance Program in accord with section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106(a)), or less than a year has passed since FEMA notification regarding such flood hazards. For this purpose, the "community" is the governmental entity, such as an Indian tribe or authorized tribal organization, an Alaska Native village, or authorized Native organization, or a municipality or county, that has authority to adopt and enforce flood plain management regulations for the area; and (b) Where the community is participating in the National Flood Insurance Program, flood insurance on the building is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012(a); provided, that if the financial assistance is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan. *Continued on the next page*	

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1000.40 Do lead–based paint poisoning prevention requirements apply to affordable housing activities under NAHASDA? Yes, lead–based paint requirements apply to housing activities assisted under NAHASDA. The applicable requirements for NAHASDA are: (a) *Purpose and applicability.* (1) The purpose of this section is to implement section 302 of the Lead–Based Paint Poisoning Prevention Act (42 U.S.C. 4822) by establishing procedures to eliminate as far as practicable the hazards of lead–based paint poisoning for rental and homeownership units owned or operated by a recipient. This section is issued under 24 CFR 35.24(b)(4). The requirements of subpart C of 24 CFR part 35 do not apply to the housing covered under this section. Other provisions of part 35 apply, including subpart H, Disclosure of Known Lead–Based Paint and/or Lead–Based Paint Hazards Upon Sale or Lease of Residential Property. (2) The requirements of this section do not apply to housing built after 1977, 0–bedroom units, units that are certified by a qualified inspector to be free of lead–based paint, or units designated exclusively for the elderly or the handicapped unless a child of less than six years of age resides or is expected to reside in the unit. (3) Further information on identifying and reducing lead–based paint hazards can be found in the HUD publication, "Guidelines for the Evaluation and Control of Lead–Based Paint Hazards in Housing." (b) *Definitions.* *Chewable surface.* Protruding painted surfaces that are readily accessible to children under six years of age; for example, protruding corners, window sills and frames, doors and frames, and other protruding woodwork. Hard metal surfaces are not considered chewable surfaces. *Component.* An element of a residential structure identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall. *Defective paint surface.* A surface on which the paint is cracking, scaling, chipping, peeling, or loose. *Elevated blood lead level (EBL) excessive absorption of lead.* Excessive absorption is a confirmed concentration of lead in whole blood of 20μg/dl (micrograms of lead per deciliter) or more for a single test or of 15–19 μg/dl in two consecutive tests 3–4 months apart. *HEPA* means a high efficiency particle accumulator as used in lead abatement vacuum cleaners. *Continued on next page*	

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Lead–based paint. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 milligram per centimeter squared (mg/cm<SUP>2), or 0.5 percent by weight or 5000 parts per million by weight (PPM). (c) *Requirements for pre–1978 units.* (1) If a dwelling unit was constructed before 1978, it must be visually inspected for defective paint surfaces. If defective paint surfaces are found, such surfaces must be treated in accordance with this section. (2) Defective paint surfaces that are found in a report by a qualified lead–based paint inspector not to be lead–based paint, as defined in this section, may be exempted from treatment. For purposes of this section, a qualified lead–based paint inspector is a lead–based paint inspector certified, licensed or regulated by a State or Tribal government, the U.S. Environmental Protection Agency, a local health or housing agency, or an organization recognized by HUD. (3) Treatment of defective paint surfaces required under this section must be completed within 30 calendar days of the visual evaluation. When weather conditions prevent treatment of the defective paint conditions on exterior surfaces within the 30 day period, treatment as required by this section may be delayed for a reasonable time. (4) The requirements in this paragraph apply to: (i.) All painted interior surfaces within the unit (including ceilings but excluding furniture that is not built in or attached to the property); (ii.) The entrance and hallway providing ingress or egress to a unit in a multi–unit building, and other common areas that are readily accessible to children less than six years of age; and (iii.) Exterior surfaces that are readily accessible to children under six years of age (including walls, stairs, decks, porches, railings, windows and doors, and outbuildings such as garages and sheds that are readily accessible to children of less than six years of age). (d) *Additional requirements for pre–1978 units with children under six with an EBL.* (1) In addition to the requirements of this section, for a dwelling unit constructed before 1978 that is occupied by a family with a child under the age of six years with an identified EBL condition, chewable surfaces must be tested for lead–based paint. Testing is not required if previous testing of chewable surfaces is negative for lead–based paint or if the chewable surfaces have already been treated. *Continued on the next page*	

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(2) Testing must be conducted by a qualified lead–based paint inspector, as explained in paragraph (c)(2) of this section. Lead content must be tested by using an X–ray fluorescence analyzer (XRF) or by laboratory analysis of paint samples. Where lead–based paint on chewable surfaces is identified, treatment of the paint surface in accordance with this section is required, and treatment shall be completed within 30 days of the paint testing report. (3) The requirements of paragraph (d) in this section apply to chewable surfaces: (i.) Within the unit; (ii.) The entrance and hallway providing access to a unit in a multi–unit building; and (iii.) Exterior surfaces (including walls, stairs, decks, porches, railings, windows and doors, and outbuildings such as garages and sheds that are accessible to children of less than six years of age). (e) *Treatment of chewable surfaces without testing.* The recipient may, at its discretion, waive the testing requirement and require the owner to treat all interior and exterior chewable surfaces in accordance with the methods set out in this section. (f) *Treatment methods and requirements.* Treatment of defective paint surfaces and chewable surfaces must consist of covering or removal of the paint in accordance with the following requirements: (1) Surfaces must be covered with durable materials with joints and edges sealed and caulked as needed to prevent the escape of lead contaminated dust. The following are acceptable methods of treatment: (i.) Removal by wet scraping, wet sanding, chemical stripping on or off site; (ii.) Replacing painted components; (iii.) Scraping with infra–red or coil type heat gun with temperatures below 1100 degrees; (iv.) HEPA vacuum sanding; (v.) HEPA vacuum needle gun; (vi.) Contained hydroblasting or high pressure wash with HEPA vacuum; and (vii.) Abrasive sandblasting with HEPA vacuum. *Continued on the next page*	

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(2) Prohibited methods of removal are: open blame burning or torching; machine sanding or grinding without a HEPA exhaust; uncontained hydroblasting or high pressure wash; and dry scraping except around electrical outlets or except when treating defective paint spots no more than two square feet in any one interior room or space (hallway, pantry, etc.) or totaling no more than 20 square feet on exterior surfaces.

(3) During exterior treatment soil and playground equipment must be protected from contamination.

(4) All treatment procedures must be concluded with a thorough cleaning of all surfaces in the room or area of treatment to remove fine dust particles. Cleanup must be accomplished by wet washing surfaces with a lead solubilizing detergent such as trisodium phosphate or an equivalent solution. Dust clearance testing by a qualified inspector may be done at the discretion of the recipient to ensure that the unit has been cleaned adequately.

(5) Waste and debris must be disposed of in accordance with all applicable Federal, tribal, state and local laws.

(g) *Tenant protection.* The owner must take appropriate action to protect residents and their belongings from hazards associated with treatment procedures. Residents must not enter spaces undergoing treatment until cleanup is completed. Personal belongings that are in work areas must be relocated or otherwise protected from contamination.

1000.42 Are the requirements of section 3 of the Housing and Urban Development Act of 1968 applicable?

(a) *General.* Yes. Recipients shall comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and HUD's implementing regulations in 24 CFR part 135, to the maximum extent feasible and consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self–Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 3 provides job training, employment, and contracting opportunities for low–income individuals.

(b) *Threshold requirement.* The requirements of section 3 apply only to those section 3 covered projects or activities for which the amount of assistance exceeds $200,000.

1000.44 What prohibitions on the use of debarred, suspended or ineligible contractors apply?

In addition to any tribal requirements, the prohibitions in 24 CFR part 24 on the use of debarred, suspended or ineligible contractors apply.

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1000.46 Do drug–free workplace requirements apply? Yes. In addition to any tribal requirements, the Drug–Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*) and HUD's implementing regulations in 24 CFR part 24 apply. **1000.48 Are Indian preference requirements applicable to IHBG activities?** (a) *Applicability.* Grants under this part are subject to section 7(b) of the Indian Self–Determination and Education Assistance Act (25 U.S.C. 450e(b). Section 7(b) provides that any contract, subcontract, grant or subgrant pursuant to an act authorizing grants to Indian organizations or for the benefit of Indians shall require that, to the greatest extent feasible: (1) Preference and opportunities for training and employment shall be given to Indians, and (2) Preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian–owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). (b) *Definitions.* (1) The Indian Self–Determination and Education Assistance Act defines "Indian" to mean a person who is a member of an Indian tribe and defines "Indian tribe" to mean any Indian tribe, band, nation, or other organized group or community including any Alaska Native village or regional or village corporation as defined or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (2) In section 3 of the Indian Financing Act of 1974 "economic enterprise" is defined as any Indian–owned commercial, industrial, or business activity established or organized for the purpose of profit, except that Indian ownership must constitute not less than 51 percent of the enterprise. This act defines "Indian organization" to mean the governing body of any Indian tribe or entity established or recognized by such governing body. **1000.50 What Indian preference requirements apply to IHBG administration activities?** To the greatest extent feasible, preference and opportunities for training and employment in connection with the administration of grants awarded under this part shall be given to Indians. **1000.52 What Indian preference requirements apply to IHBG procurement?** To the greatest extent feasible, recipients shall give preference in the award of contracts for projects funded under this part to Indian organizations and Indian–owned economic enterprises. *Continued on the next page*	

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(a) Each recipient shall: (1) Certify to HUD that the policies and procedures adopted by the recipient will provide preference in procurement activities consistent with the requirements of section 7(b) of the Indian Self–Determination and Education Assistance Act (25 U.S.C. 450e(b) (An Indian preference policy which was previously approved by HUD for a recipient will meet the requirements of this section); or (2) Advertise for bids or proposals limited to qualified Indian organizations and Indian–owned enterprises; or (3) Use a two–stage preference procedure, as follows: (i.) *Stage 1.* Invite or otherwise solicit Indian–owned economic enterprises to submit a statement of intent to respond to a bid announcement or request for proposals limited to Indian–owned firms. (ii.) *Stage 2.* If responses are received from more than one Indian enterprise found to be qualified, advertise for bids or proposals limited to Indian organizations and Indian–owned economic enterprises. (b) If the recipient selects a method of providing preference that results in fewer than two responsible qualified organizations or enterprises submitting a statement of intent, a bid or a proposal to perform the contract at a reasonable cost, then the recipient shall: (1) Re–advertise the contract, using any of the methods described in paragraph (a) of this section; or (2) Re–advertise the contract without limiting the advertisement for bids or proposals to Indian organizations and Indian–owned economic enterprises; or (3) If one approvable bid or proposal is received, request Area ONAP review and approval of the proposed contract and related procurement documents, in accordance with 24 CFR 85.36, in order to award the contract to the single bidder or offeror. (c) Procurements that are within the dollar limitations established for small purchases under 24 CFR 85.36 need not follow the formal bid or proposal procedures of paragraph (a) of this section, since these procurements are governed by the small purchase procedures of 24 CFR 85.36. However, a recipient's small purchase procurement shall, to the greatest extent feasible, provide Indian preference in the award of contracts. (d) All preferences shall be publicly announced in the advertisement and bidding or proposal solicitation documents and the bidding and proposal documents. *Continued on the next page*	

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(e) A recipient, at its discretion, may require information of prospective contractors seeking to qualify as Indian organizations or Indian–owned economic enterprises. Recipients may require prospective contractors to provide the following information before submitting a bid or proposal, or at the time of submission: (1) Evidence showing fully the extent of Indian ownership and interest; (2) Evidence of structure, management and financing affecting the Indian character of the enterprise, including major subcontracts and purchase agreements; materials or equipment supply arrangements; and management salary or profit–sharing arrangements; and evidence showing the effect of these on the extent of Indian ownership and interest; and (3) Evidence sufficient to demonstrate to the satisfaction of the recipient that the prospective contractor has the technical, administrative, and financial capability to perform contract work of the size and type involved. (f) The recipient shall incorporate the following clause (referred to as the section 7(b) clause) in each contract awarded in connection with a project funded under this part: (1) The work to be performed under this contract is on a project subject to section 7(b) of the Indian Self–Determination and Education Assistance Act (25 U.S.C. 450e(b) (the Indian Act). Section 7(b) requires that to the greatest extent feasible: (i.) Preferences and opportunities for training and employment shall be given to Indians; and (ii.) Preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian–owned economic enterprises. (2) The parties to this contract shall comply with the provisions of section 7(b) of the Indian Act. (3) In connection with this contract, the contractor shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian–owned economic enterprises, and preferences and opportunities for training and employment to Indians. (4) The contractor shall include this section 7(b) clause in every subcontractor in connection with the project, and shall, at the direction of the recipient, take appropriate action pursuant to the subcontract upon a finding by the recipient or HUD that the subcontractor has violated the section 7(b) clause of the Indian Act *Continued on the next page*	

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1000.54 What procedures apply to complaints arising out of any of the methods of providing for Indian preference? The following procedures are applicable to complaints arising out of any of the methods of providing for Indian preference contained in this part, including alternate methods. Tribal policies that meet or exceed the requirements of this section shall apply. (a) Each complaint shall be in writing, signed, and filed with the recipient. (b) A complaint must be filed with the recipient no later than 20 calendar days from the date of the action (or omission) upon which the complaint is based. (c) Upon receipt of a complaint, the recipient shall promptly stamp the date and time of receipt upon the complaint, and immediately acknowledge its receipt. (d) Within 20 calendar days of receipt of a complaint, the recipient shall either meet, or communicate by mail or telephone, with the complainant in an effort to resolve the matter. The recipient shall make a determination on a complaint and notify the complainant, in writing, within 30 calendar days of the submittal of the complaint to the recipient. The decision of the recipient shall constitute final administrative action on the complaint.	

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Use of Funds	**Use of Funds**
1000.56 How are NAHASDA funds paid by HUD to recipients? (a) Each year funds shall be paid directly to a recipient in a manner that recognizes the right of Indian self–determination and tribal self–governance and the trust responsibility of the Federal government to Indian tribes consistent with NAHASDA. (b) Payments shall be made as expeditiously as practicable. **1000.58 Are there limitations on the investment of IHBG funds?** (a) A recipient may invest IHBG funds for the purposes of carrying out affordable housing activities in investment securities and other obligations as provided in this section. (b) The recipient may invest IHBG funds so long as it demonstrates to HUD: (1) That there are no unresolved significant and material audit findings or exceptions in the most recent annual audit completed under the Single Audit Act or in an independent financial audit prepared in accordance with generally accepted auditing principles; and (2) That it is a self–governance Indian tribe or that it has the administrative capacity and controls to responsibly manage the investment. For purposes of this section, a self–governance Indian tribe is an Indian tribe that participates in tribal self–governance as authorized under Public Law 93–638, as amended (25 U.S.C. 450 *et seq.*). (c) Recipients shall invest IHBG funds only in: (1) Obligations of the United States; obligations issued by Government sponsored agencies; securities that are guaranteed or insured by the United States; mutual (or other) funds registered with the Securities and Exchange Commission and which invest only in obligations of the United States or securities that are guaranteed or insured by the United States; or (2) Accounts that are insured by an agency or instrumentality of the United States or fully collateralized to ensure protection of the funds, even in the event of bank failure. (d) IHBG funds shall be held in one or more accounts separate from other funds of the recipient. Each of these accounts shall be subject to an agreement in a form prescribed by HUD sufficient to implement the regulations in this part and permit HUD to exercise its rights under § 1000.60. (e) Expenditure of funds for affordable housing activities under section 204(a) of NAHASDA shall not be considered investment.	**Title I: 101(a). Block Grants** (a) AUTHORITY. – For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this Act) make grants under this section on behalf of Indian tribes to carry out affordable housing activities. Under such a grant on behalf of an Indian tribe, the Secretary shall provide the grant amounts for the tribe directly to the recipient for the tribe. **Title I: 104(a). Treatment of Program Income and Labor Standards** (a) PROGRAM INCOME. – (1) AUTHORITY TO RETAIN. – A recipient may retain any program income that is realized from any grant amounts under this Act if – (A) such income was realized after the initial disbursement of the grant amounts received by the recipient; and (B) the recipient has agreed that it will utilize the program income for affordable housing activities in accordance with the provisions of this Act. (2) PROHIBITION OF REDUCTION OF GRANT. – The Secretary may not reduce the grant amount for any Indian tribe based solely on – (A) whether the recipient for the tribe retains program income under paragraph (1); (B) the amount of any such program income retained; or (C) whether the recipient retains reserve amounts described in section 210. (3) EXCLUSION OF AMOUNTS. – The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the recipient. **Title II: 204. Types of Investments** (a) IN GENERAL. – Subject to section 203 and the Indian housing plan for an Indian tribe, the recipient for that tribe shall have –
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(f) A recipient may invest its IHBG annual grant in an amount equal to the annual formula grant amount less any formula grant amounts allocated for the operating subsidy element of the Formula Current Assisted Housing Stock (FCAS) component of the formula (see § 1000.316(a) and 1000.320) multiplied by the following percentages, as appropriate: (1) 50% in Fiscal Years 1998 and 1999; (2) 75% in Fiscal Year 2000; and (3) 100% in fiscal Years 2001 and thereafter. (g) Investments under this section may be for a period no longer than two years. **1000.60 Can HUD prevent improper expenditure of funds already disbursed to a recipient?** Yes. In accordance with the standards and remedies contained in § 1000.538 relating to substantial noncompliance. HUD will use its powers under a depository agreement and take such other actions as may be legally necessary to suspend funds disbursed to the recipient until the substantial noncompliance has been remedied. In taking this action, HUD shall comply with all appropriate procedures, appeals and hearing rights prescribed elsewhere in this part. **1000.62 What is considered program income and what restrictions are there on its use?** (a) Program income is defined as any income that is realized from the disbursement of grant amounts. Program income does not include any amounts generated from the operation of 1937 Act units unless the units are assisted with grant amounts and the income is attributable to such assistance. Program income includes income from fees for services performed from the use of real or rental of real or personal property acquired with grant funds, from the sale of commodities or items developed acquired, etc. with grant funds, and from payments of principal and interest earned on grant funds prior to disbursement. (b) Any program income can be retained by a recipient provided it is used for affordable housing activities in accordance with section 202 of NAHASDA. If the amount of income received in a single year by a recipient and all its subrecipients, which would otherwise be considered program income, does not exceed $25,000, such funds may be retained but will not be considered to be or treated as program income. (c) If program income is realized from an eligible activity funded with both grant funds as well as other funds (i.e., funds that are not grant funds), then the amount of program income realized will be based on a percentage calculation that represents the proportional share of funds provided for the activity generating the program income. (d) Costs incident to the generation of program income shall be deducted from gross income to determine program income.	(1) the discretion to use grant amounts for affordable housing activities through equity investments, interest–bearing loans or advances, noninterest–bearing loans or advances, interest subsidies, leveraging of private investments, or any other form of assistance that the Secretary has determined to be consistent with the purposes of this Act; and (2) the right to establish the terms of assistance. (b) INVESTMENTS. – A recipient may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by the Secretary. **Title II: 210. Continued Use of Amounts for Affordable Housing** Any funds for programs for low–income housing under the United States Housing Act of 1937 that, on the date of the applicability of this Act to an Indian tribe, are owned by, or in the possession or under the control of, the Indian housing authority for the tribe, including all reserves not otherwise obligated, shall be considered assistance under this Act and subject to the provisions of this Act relating to use of such assistance. **Title IV: 405(c). Review and Audit by Secretary** (c) EFFECT OF REVIEW. –The Secretary may make appropriate adjustments in the amount of the annual grants under this Act in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided on behalf of an Indian tribe.

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Eligible Activities	**Eligible Activities**
Subpart B — Affordable Housing Activities	
1000.101 What is affordable housing? Eligible affordable housing is defined in section 4(2) of NAHASDA and is described in title II of NAHASDA. **1000.102 What are eligible affordable housing activities?** Eligible affordable housing activities are those described in Section 202 of NAHASDA.	**Section 4(2). Definitions** (2) AFFORDABLE HOUSING. – The term "affordable housing" means housing that complies with the requirements for affordable housing under title II. The term includes permanent housing for homeless persons who are persons with disabilities, transitional housing, and single room occupancy housing. **Title I: 101(g). Block Grants** (g) USE FOR AFFORDABLE HOUSING ACTIVITIES PLAN. – Except as provided in subsection (h), amounts provided under a grant under this section may be used only for affordable housing activities under title II that are consistent with an Indian Housing Plan approved under section103. **Title II: 202. Eligible Affordable Housing Activities** Affordable housing activities under this title are activities, in accordance with the requirements of this title, to develop or to support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing through the following activities: (1) INDIAN HOUSING ASSISTANCE. – The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority. (2) DEVELOPMENT. – The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities. (3) HOUSING SERVICES. – The provision of housing–related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self–sufficiency and other services, *Continued on the next page*

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	and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section. (4) HOUSING MANAGEMENT SERVICES. – The provision of management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant–based rental assistance, and management of affordable housing projects. (5) CRIME PREVENTION AND SAFETY ACTIVITIES. – The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime. (6) MODEL ACTIVITIES. – Housing activities under model programs that are designed to carry out the purposes of this Act and are specifically approved by the Secretary as appropriate for such purpose. **Title II: 203(e). Program Requirements** (e) MANAGEMENT AND MAINTENANCE. – Each recipient shall develop policies governing the management and maintenance of housing assisted with grant amounts under this Act.

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Eligible Participants	**Eligible Participants**
1000.104 What families are eligible for affordable housing activities? The following families are eligible for affordable housing activities: (a) Low–income Indian families on a reservation or Indian area. (b) A non low–income Indian family may receive housing assistance in accordance with 1000.110, except that non low–income Indian families residing in housing assisted under the 1937 Act do not have to meet the requirements of 1000.110 for continued occupancy. (c) A non–Indian family may receive housing assistance on a reservation or Indian area if the non–Indian family's housing needs cannot be reasonably met without such assistance and the recipient determines that the presence of that family on the reservation or Indian area is essential to the well–being of Indian families, except that non–Indian families residing in housing assisted under the 1937 Act do not have to meet these requirements for continued occupancy. **1000.106 What families receiving assistance under title II of NAHASDA require HUD approval?** (a) Housing assistance for non low–income Indian families requires HUD approval only as required in 1000.108 and 1000.110. (b) Assistance under section 201(b)(3) of NAHASDA for non–Indian families does not require HUD approval but only requires that the recipient determine that the presence of that family on the reservation or Indian area is essential to the well–being of Indian families and the non–Indian family's housing needs cannot be reasonably met without such assistance. **1000.108 How is HUD approval obtained by a recipient for housing for non low–income Indian families and model activities?** Recipients are required to submit proposals to operate model housing activities as defined in section 202(6) of NAHASDA and to provide assistance to non low–income Indian families in accordance with section 201(b)(2) of NAHASDA. Assistance to non low–income Indian families must be in accordance with 1000.110. Proposals may be submitted in the recipient's IHP or at any time by amendment of the IHP, or by special request to HUD at any time. HUD may approve the remainder of an IHP notwithstanding disapproval of a model activity or assistance to non low–income Indian families. **1000.110 Under what conditions may non low–income Indian families participate in the program?** (a) A family who is purchasing housing under a lease purchase agreement and who was low income at the time the lease was signed is eligible without further conditions.	**Title II: 201(b). National Objectives and Eligible Activities** (b) ELIGIBLE FAMILIES. – (1) IN GENERAL. – Except as provided under paragraph (2), assistance under eligible housing activities under this Act shall be limited to low–income Indian families on Indian reservations and other Indian areas. (2) EXCEPTION TO LOW–INCOME REQUIREMENT. – A recipient may provide assistance for homeownership activities under section 202(2), model activities under section 202(6), or loan guarantee activities under title VI to Indian families who are not low–income families, to the extent that the Secretary approves the activities pursuant to such section or title because there is a need for housing for such families that cannot reasonably be met without such assistance. The Secretary shall establish limits on the amount of assistance that may be provided under this Act for activities for families who are not low–income families. (3) NON–INDIAN FAMILIES. – Notwithstanding paragraph (1), a recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this act for a non–Indian family on an Indian reservation or other Indian area if the recipient determines that the presence of the family on the Indian reservation or other Indian area is essential to the well–being of Indian families and the need for housing for the family cannot reasonably be met without such assistance. (5) EXEMPTION. – Title VI of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968 shall not apply to actions by federally recognized tribes and the tribally designated housing entities of those tribes under this Act. **Title II: 202(2)(6). Eligible Affordable Housing Activities** (2) DEVELOPMENT. – The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities.
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Eligible Participants	**Eligible Participants**
(b) A recipient may provide the following types of assistance to non low–income Indian families under the conditions specified in paragraphs (c), (d) and (e) of this section: (1) Homeownership activities under section 202(2) of NAHASDA, which may include assistance in conjunction with loan guarantees under the section 184 program (see 24 CFR part 1005); (2) Model activities under section 202(6) of NAHASDA; and (3) Loan guarantee activities under title VI of NAHASDA. (c) A recipient must determine and document that there is a need for housing for each family which cannot reasonably be met without such assistance. (d) A recipient may use up to 10 percent of its annual grant amount for families whose income falls within 80 to 100 percent of the median income without HUD approval. HUD approval is required if a recipient plans to use more than 10 percent of its annual grant amount for such assistance or to provide housing for families with income over 100 percent of median income. (e) Non low–income Indian families cannot receive the same benefits provided low–income Indian families. The amount of assistance non low–income Indian families may receive will be determined as follows: (1) The rent (including homebuyer payments under a lease purchase agreement) to be paid by a non low–income Indian family cannot be less than: (Income of non low–income family/Income of family at 80 percent of median income)x (Rental payment of family at 80 percent of median income), but need not exceed the fair market rent or value of the unit. (2) Other assistance, including down payment assistance, to non low–income Indian families, cannot exceed: (Income of family at 80 percent of median income/Income of non low–income family) x (Present value of the assistance provided to family at 80 percent of median income). (f) The requirements set forth in paragraph (e) of this section do not apply to non low–income Indian families which the recipient has determined to be essential to the well–being of the Indian families residing in the housing area.	(6) MODEL ACTIVITIES. – Housing activities under model programs that are designed to carry out the purposes of this Act and are specifically approved by the Secretary as appropriate for such purpose. **Title II: 203(d). Program Requirements** (d) ELIGIBILITY FOR ADMISSION. – Each recipient shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act.

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Regulation Cite	**Statute Cite**
Model Activities	**Model Activities**
1000.112 How will HUD determine whether to approve model housing activities? HUD will review all proposals with the goal of approving the activities and encouraging the flexibility, discretion, and self–determination granted to Indian tribes under NAHASDA to formulate and operate innovative housing programs that meet the intent of NAHASDA. **1000.114 How long does HUD have to review and act on a proposal to provide assistance to non low–income Indian families or a model housing activity?** Whether submitted in the IHP or at any other time, HUD will have sixty calendar days after receiving the proposal to notify the recipient in writing that the proposal to provide assistance to non low–income Indian families or for model activities is approved or disapproved. If no decision is made by HUD within sixty calendar days of receiving the proposal, the proposal is deemed to have been approved by HUD. **1000.116 What should HUD do before declining a proposal to provide assistance to non low–income Indian families or a model housing activity?** HUD shall consult with a recipient regarding the recipient's proposal to provide assistance to non low–income Indian families or a model housing activity. To the extent resources are available, HUD shall provide technical assistance to the recipient in amending and modifying the proposal if necessary. In case of a denial, HUD shall give the specific reasons for the denial. **1000.118 What recourse does a recipient have if HUD disapproves a proposal to provide assistance to non low–income Indian families or a model housing activity?** (a) Within thirty calendar days of receiving HUD's denial of a proposal to provide assistance to non low–income Indian families or a model housing activity, the recipient may request reconsideration of the denial in writing. The request shall set forth justification for the reconsideration. (b) Within twenty calendar days of receiving the request, HUD shall reconsider the recipient's request and either affirm or reverse its initial decision in writing, setting forth its reasons for the decision. If the decision was made by the Assistant Secretary, the decision will constitute final agency action. If the decision was made at a lower level, then paragraphs (c) and (d) of this section will apply. (c) The recipient may appeal any denial of reconsideration by filing an appeal with the Assistant Secretary within twenty calendar days of receiving the denial. The appeal shall set forth the reasons why the recipient does not agree with HUD's decision and set forth justification for the reconsideration. (d) Within twenty calendar days of receipt of the appeal, the Assistant Secretary shall review the recipient's appeal and act on the appeal, setting forth the reasons for the decision.	**Title I: 103(a)(b)(c). Review of Plans** (a) REVIEW OF NOTICE. – (1) REVIEW. – The Secretary shall conduct a limited review of each Indian housing plan submitted to the Secretary to ensure that the plan complies with the requirements of section 102. The Secretary shall have the discretion to review a plan only to the extent that the Secretary considers review is necessary. (2) NOTICE. – The Secretary shall notify each Indian tribe for which a plan is submitted and any tribally designated housing entity for the tribe whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the Indian tribe, as required under this subsection and subsection (b), the plan shall be considered, for purposes fo this Act, to have been determined to comply with the requirements under section 102 and the tribe shall be considered to have been notified of compliance upon the expiration of such 60–day period. (b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE. – If the Secretary determines that a plan, as submitted, does not comply with the requirements under section 102, the Secretary shall specify in the notice under subsection (a) the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 102. (c) REVIEW. – After submission of the Indian housing plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan – (1) set forth the information required by section 102 to be contained in an Indian housing plan; (2) are consistent with information and data available to the Secretary; and (3) are not prohibited by or inconsistent with an provision of this Act or other applicable law. *Continued on the next page*

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Regulation Cite	**Statute Cite**
Model Activities	**Model Activities** If the Secretary determines that any of the appropriate certification required under section 102(c)(5) are not included in the plan, the plan shall be deemed to be incomplete. **Title II: 202(6). Eligible Affordable Housing Activities** (6) MODEL ACTIVITES. – Housing activities under model programs that are designed to carry out the purposes of this Act and are specifically approved by the Secretary as appropriate for such purpose.

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Regulation Cite	**Statute Cite**
Tenant Selection: Indian/Tribal Preference	**Tenant Selection: Indian/Tribal Preference**
1000.120 May a recipient use Indian preference or tribal preference in selecting families for housing assistance? Yes. The IHP may set out a preference for the provision of housing assistance to Indian families who are members of the Indian tribe or to other Indian families if the recipient has adopted the preference in its admissions policy. The recipient shall ensure that housing activities funded under NAHASDA are subject to the preference.	**Title II: 201(b)(4). National Objectives and Eligible Families** (b) ELIGIBLE FAMILIES. – (4) PREFERENCE FOR TRIBAL MEMBERS AND OTHER INDIAN FAMILIES. – The Indian housing plan for an Indian tribe may require preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this Act on behalf of such tribe, to be given (to the extent practicable) to Indian families who are members of such tribe, or to other Indian families. In any case in which the applicable Indian housing plan for an Indian tribe provides for preference under this paragraph, the recipient for the tribe shall ensure that housing activities that are assisted with grant amounts under this Act for such tribe are subject to such preference. **Title II: 207(b). Lease Requirements and Tenant Selection** (b) TENANT AND HOMEBUYER SELECTION. – The owner or manager of affordable rental housing assisted with grant amounts provided under this Act shall adopt and utilize written tenant and homebuyer selection policies and criteria that – (1) are consistent with the purpose of providing housing for low–income families; (2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and (3) provide for – (A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in the Indian housing plan for the tribe that is the grant beneficiary of such grant amounts; and (B) the prompt notification in writing to any rejected applicant of that rejection and the grounds for that rejection.

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Regulation Cite	**Statute Cite**
Leveraging NAHASDA Funds	**Leveraging NAHASDA Funds**
1000.122 May NAHASDA grant funds be used as matching funds to obtain and leverage funding, including any Federal or state program and still be considered an affordable housing activity? There is no prohibition in NAHASDA against using grant funds as matching funds.	**Title I: 101(i). Block Grants** (i) PUBLIC–PRIVATE PARTNERSHIPS. – Each recipient shall make all reasonable efforts, consistent with the purposes of this Act, to maximize participation by the private sector, including nonprofit organizations and for–profit entities, I implementing the approved Indian housing plan. **Title II: 204. Types of Investments** (a) IN GENERAL. – Subject to section 203 and the Indian housing plan for an Indian tribe, the recipient for that tribe shall have – (1) the discretion to use grant amounts for affordable housing activities through equity investments, interest–bearing loans or advances, noninterest–bearing loans or advances, interest subsidies, leveraging of private investments, or any other form of assistance that the Secretary has determined to be consistent with the purposes of this Act; and (2) the right to establish the terms of assistance. (b) INVESTMENTS. – A recipient may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by the Secretary. **Title II: 206. Certification of Compliance with Subsidy Layering Requirements** With respect to housing assisted with grant amounts provided under this Act, the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be considered to be satisfied upon certification by a recipient to the Secretary that the combination of Federal assistance provided to the housing project involved is not any more than is necessary to provide affordable housing.

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Regulation Cite	**Statute Cite**
Occupancy Issues	**Occupancy Issues**
1000.124 What maximum and minimum rent or homebuyer payment can a recipient charge a low–income rental tenant or homebuyer residing in housing units assisted with NAHASDA grant amounts? A recipient can charge a low–income rental tenant or homebuyer rent or homebuyer payments not to exceed 30 percent of the adjusted income of the family. The recipient may also decide to compute its rental and homebuyer payments on any lesser percentage of adjusted income of the family. This requirement applies only to units assisted with NAHASDA grant amounts. NAHASDA does not set minimum rents or homebuyer payments; however, a recipient may do so. **1000.126 May a recipient charge flat or income–adjusted rents?** Yes, providing the rental or homebuyer payment of the low–income family does not exceed 30 percent of the family's adjusted income. **1000.128 Is income verification required for assistance under NAHASDA?** (a) Yes, the recipient must verify that the family is income eligible based on anticipated annual income. The family is required to provide documentation to verify this determination. The recipient is required to maintain the documentation on which the determination of eligibility is based. (b) The recipient may require a family to periodically verify its income in order to determine housing payments or continued occupancy consistent with locally adopted policies. When income verification is required, the family must provide documentation which verifies its income, and this documentation must be retained by the recipient. **1000.130 May a recipient charge a non low–income family rents or homebuyer payments which are more than 30 percent of the family's adjusted income?** Yes. A recipient may charge a non low–income family rents or homebuyer payments which are more than 30 percent of the family's adjusted income. **1000.132 Are utilities considered a part of rent or homebuyer payments?** Utilities may be considered a part of rent or homebuyer payments if a recipient decides to define rent or homebuyer payments to include utilities in its written policies on rents and homebuyer payments required by section 203(a)(1) of NAHASDA. A recipient may define rents and homebuyer payments to exclude utilities.	**Title II: 203(a)(b)(d). Program Requirements** (a) RENTS. – (1) ESTABLISHMENT. – Subject to paragraph (2), each recipient shall develop written policies governing rents and homebuyers payments charged for dwelling units assisted under this Act, including the methods by which such rents and homebuyer payments are determined. (2) MAXIMUM RENT. – In the case of any low–income family residing in a dwelling unit assisted with grant amounts under this Act, the monthly rent or homebuyer payment (as applicable) for such dwelling unit may not exceed 30 percent of the monthly adjusted income of such family. (b) MAINTENANCE AND EFFICIENT OPERATION. – Each recipient who owns or operates (or is responsible for funding any entity that owns or operates) housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall, using amounts of any grants received under this Act, reserve and use for operating assistance under section 202(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing. This subsection may not be construed to prevent any recipient (or entity funded by a recipient) from demolishing or disposing of Indian housing referred to in this subsection, pursuant to regulations established by the Secretary. (d) ELIGIBILITY FOR ADMISSION. – Each recipient shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act. **Title II: 207(a)(b). Lease Requirements and Tenant Selection** (a) LEASES. – Except to the extent otherwise provided by or inconsistent with tribal law, in renting dwelling units in affordable housing assisted with grant amounts provided under this Act, the owner or manager of the housing shall utilize leases that – (1) do not contain unreasonable terms and conditions; (2) require the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards; *Continued on the next page*

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Occupancy Issues	Occupancy Issues
	(3) require the owner or manager to give adequate written notice of termination of the lease, which shall be the period of time required under State, tribal, or local law; (4) specify that, with respect to any notice of eviction or termination, notwithstanding any State, tribal, or local law, a resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination; (5) require that the owner or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms or conditions of the lease, violation of applicable Federal, State, tribal or local law, or for other good cause; and (6) provide that the owner or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that – (A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the owner or manager of the housing; (B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or (C) is criminal activity (including drug–related criminal activity) on or off the premises. (b) TENANT AND HOMEBUYER SELECTION. – The owner or manager of affordable rental housing assisted with grant amounts provided under this Act shall adopt and utilize written tenant and homebuyer selection policies and criteria that – (1) are consistent with the purpose of providing housing for low–income families; (2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and *Continued on the next page*

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Occupancy Issues	**Occupancy Issues**
	(3) provide for – (A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in the Indian housing plan for the tribe that is the grant beneficiary of such grant amounts; and (B) the prompt notification in writing to any rejected applicant of that rejection and the grounds for that rejection.

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Regulation Cite	**Statute Cite**
Current Assisted Stock — Demolition/Disposition	**Current Assisted Stock — Demolition/Disposition**
1000.134 When may a recipient (or entity funded by a recipient) demolish and dispose of current assisted stock? (a) A recipient (or entity funded by a recipient) may undertake a planned demolition or disposal of current assisted stock owned by the recipient or an entity funded by the recipient when: (1) A financial analysis demonstrates that it is more cost–effective or housing program–effective for the recipient to demolish or dispose of the unit than to continue to operate or own it; or (2) The housing unit has been condemned by the government which has authority over the unit; or (3) The housing unit is an imminent threat to the health and safety of housing residents; or (4) Continued habitation of a housing unit is inadvisable due to cultural or historical consideration. (b) No action to demolish or dispose of the property other than performing the analysis cited in paragraph (a) of this section can be taken until HUD has been notified in writing of the recipient's intent to demolish or dispose of the housing units consistent with section 102(c)(4)(H) of NAHASDA. The written notification must set out the analysis used to arrive at the decision to demolish or dispose of the property and may be set out in a recipient's IHP or in a separate submission to HUD. (c) In any disposition sale of a housing unit, a sale process designed to maximize the sale price will be used. However, where the sale is to a low–income Indian family, the home may be disposed of without maximizing the sale price so long as such price is consistent with a recipient's IHP. The sale proceeds from the disposition of any housing unit are program income under NAHASDA and must be used in accordance with the requirements of NAHASDA and these regulations.	**Title I: 102(c)(4)(H). Indian Housing Plans** (c)(4) AFFORDABLE HOUSING RESOURCES. – A statement of the affordable housing resources currently available and to be made available during the period, including – (H) a description of any housing to be demolished or disposed of, a timetable for such demolition or disposition, and any other information required by the Secretary with respect to such demolition or disposition. **Title I: 104(a). Treatment of Program Income and Labor Standards** (a) PROGRAM INCOME. – (1) AUTHORITY TO RETAIN. – A recipient may retain any program income that is realized from any grant amounts under this Act if – (A) such income was realized after the initial disbursement of the grant amounts received by the recipient; and (B) the recipient has agreed that it will utilize the program income for affordable housing activities in accordance with the provisions of this Act. (2) PROHIBITION OF REDUCTION OF GRANT. – The Secretary may not reduce the grant amount for any Indian tribe based solely on – (A) whether the recipient for the tribe retains program income under paragraph (1); (B) the amount of any such program income retained; or (C) whether the recipient retains reserve amounts described in section 210. (3) EXCLUSION OF AMOUNTS. – The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the recipient.

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Regulation Cite	**Statute Cite**
Insurance	**Insurance**
1000.136 What insurance requirements apply to housing units assisted with NAHASDA grants? (a) The recipient shall provide adequate insurance either by purchasing insurance or by indemnification against casualty loss by providing insurance in adequate amounts to indemnify the recipient against loss from fire, weather, and liability claims for all housing units owned or operated by the recipient. (b) The recipients shall not require insurance on units assisted by grants to families for privately owned housing if there is no risk of loss or exposure to the recipient or if the assistance is in an amount less than $5000, but will require insurance when repayment of all or part of the assistance is part of the assistance agreement. (c) The recipient shall require contractors and subcontractors to either provide insurance covering their activities or negotiate adequate indemnification coverage to be provided by the recipient in the contract. (d) These requirements are in addition to applicable flood insurance requirements under 1000.38. **1000.138 What constitutes adequate insurance?** Insurance is adequate if it is a purchased insurance policy from an insurance provider or a plan of self–insurance in an amount that will protect the financial stability of the recipient's IHBG program. Recipients may purchase the required insurance without regard to competitive selection procedures from nonprofit insurance entities which are owned and controlled by recipients and which have been approved by HUD. **1000.140 May a recipient use grant funds to purchase insurance for privately owned housing to protect NAHASDA grant amounts spent on that housing?** Yes. All purchases of insurance must be in accordance with 1000.136 and 1000.138.	**Title I: 102(c)(5)(B). Indian Housing Plans** (c)(5) CERTIFICATION OF COMPLIANCE. – Evidence of compliance which shall include, as appropriate – (B) a certification that the recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this Act, in compliance with such requirements as may be established by the Secretary. **Title II: 203(c). Program Requirements** (c) INSURANCE COVERAGE. – Each recipient shall maintain adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this Act.

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Regulation Cite	Statute Cite
Housing Affordability	Housing Affordability
1000.142 What is the "useful life" during which low-income rental housing and low-income homebuyer housing must remain affordable as required in sections 205(a)(2) and 209 of NAHASDA? Each recipient shall describe in its IHP its determination of the useful life of each assisted housing unit in each of its developments in accordance with the local conditions of the Indian area of the recipient. By approving the plan, HUD determines the useful life in accordance with section 205(a)(2) of NAHASDA and for purposes of section 209. **1000.143 Are Mutual Help homes developed under the 1937 Act subject to the useful life provisions of section 205(a)(2)?** No. **1000.146 Are homebuyers required to remain low-income throughout the term of their participation in a housing program funded under NAHASDA?** No. The low-income eligibility requirement applies only at the time of purchase. However, families purchasing housing under a lease purchase agreement who are not low-income at the time of purchase are eligible under 1000.110.	**Title II: 201(b)(2). National Objectives and Eligible Families** (b) ELIGIBLE FAMILIES. – (2) EXCEPTION TO LOW-INCOME REQUIREMENT. – A recipient may provide assistance for homeownership activities under section 202(2), model activities under section 202(6), or loan guarantee activities under title VI to Indian families who are not low-income families, to the extent that the Secretary approves the activities pursuant to such section or title because there is a need for housing for such families that cannot reasonably be met without such assistance. The Secretary shall establish limits on the amount of assistance that may be provided under this Act for activities for families who are not low-income families. **Title II: 205. Low-Income Requirement and Income Targeting** (a) IN GENERAL. – Housing shall qualify as affordable housing for purposes of this Act only if: (1) each dwelling unit in the housing: (A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of their initial occupancy of such unit; and (B) in the case of a contract to purchase existing housing, is made available for purchase only by a family that is a low-income family at the time of purchase; (C) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, is made available for lease-purchase only by a family that is a low-income family at the time the agreement is entered into; and (D) in the case of a contract to purchase housing to be constructed, is made available for purchase only by a family that is a low-income family at the time the contract is entered into; and (2) except for housing assisted under section 202 of the United States Housing act of 1937 (as in effect before the date of the effectiveness of this Act), each dwelling unit in the housing will remain affordable, *Continued on the next page*

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Housing Affordability	**Housing Affordability**
	according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure)if such action: (A) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low–income affordability in the case of foreclosure or transfer in lieu of foreclosure; and (B) is not for the purpose of avoiding low–income affordability restrictions, as determined by the Secretary. (b) EXCEPTION. – Notwithstanding subsection (a), housing assisted pursuant to section 201(b)(2) shall be considered affordable housing for purposes of this Act. **Title II: 209. Repayment** If a recipient uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing the housing does not comply with the requirement under section 205(a)(2), the Secretary shall reduce future grant payments on behalf of the grant beneficiary by an amount equal to the grant amounts used for such housing (under the authority under section 401(a)(2)) or require repayment to the Secretary of an amount equal to such grant amounts. **Title IV: 401(a)(2). Remedies for Noncompliance** (a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS. – Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this Act has failed to comply substantially with any provision of this Act, the Secretary shall – (2) reduce payments under this Act to the recipient by an amount equal to the amount of such payments that were not expended in accordance with this Act.

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Regulation Cite	Statute Cite
Participants' Criminal Convention Information	**Participants' Criminal Convention Information**
1000.150 How may Indian tribes and TDHEs receive criminal conviction information on adult applicants or tenants? (a) As required by section 208 of NAHADSA, the National Crime Information Center, police departments, and other law enforcement agencies shall provide criminal conviction information to Indian tribes and TDHEs upon request. Information regarding juveniles shall only be released to the extent such release is authorized by the law of the applicable state, Indian tribe or locality. (b) For purposes of this section, the term *"tenants"* includes homebuyers who are purchasing a home pursuant to a lease purchase agreement. **1000.152 How is the recipient to use criminal conviction information?** The recipient shall use the criminal conviction information described in 1000.150 only for applicant screening, lease enforcement and eviction actions. The information may be disclosed only to any person who has a job related need for the information and who is an authorized officer, employee, or representative of the recipient or the owner of housing assisted under NAHASDA. **1000.154 How is the recipient to keep criminal conviction information confidential?** (a) The recipient will keep all the criminal conviction record information it receives from the official law enforcement agencies listed in 1000.150 in files separate from all other housing records. (b) These criminal conviction records will be kept under lock and key and be under the custody and control of the recipient's housing executive director/lead official and/or his designee for such records. (c) These criminal conviction records may only be accessed with the written permission of the Indian tribe's or TDHE's housing executive director/lead official and/or his designee and are only to be used for the purposes stated in section 208 of NAHASDA and these regulations.	**Title II: 205(5). Eligible Affordable Housing Activities** (5) CRIME PREVENTION AND SAFETY ACTIVITIES. – The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime. **Title II: 208. Availability of Records** (a) PROVISION OF INFORMATION. – Notwithstanding any other provision of law, except as provided in subsection (b), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to Indian tribes or tribally designated housing entities regarding the criminal conviction records of adult applicants for, or tenants of, housing assisted with grant amounts provided to such tribe or entity under this act for purposes of applicant screening, lease enforcement, and eviction. (b) EXCEPTION. – A law enforcement agency described in subsection (a) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality. (c) CONFIDENTIALITY. – An Indian tribe or tribally designated housing entity receiving information under this section may use such information only for the purposes provided in this section and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the tribe or entity or the owner of housing assisted under this Act, and who has a job–related need to have access to the information for the purposes under this section. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this section to any tribe or entity is used, and confidentiality is maintained, as required under this section.

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Regulation Cite	**Statute Cite**
Dwelling Construction and Equipment	**Dwelling Construction and Equipment**
1000.156 Is there a per unit limit on the amount of IHBG funds that may be used for dwelling construction and dwelling equipment? (a) Yes. The per unit amount of IHBG funds that may be used for dwelling construction and dwelling equipment cannot exceed the limit established by HUD except as allowed in the definition below. Other costs associated with developing a project, including all undertakings necessary for administration, planning, site acquisition, water and sewer, demolition, and financing may be eligible NAHASDA costs but are not subject to this limit. (b) Dwelling construction and equipment (DC&E) costs include all construction costs of an individual dwelling within five feet of the foundation. Excluded from the DC&E are any administrative, planning, financing, site acquisition, site development more than five feet from the foundation, and utility development or connection costs. HUD will publish and update on a regular basis DC&E amounts for appropriate geographic areas. (c) DC&E amounts will be based on a moderately designed house or multi–family structure and will be determined by averaging the current construction costs, as listed in not less than two nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality. If a recipient determines that published DC&E amounts are not representative of construction costs in its area, it may request a re–evaluation of DC&E amounts and provide HUD with relevant information for this re–evaluation.	**Title II: 202(2). Eligible Affordable Housing Activities** (3) DEVELOPMENT. – The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services conversion, demolition, financing, administration and planning, and other related activities.

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Funding Availability	**Funding Availability**
Subpart C — Indian Housing Plans (IHP) **1000.201 How are funds made available under NAHASDA?** Every fiscal year HUD will make grants under the IHBG program to recipients who have submitted to HUD for that fiscal year an IHP in accordance with 1000.220 to carry out affordable housing activities.	**Title I: 101(a)(b)(f). Block Grants** (a) AUTHORITY. – For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this Act) make grants under this section on behalf of Indian tribes to carry out affordable housing activities. Under such a grant on behalf of an Indian tribe, the Secretary shall provide the grant amounts for the tribe directly to the recipient for the tribe. (b) PLAN REQUIREMENT. – (1) IN GENERAL. – The Secretary may make a grant under this Act on behalf of an Indian tribe for a fiscal year only if – (A) the Indian tribe has submitted to the Secretary an Indian housing plan for such fiscal year under section 102; and (B) the plan has been determined under section 103 to comply with the requirements of section 102. exempt (f) AMOUNT. – Except as otherwise provided under this Act, the amount of a grant under this section to a recipient for a fiscal year shall be – (1) in the case of a recipient whose grant beneficiary is a single Indian tribe, the amount of the allocation under section 301 for the Indian tribe; and (2) in the case of a recipient whose grant beneficiary is more than 1 Indian tribe, the sum of the amounts of the allocations under section 301 for each such Indian tribe. **Title III: 301. Annual Allocation** For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this Act for the fiscal year, in accordance with the formula established pursuant to section 302, among Indian tribes that comply with the requirements under this Act for a grant under this Act. **Title III: 302. Allocation Formula** (a) ESTABLISHMENT. – The Secretary shall, by regulations issued not later than the expiration of the 12–month period beginning on the date of the enactment of this Act, in the manner provided under section 106, establish a formula to *Continued on the next page*

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	provide for allocating amounts available for a fiscal year for block grants under this Act among Indian tribes in accordance with the requirements of this section. (b) FACTORS FOR DETERMINATION OF NEED. – The formula shall be based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities, including the following factors: (1) The number of low–income housing dwelling units owned or operated at the time pursuant to a contract between an Indian housing authority for the tribe and the Secretary. (2) The extent of poverty and economic distress and the number of Indian families within Indian areas of the tribe. (3) Other objectively measurable conditions as the Secretary and the Indian tribes may specify. (c) OTHER FACTORS FOR CONSIDERATION. – In establishing the formula, the Secretary shall consider – (1) the relative administrative capacities and other challenges faced by the recipient, including, but not limited to geographic distribution within the Indian area and technical capacity; and (2) the extent to which terminations of assistance under title V will affect funding available to State recognized tribes. (d) FUNDING FOR PUBLIC HOUSING OPERATION AND MODERNIZATION. – (1) FULL FUNDING. – The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is equal to or greater than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the total amount of such operating and modernization assistance provided for fiscal year 1996 for such tribe. *Continued on the next page*

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	(2) PARTIAL FUNDING. – The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is less than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the amount that bears the same ratio to the total amount available for assistance under this Act for such fiscal year that the amount of operating and modernization assistance provided for the tribe for fiscal year 1996 bears to the total amount made available for fiscal year 1996 for assistance for the operation and modernization of such public housing. (e) EFFECTIVE DATE. – This section shall take effect on the date of the enactment of this Act. **Title V: 460. Ineligibility of Indian Tribes** "Indian tribes, Indian housing authorities, and other agencies primarily serving Indians or Indian areas shall not be eligible applicants for amounts made available for assistance under this subtitle for fiscal year 1997 and fiscal years thereafter." (a) APPLICABILITY. – The amendments under subsection (a) shall apply with respect to amounts made available for assistance under subtitle D of title II of the Cranston–Gonzalez National Affordable Housing Act for fiscal year 1998 and fiscal years thereafter. **Title V: 502. Termination of Indian Housing Assistance Under United States Housing Act of 1937** (a) TERMINATION OF ASSISTANCE. – After September 30, 1997, financial assistance may not be provided under the United States Housing Act of 1937 or pursuant to any commitment entered into under such Act, for Indian housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority, unless such assistance is provided from amounts made available for fiscal year 1997 and pursuant to a commitment entered into before September 30, 1997. *Continued on the next page*

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	(b) TERMINATION OF RESTRICTIONS ON USE OF INDIAN HOUSING. – After September 30, 1997, any housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall not be subject to any provision of such Act or any annual contributions contract or other agreement pursuant to such Act, but shall be considered and maintained as affordable housing for purposes of this Act. **Title V: 503. Termination of New Commitments for Rental Assistance** After September 30, 1997, financial assistance for rental housing assistance under the United States Housing Act of 1937 may not be provided to any Indian housing authority or tribally designated housing entity, unless such assistance is provided pursuant to a contract for such assistance entered into by the Secretary and the Indian Housing Authority before such date. Any such assistance provided pursuant to such a contract shall be governed by the provisions of the United States Housing Act of 1937 (as in effect before the date of the effectiveness of this Act) and the provisions of such contract. **Title V: 504. Termination of Youthbuild Program Assistance** (a) IN GENERAL. – Subtitle D of title IV of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.) is amended – (1) by redesignating section 460 as section 461; and (2) by inserting after section 459 the following new section: **Title V: 505. Termination of Home Program Assistance** (a) IN GENERAL. – Title II of the Cranston–Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended – (1) in section 217(a) – (A) in paragraph (1), by striking "reserving amounts under paragraph (2) for Indian tribes and after"; and (B) by striking paragraph (2); and *Continued on the next page*

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	(2) in section 288 – (A) in subsection (a), by striking ", Indian tribes,"; (B) in subsection (b), by striking ", Indian tribe,"; and (C) in subsection (c)(4), by striking ", Indian tribe,". (b) APPLICABILITY. – The amendments under subsection (a) shall apply with respect to amounts made available for assistance under title II of the Cranston–Gonzalez National Affordable Housing Act for fiscal year 1998 and fiscal years thereafter. **Title V: 506. Termination of Housing Assistance for the Homeless** (a) MCKINNEY ACT PROGRAMS. – Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended – (1) in section 411, by striking paragraph (10); (2) in section 412, by striking ", and for Indian tribes,"; (3) in section 413 – (A) in subsection (a) – (i) by striking ", and to Indian tribes,"; and (ii) by striking ", or for Indian tribes" each place it appears; (B) in subsection (c), by striking "or Indian tribe"; and (C) in subsection (d)(3) – (i) by striking ", or Indian tribe" each place it appears; and (ii) by striking ", or other Indian tribes,"; (4) in section 414(a) – (A) by striking "or Indian tribe" each place it appears; and (B) by striking ", local government," each place it appears and inserting "or local government"; (5) in section 415(c)(4), by striking "Indian tribes,"; *Continued on the next page*

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Funding Availability	Funding Availability
	(6) in section 416(b), by striking "Indian tribe,"; (7) in section 422 – (A) by striking "Indian tribe,"; and (B) by striking paragraph (3); (8) in section 441 – (A) by striking subsection (g); (B) in subsection (h), by striking "or Indian housing authority"; and (C) in subsection (j)(1), by striking ", Indian housing authority"; (9) in section 462 – (A) in paragraph (2), by striking ", Indian tribe,"; and (B) by striking paragraph (4); and (10) in section 491(e), by striking ", Indian tribes (as such term is defined in section 102(a) of the Housing and Community Development Act of 1974),". (b) INNOVATIVE HOMELESS DEMONSTRATION. – Section 2(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 11301 note) is amended – (1) in paragraph (3), by striking "'unit of general local government', and 'Indian tribe'" and inserting "and 'unit' of general local government'"; and (2) in paragraph (4), by striking "unit of general local government (including units in rural areas), or Indian tribe" and inserting "or unit of general local government". (c) APPLICABILITY. – The amendments under subsections (a) and (b) shall apply with respect to amounts made available for assistance under title IV of the Stewart B. McKinney Homeless Assistance Act and section 2 of the HUD Demonstration Act of 1993, respectively, for fiscal year 1998 and fiscal years thereafter. *Continued on the next page*

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Funding Availability	**Funding Availability**
	Title V: 507. Savings Provision (a) EXISTING RIGHTS AND DUTIES. – Except as provided in sections 502 and 503, this Act may not be construed to affect the validity of any right, duty, or obligation of the United States or other person arising under or pursuant to any commitment or agreement lawfully entered into before October 1, 1997, under the United States Housing Act of 1937, subtitle D of title IV of the Cranston–Gonzalez National Affordable Housing Act, title II of the Cranston–Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act, or section 2 of the HUD Demonstration Act of 1993. (a) OBLIGATIONS UNDER REPEALED PROVISIONS. – Notwithstanding the amendments made by this title, any obligation of the Secretary made under or pursuant to subtitle D of title IV of the Cranston–Gonzalez National Affordable Housing Act, title II of the Cranston–Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act, or section 2 of the HUD Demonstration Act of 1993 shall continue to be governed by the provisions of such Acts (as in effect before the date of the effectiveness of the amendments made by this title). **Title V: 508. Effective Date** Section 502, 503, and 507 shall take effect on the date of the enactment of this Act.

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Regulation Cite	**Statute Cite**
Eligible Recipients	**Eligible Recipients**
1000.202 Who are eligible recipients? Eligible recipients are Indian tribes, or TDHEs when authorized by one or more Indian tribes. **1000.204 How does an Indian tribe designate itself as recipient of the grant?** (a) By resolution of the Indian tribe; or (b) When such authority has been delegated by an Indian tribe's governing body to a tribal committee(s), by resolution or other written form used by such committee(s) to memorialize the decisions of that body, if applicable. **1000.206 How is a TDHE designated?** (a)(1) By resolution of the Indian tribe or Indian tribes to be served; or (2) When such authority has been delegated by an Indian tribe's governing body to a tribal committee(s), by resolution or other written form used by such committee(s) to memorialize the decisions of that body, if applicable. (b) In the absence of a designation by the Indian tribe, the default designation as provided in section 4(21) of NAHASDA shall apply. **1000.208 What happens if an Indian tribe had two IHAs as of September 30, 1996?** Indian tribes which had established and were operating two IHAs as of September 30, 1996, under the 1937 Act shall be allowed to form and operate two TDHEs under NAHASDA. Nothing in this section shall affect the allocation of funds otherwise due to an Indian tribe under the formula. **1000.210 What happens to existing 1937 Act units in those jurisdictions for which Indian tribes do not or cannot submit an IHP?** NAHASDA does not provide the statutory authority for HUD to grant NAHASDA grant funds to an Indian housing authority, Indian tribe or to a default TDHE which cannot obtain a tribal certification, if the requisite IHP is not submitted by an Indian tribe or is determined to be out of compliance by HUD. There may be circumstances where this may happen, and in those cases, other methods of tribal, Federal, or private market support may have to be sought to maintain and operate those 1937 Act units.	**Section 4(21). Definitions** (21) TRIBALLY DESIGNATED HOUSING ENTITY. – The terms "tribally designated housing entity" and "housing entity" have the following meaning: (A) EXISTING IHA'S. – With respect to any Indian tribe that has not taken action under subparagraph (B), and for which an Indian housing authority – (i.) was established for purposes of the United States Housing Act of 1937 before the date of the enactment of this Act that meets the requirements under the United States Housing Act of 1937, (ii.) is acting upon such date of enactment as the Indian housing authority for the tribe, and (iii.) is not an Indian tribe for purposes of this Act, the terms mean such Indian housing authority. (B) OTHER ENTITIES. – With respect to any Indian tribe that, pursuant to this Act, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this Act for affordable housing for Indians, which entity is established – (i.) by exercise of the power of self–government of one or more Indian tribes independent of State law, or (ii.) by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska, the terms mean such entity. (C) ESTABLISHMENT. – A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity. *Continued on the next page*

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Regulation Cite	**Statute Cite**
Eligible Recipients	**Eligible Recipients**
	Title I: 102(d)(e). Indian Housing Plans (d) PARTICIPATION OF TRIBALLY DESIGNATED HOUSING ENTITY. – A plan under this section for an Indian tribe may be prepared and submitted on behalf of the tribe by the tribally designated housing entity for the tribe, but only if such plan contains a certification by the recognized tribal government of the grant beneficiary that such tribe – (1) has had an opportunity to review the plan and has authorized the submission of the plan by the housing entity; or (2) has delegated to such tribally designated housing entity the authority to submit a plan on behalf of the tribe without prior review by the tribe. (e) COORDINATION OF PLANS. – A plan under this section may cover more than 1 Indian tribe, but only if the certification requirements under subsection (d) are complied with by each such grant beneficiary covered.

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Regulation Cite	**Statute Cite**
Submitting an IHP	**Submitting an IHP**
1000.212 Is submission of an IHP required? Yes. An Indian tribe or, with the consent of its Indian tribe(s), the TDHE, must submit an IHP to HUD to receive funding under NAHASDA, except as provided in section 101 (b)(2) of NAHASDA. If a TDHE has been designated by more than one Indian tribe, the TDHE can submit a separate IHP for each Indian tribe or it may submit a single IHP based on the requirements of 1000.220 with the approval of the Indian tribes. **1000.214 What is the deadline for submission of an IHP?** IHPs must be initially sent by the recipient to the Area ONAP no later than July 1. Grant funds cannot be provided until the plan is submitted and determined to be in compliance with section 102 of NAHASDA and funds are available. **1000.216 What happens if the recipient does not submit the IHP to the Area ONAP by July 1?** If the IHP is not initially sent by July 1, the recipient will not be eligible for IHBG funds for that fiscal year. Any funds not obligated because an IHP was not received before the deadline has passed shall be distributed by formula in the following year. **1000.218 Who prepares and submits an IHP?** An Indian tribe, or with the authorization of an Indian tribe, in accordance with section 102(d) of NAHASDA a TDHE may prepare and submit a plan to HUD.	**Title I: 101(b). Block Grants** (b) PLAN REQUIREMENT. – (1) IN GENERAL. – The Secretary may make a grant under this Act on behalf of an Indian tribe for a fiscal year only if – (A) the Indian tribe has submitted to the Secretary an Indian housing plan for such fiscal year under section 102; and (B) the plan has been determined under section 103 to comply with the requirements of section 102. (2) WAIVER. – The Secretary may waive the applicability of the requirements under paragraph (1), in whole or in part, if the Secretary finds that an Indian tribe has not complied or cannot comply with such requirements due to circumstances beyond the control of the tribe. **Title I: 102(a)(d). Indian Housing Plans** (a) PLAN SUBMISSION. – The Secretary shall provide – (1) (A) for an Indian tribe to submit to the Secretary, for each fiscal year, a housing plan under this section for the tribe; or (B) for the tribally designated housing entity for the tribe to submit the plan as provided in subsection (d) for the tribe; and (2) or the review of such plans. (d) PARTICIPATION OF TRIBALLY DESIGNATED HOUSING ENTITY. – A plan under this section for an Indian tribe may be prepared and submitted on behalf of the tribe by the tribally designated housing entity for the tribe, but only if such plan contains a certification by the recognized tribal government of the grant beneficiary that such tribe – (1) has had an opportunity to review the plan and has authorized the submission of the plan by the housing entity; or (2) has delegated to such tribally designated housing entity the authority to submit a plan on behalf of the tribe without prior review by the tribe.

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IHP Requirements	**IHP Requirements**
1000.220 What are the minimum requirements for the IHP? The minimum IHP requirements are set forth in sections 102(b) and 102(c) of NAHASDA. In addition, 1000.56, 1000.108, 1000.120, 1000.134, 1000.142, 1000.238, 1000.328, and 1000.504 require or permit additional items to be set forth in the IHP for HUD determinations required by those sections. Recipients are only required to provide IHPs that contain these minimum elements in a form prescribed by HUD. If a TDHE is submitting a single IHP that covers two or more Indian tribes, the IHP must contain a separate certification in accordance with section 102(d) of NAHASDA and IHP Tables for each Indian tribe when requested by such Indian tribes. However, Indian tribes are encouraged to perform comprehensive housing needs assessments and develop comprehensive IHPs and not limit their planning process to only those housing efforts funded by NAHASDA. An IHP should be locally driven. **1000.222 Are there separate IHP requirements for small Indian tribes and small TDHEs?** No. HUD requirements for IHPs are reasonable. **1000.224 Can any part of the IHP be waived?** Yes, HUD has general authority under section 101(b)(2) of NAHASDA to waive any IHP requirements when an Indian tribe cannot comply with IHP requirements due to circumstances beyond its control. The waiver authority under section 101(b)(2) of NAHASDA provides flexibility to address the needs of every Indian tribe, including small Indian tribes. The waiver may be requested by the Indian tribe or its TDHE (if such authority is delegated by the Indian tribe). **1000.226 Can the certification requirements of section 102(c)(5) of NAHASDA be waived by HUD?** Yes. HUD may waive these certification requirements as provided in section 101(b)(2) of NAHASDA.	**Title I: 101(b)(2). Block Grants** (b) PLAN REQUIREMENT. – (2) WAIVER. – The Secretary may waive the applicability of the requirements under paragraph (1), in whole or in part, if the Secretary finds that an Indian tribe has not complied or cannot comply with such requirements due to circumstances beyond the control of the tribe. **Title I: 102(b)(c)(d)(f)(g). Indian Housing Plans** (b) 5–YEAR PLAN. – Each housing plan under this section shall be in a form prescribed by the Secretary and shall contain, with respect to the 5–year period beginning with the fiscal year for which the plan is submitted, the following information: (1) MISSION STATEMENT. – A general statement of the mission of the Indian tribe to serve the needs of the low–income families in the jurisdiction of the Indian tribe during the period. (2) GOALS AND OBJECTIVES. – A statement of the goals and objectives of the Indian tribe to enable the tribe to serve the needs identified in paragraph (1) during the period. (3) ACTIVITIES PLAN. – An overview of the activities planned during the period including an analysis of the manner in which the activities will enable the tribe to meet its mission, goals, objectives. (c) 1–YEAR PLAN. – A housing plan under this section for an Indian tribe shall be in a form prescribed by the Secretary and contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available: (1) GOALS AND OBJECTIVES. – A statement of the goals and objectives to be accomplished during that period. (2) STATEMENT OF NEEDS. – A statement of the housing needs of the low–income Indian families residing in the jurisdiction of the Indian tribe and the means by which such needs will be addressed during the period, including – *Continued on the next page*

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IHP Requirements	**IHP Requirements**
	(A) a description of the estimated housing needs and the need for assistance for the low–income Indian families in the jurisdiction, including a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance; and (B) a description of the estimated housing needs for all Indian families in the jurisdiction. (3) FINANCIAL RESOURCES. – An operating budget for the recipient, in a form prescribed by the Secretary, that includes – (A) an identification and a description of the financial resources reasonably available to the recipient to carry out the purposes of this Act, including an explanation of the manner in which amounts made available will leverage additional resources; and (B) the uses to which such resources will be committed, including eligible and required affordable housing activities under title II and administrative expenses. (4) AFFORDABLE HOUSING RESOURCES. – A statement of the affordable housing resources currently available and to be made available during the period, including – (A) a description of the significant characteristics of the housing market in the jurisdiction, including the availability of housing from other public sources, private market housing, and the manner in which such characteristics influence the decision of the recipient to use grant amounts to be provided under this Act for rental assistance, production of new units, acquisition of existing units, or rehabilitation of units; (B) a description of the structure, coordination, and means of cooperation between the recipient and any other governmental entities in the development, submission, or implementation of housing plans, including a description of the involvement of private, public, and nonprofit organizations and institutions, and the use of *Continued on the next page*

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IHP Requirements	**IHP Requirements**
	loan guarantees under section 184 of the Housing and Community Development Act of 1992, and other housing assistance provided by the Federal Government for Indian tribes, including loans, grants, and mortgage insurance; (C) a description of the manner in which the plan will address the needs identified pursuant to paragraph (2); (D) a description of the manner in which the recipient will protect and maintain the viability of housing owned and operated by the recipient that was developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937; (E) a description of any existing and anticipated homeownership programs and rental programs to be carried out during the period, and the requirements and assistance available under such programs; (F) a description of any existing and anticipated housing rehabilitation programs necessary to ensure the long–term viability of the housing to be carried out during the period, and the requirements and assistance available under such programs; (G) a description of all other existing or anticipated housing assistance provided by the recipient during the period, including transitional housing, homeless housing, college housing, supportive services housing, and the requirements and assistance available under such programs; (H) a description of any housing to be demolished or disposed of, a timetable for such demolition or disposition, and any other information required by the Secretary with respect to such demolition or disposition; (I) a description of the manner in which the recipient will coordinate with tribal and State welfare agencies to ensure that residents of such housing will be provided with access to resources to assist in obtaining employment and achieving self–sufficiency; *Continued on the next page*

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IHP Requirements	**IHP Requirements**
	(J) a description of the requirements established by the recipient to promote the safety of residents of such housing, facilitate the undertaking of crime prevention measures, allow resident input and involvement, including the establishment of resident organizations, and allow for the coordination of crime prevention activities between the recipient and tribal and local law enforcement officials; and (K) a description of the entity that will carry out the activities under the plan, including the organizational capacity and key personnel of the entity. (5) CERTIFICATION OF COMPLIANCE. – Evidence of compliance which shall include as appropriate – (A) a certification that the recipient will comply with title II of the Civil Rights Act of 1968 in carrying out this Act, to the extent that such title is applicable, and other applicable Federal statutes; (B) a certification that the recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this Act, in compliance with such requirements as may be established by the Secretary; (C) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act; (D) a certification that policies are in effect and are available for review by the Secretary and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this Act; and (E) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this Act. *Continued on the next page*

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Regulation Cite	**Statute Cite**
IHP Requirements	**IHP Requirements**
	(d) PARTICIPATION OF TRIBALLY DESIGNATED HOUSING ENTITY. – A plan under this section for an Indian tribe may be prepared and submitted on behalf of the tribe by the tribally designated housing entity for the tribe, but only if such plan contains a certification by the recognized tribal government of the grant beneficiary that such tribe – (1) has had an opportunity to review the plan and has authorized the submission of the plan by the housing entity; or (2) has delegated to such tribally designated housing entity the authority to submit a plan on behalf of the tribe without prior review by the tribe. (f) PLANS FOR SMALL TRIBES. – (1) SEPARATE REQUIREMENTS. – The Secretary may – (A) establish requirements for submission of plans under this section and the information to be included in such plans applicable to small Indian tribes and small tribally designated housing entities; and (B) waive any requirements under this section that the Secretary determines are burdensome or unnecessary for such tribes and housing entities. (2) SMALL TRIBES. – The Secretary may define small Indian tribes and small tribally designated housing entities based on the number of dwelling units assisted under this title by the tribe or housing entity or owned or operated pursuant to a contract under the United States Housing Act of 1937 between the Secretary and the Indian housing authority for the tribe. (g) REGULATIONS. – The requirements relating to the contents of plans under this section shall be established by regulation, pursuant to section 106. **Title II: 206. Certification of Compliance with Subsidy Layering Requirements** With respect to housing assisted with grant amounts provided under this Act, the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be considered to be satisfied upon certification by the Secretary that the combination of Federal assistance provided to any housing project is not any more than is necessary to provide affordable housing. *Continued on the next page*

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Regulation Cite	**Statute Cite**
IHP Requirements	**IHP Requirements**
	Title IV: 408. Public Availability of Information Each recipient shall make any housing plan, policy, or annual report prepared by the recipient available to the general public.

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Regulation Cite	**Statute Cite**
IHP Review	**IHP Review**
1000.228 If HUD changes its IHP format will Indian tribes be involved? Yes. HUD will first consult with Indian tribes before making any substantial changes to HUD's IHP format. **1000.230 What is the process for HUD review of IHPs and IHP amendments?** HUD will conduct the IHP review in the following manner: (a) HUD will conduct a limited review of the IHP to ensure that its contents; (1) Comply with the requirements of section 102 of NAHASDA which outlines the IHP submission requirements; (2) Are consistent with information and data available to HUD; (3) Are not prohibited by or inconsistent with any provision of NAHASDA or other applicable law; and (4) Include the appropriate certifications. (b) If the IHP complies with the provisions of paragraphs (a) (1),(a)(2), and (a)(3) of this section, HUD will notify the recipient of IHP compliance within 60 days after receiving the IHP. If HUD fails to notify the recipient, the IHP shall be considered to be in compliance with the requirements of section 102 of NAHASDA and the IHP is approved. (c) If the submitted IHP does not comply with the provisions of paragraphs (a)(1), and (a)(3) of this section, HUD will notify the recipient of the determination of non–compliance. HUD will provide this notice no later than 60 days after receiving the IHP. This notice will set forth: (1) The reasons for noncompliance; (2) The modifications necessary for the IHP to meet the submission requirements and (3) The date by which the revised IHP must be submitted. (d) If the recipient does not submit a revised IHP by the date indicated in the notice provided under paragraph (c) of this section, the IHP will be determined by HUD to be in non–compliance unless a waiver is requested and approved under section 101(b)(2) of NAHASDA. If the IHP is determined by HUD to be in non–compliance and no waiver is granted, the recipient may appeal this determination following the appeal process in 1000.234. (e)(1) If the IHP does not contain the certifications identified in paragraph (a)(4) of this section, the recipient will be notified within 60 days of submission of the IHP that the plan is incomplete. The notification will include a date by which the certification must be submitted. *Continued on the next page*	**Title I: 103. Review of Plans** (a) REVIEW AND NOTICE. – (1) REVIEW. – The Secretary shall conduct a limited review of each Indian housing plan submitted to the secretary to ensure that the plan complies with the requirements of section 102. The Secretary shall have the discretion to review a plan only to the extent that the Secretary considers review is necessary. (2) NOTICE. – The Secretary shall notify each Indian tribe for which a plan is submitted and any tribally designated housing entity for the tribe whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the Indian tribe, as required under this subsection and subsection (b), the plan shall be considered, for purposes of this Act, to have been determined to comply with the requirements under section 102 and the tribe shall be considered to have been notified of compliance upon the expiration of such 60–day period. (b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE. – If the Secretary determines that a plan, as submitted, does not comply with the requirements under section 102, the Secretary shall specify in the notice under subsection (a) the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 102. (c) REVIEW. – After submission of the Indian housing plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan – (1) set forth the information required by section 102 to be contained in an Indian housing plan; (2) are consistent with information and data available to the Secretary; and (3) are not prohibited by or inconsistent with any provision of this Act or other applicable law. *Continued on the next page*

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Regulation Cite	**Statute Cite**
IHP Review	**IHP Review**
(2) If the recipient has not complied or cannot comply with the certification requirements due to circumstances beyond the control of the Indian tribe(s), within the timeframe established, the recipient can request a waiver in accordance with section 101(b)(2) of NAHASDA. If the waiver is approved, the recipient is eligible to receive its grant in accordance with any conditions of the waiver. **1000.232 Can an Indian tribe or TDHE amend its IHP?** Yes. Section 103(c) of NAHASDA specifically provides that a recipient may submit modifications or revisions of its IHP to HUD. Unless the initial IHP certification provided by an Indian tribe allowed for the submission of IHP amendments without further tribal certifications, a tribal certification must accompany submission of IHP amendments by a TDHE to HUD. HUD's review of an amendment and determination of compliance will be limited to modifications of an IHP which adds new activities or involve a decrease in the amount of funds provided to protect and maintain the viability of housing assisted under the 1937 act. HUD will consider these modifications to the IHP in accordance with 1000.230. HUD will act on amended IHPs within 30 days. **1000.234 Can HUD's determination regarding the non–compliance of an IHP or a modification to an IHP be appealed?** (a) Yes. Within 30 days of receiving HUD's disapproval of an IHP or of a modification to an IHP, the recipient may submit a written request for reconsideration of the determination. The request shall include the justification for the reconsideration. (b) Within 21 days of receiving the request, HUD shall reconsider this initial determination and provide the recipient with written notice of its decision to affirm, modify, or reverse its initial determination. This notice will also contain the reasons for HUD's decision. (c) The recipient may appeal any denial of reconsideration by filing an appeal with the Assistant Secretary within 21 days of receiving the denial. The appeal shall set forth the reasons why the recipient does not agree with HUD's decision and include justification for the reconsideration. (d) Within 21 days of receipt of the appeal, the Assistant Secretary shall review the recipient's appeal and act on the appeal. The Assistant Secretary will provide written notice to the recipient setting forth the reasons for the decision. The Assistant Secretary's decision constitutes final agency action.	If the Secretary determines that any of the appropriate certifications required under section 102(c)(5) are not included in the plan, the plan shall be deemed to be incomplete. (d) UPDATES TO PLAN – After a plan under section 102 has been submitted for an Indian tribe for any fiscal year, the tribe may comply with the provisions of such section for any succeeding fiscal year (with respect to information included for the 5–year period under section 102(b) or the 1–year period under section 102(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted. Not less than once every 5 years, the tribe shall submit a complete plan. (e) EFFECTIVE DATE. – This section and section 102 shall take effect on the date provided by the Secretary pursuant to section 106(a) to provide for timely submission and review of Indian housing plan as necessary for the provision of assistance under this Act in fiscal year 1998.

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Regulation Cite	**Statute Cite**
Administration and Planning	**Administration and Planning**
1000.236 What are eligible administrative and planning expenses? (a) Eligible administrative and planning expenses of the IHBG program include, but are not limited to: (1) Costs of overall program and/or administrative management; (2) Coordination of monitoring and evaluation; (3) Preparation of the IHP including data collection and transition costs; (4) Preparation of the annual performance report; and (5) Challenge to and collection of data for purposes of challenging the formula. (b) Staff and overhead costs directly related to carrying out affordable housing activities can be determined to be eligible costs of the affordable housing activity or considered administration or planning at the discretion of the recipient. **1000.238 What percentage of the IHBG funds can be used for administrative and planning expenses?** The recipient can use up to 20 percent of its annual grant amount for administration and planning. The recipient shall identify the percentage of grant funds which will be used in the IHP. HUD approval is required if a higher percentage is requested by the recipient. When HUD approval is required, HUD must take into consideration any cost of preparing the IHP, challenges to and collection of data, the recipient's grant amount, approved cost allocation plans, and any other relevant information with special consideration given to the circumstances of recipients receiving minimal funding.	**Title I: 101(h). Block Grants** (h) ADMINISTRATIVE EXPENSES. – The Secretary shall, by regulation, authorize each recipient to use a percentage of any grant amounts received under this Act for any reasonable administrative and planning expenses of the recipient relating to carrying out this Act, and activities assisted with such amounts, which may include costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this Act and expenses of preparing an Indian housing plan under section 102.

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Regulation Cite	**Statute Cite**
Local Cooperation Agreements	**Local Cooperation Agreements**
1000.240 When is a local cooperation agreement required for affordable housing activities? The requirement for a local cooperation agreement applies only to rental and lease–purchase homeownership units assisted with IHBG funds which are owned by the Indian tribe or TDHE.	**Title I: 101(c). Block Grants** (c) LOCAL COOPERATION AGREEMENT. – Notwithstanding any other provision of this Act, grant amounts provided under this Act on behalf of an Indian tribe may not be used for rental or lease–purchase homeownership units that are owned by the recipient for the tribe unless the governing body of the locality within which the property subject to the development activities to be assisted with the grant amounts is or will be situated has entered into an agreement with the recipient for the tribe providing for local cooperation required by the Secretary pursuant to this Act.

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Regulation Cite	**Statute Cite**
Tax Exemptions	**Tax Exemptions**
1000.242 When does the requirement for exemption from taxation apply to affordable housing activities? The requirement for exemption from taxation applies only to rental and lease–purchase homeownership units assisted with IHBG funds which are owned by the Indian tribe or TDHE.	**Title I: 101(d)(e). Block Grants** (d) EXEMPTION FROM TAXATION. – Notwithstanding any other provision of this Act, grant amounts provided under this Act on behalf of an Indian tribe may not be used for affordable housing activities under this Act for rental or lease–purchase dwelling units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or with amounts provided under this Act that are owned by the recipient for the tribe unless – (1) such dwelling units (which, in the case of units in a multi–unit project, shall be exclusive of any portions of the project not developed under the United States Housing Act of 1937 or with amounts provided under this Act) are exempt from all real and personal property taxes levied or imposed by any State, tribe, city, county or other political subdivision; and (2) the recipient for the tribe makes annual payments of user fees to compensate such governments for the costs of providing governmental services, including police and fire protection, roads, water and sewerage systems, utilities systems and related facilities, or payments in lieu of taxes to such taxing authority, in an amount equal to the greater of $150 per dwelling unit or 10 percent of the difference between the shelter rent and the utility cost, or such lesser amount as – (A) is prescribed by State, tribal, or local law; (B) is agreed to by the local governing body in the agreement under subsection (c); or (C) the recipient and the local governing body agree that such user fees or payments in lieu of taxes shall not be made. (e) EFFECT OF FAILURE TO EXEMPT FROM TAXATION. – Notwithstanding subsection (d), a grant recipient that does not comply with the requirements under such subsection may receive a block grant under this Act, but only if the tribe, State, city, county, or other political subdivision in which the affordable housing development is located contributes, in the form of cash or tax remission, the amount by which the taxes paid with respect to the development exceed the amounts prescribed in subsection (d)(2).

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Regulation Cite	**Statute Cite**
Purpose of Formula	**Purpose of Formula**
Subpart D — Allocation Formula **1000.301 What is the purpose of the IHBG formula?** The IHBG formula is used to allocate equitably and fairly funds made available through NAHASDA among eligible Indian tribes. A TDHE may be a recipient on behalf of an Indian tribe.	**Section 4(7)(12)(21). Definitions** (7) GRANT BENEFICIARY. – The term "grant beneficiary" means the Indian tribe or tribes on behalf of which a grant is made under this Act to a recipient. (12) INDIAN TRIBE. – (A) IN GENERAL. – The term "Indian tribe" means a tribe that is a federally recognized tribe or a State recognized tribe. (B) FEDERALLY RECOGNIZED TRIBE. – The term "federally recognized tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self–Determination and Education Assistance Act of 1975. (C) STATE RECOGNIZED TRIBE. – (i.) IN GENERAL. – The term "State recognized tribe" means any tribe, band, nation, pueblo, village, or community – (I.) that has been recognized as an Indian tribe by any State; and (II.) for which an Indian Housing Authority has, before the effective date under section 705, entered into a contract with the secretary pursuant to the United States Housing Act of 1937 for housing for Indian families and has received funding pursuant to such contract within the 5–year period ending upon such effective date. (ii.) CONDITIONS. – Notwithstanding clause (i) – (I.) the allocation formula under section 302 shall be determined for a State recognized tribe under tribal membership eligibility criteria in existence on the date of the enactment of this Act; and *Continued on the next page*

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Purpose of Formula	**Purpose of Formula**
	(II.) nothing in this paragraph shall be construed to confer upon a State recognized tribe any rights, privileges, responsibilities, or obligations otherwise accorded groups recognized as Indian tribes by the United States for other purposes. (21) TRIBALLY DESIGNATED HOUSING ENTITY. – The terms "tribally designated housing entity" and "housing entity" have the following meaning: (A) EXISTING IHA'S. – With respect to any Indian tribe that has not taken action under subparagraph (B), and for which an Indian housing authority – (i.) was established for purposes of the United States Housing Act of 1937 before the date of the enactment of this Act that meets the requirements under the United States Housing Act of 1937, (ii.) is acting upon such date of enactment as the Indian housing authority for the tribe, and (iii.) is not an Indian tribe for purposes of this Act, the terms mean such Indian housing authority. (B) OTHER ENTITIES. – With respect to any Indian tribe that, pursuant to this Act, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this Act for affordable housing for Indians, which entity is established – (i.) by exercise of the power of self–government of one or more Indian tribes independent of State law, or (ii.) by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska, the terms mean such entity. (C) ESTABLISHMENT. – A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity. *Continued on the next page*

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Regulation Cite	**Statute Cite**
Purpose of Formula	**Purpose of Formula**
	Title I: 101(a). Block Grants (a) AUTHORITY. – For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this Act) make grants under this section on behalf of Indian tribes to carry out affordable housing activities. Under such a grant on behalf of an Indian tribe, the Secretary shall provide the grant amounts for the tribe directly to the recipient for the tribe. **Title III: 301. Annual Allocation** For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this Act for the fiscal year, in accordance with the formula established pursuant to section 302, among Indian tribes that comply with the requirements under this Act for a grant under this Act.

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Regulation Cite	**Statute Cite**
Formula Definitions	**Formula Definitions**

1000.302 What are the definitions applicable for the IHBG formula?

Allowable Expense Level (AEL) factor. In rental projects, AEL is the per–unit–per–month dollar amount of expenses which was used to compute the amount of operating subsidy used prior to October 1, 1997 for the Low Rent units developed under the 1937 Act. The "AEL factor" is the relative difference between a local area AEL and the national weighted average for AEL.

Date of Full Availability (DOFA) means the last day of the month in which substantially all the units in a housing development are available for occupancy.

Fair Market Rent (FMR) factors are gross rent estimates; they include shelter rent plus the cost of all utilities except telephones. HUD estimates FMRs on an annual basis for 354 metropolitan FMR areas and 2,355 non–metropolitan county FMR areas. The "FMR factor" is the relative difference between a local area FMR and the national weighted average for FMR.

Formula Annual Income. For purposes of the IHBG formula, annual income is a household's total income as currently defined by the U.S. Census Bureau.

Formula area.

(1) Formula area is the geographic area over which an Indian tribe could exercise court jurisdiction or is providing substantial housing services and, where applicable, the Indian tribe or TDHE has agreed to provide housing services pursuant to a Memorandum of Agreement with the governing entity or entities (including Indian tribes) of the area, including but not limited to:

(i.) A reservation;

(ii.) Trust land;

(iii.) Alaska Native village Statistical Area;

(iv.) Alaska Native Claims Settlement Act Corporation Service Area;

(v.) Department of the Interior Near–Reservation Service Area;

(vi.) Former Indian Reservation Areas in Oklahoma as defined by the census as Tribal Jurisdictional Statistical Area;

(vii.) Congressionally Mandated Service Area; and

(viii.) State legislatively defined Tribal Areas as defined by the census as Tribal Designated Statistical Areas.

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Title I: 106. Regulations

(a) TRANSITION REQUIREMENTS. –

(1) IN GENERAL. – Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by notice issued in the Federal Register, establish any requirements necessary to provide for the transition (upon the effectiveness of this Act and the amendments made by this Act) from the provision of assistance for Indian tribes and Indian housing authorities under the United States Housing Act of 1937 and other related provisions of law to the provision of assistance in accordance with this Act and the amendments made by this Act.

(2) PUBLIC COMMENTS; GENERAL NOTICE OF PROPOSED RULEMAKING. – The notice issued under paragraph (1) shall –

(A) invite public comments regarding such transition requirements and final regulations to carry out this Act; and

(B) include a general notice of proposed rulemaking (for purposes of section 564(a) of title 5, United States Code) of the final regulations under subsection (b).

(b) FINAL REGULATIONS. –

(1) TIMING. – The Secretary shall issue final regulations necessary to carry out this Act not later than September 1, 1997, and such regulations shall take effect not later than the effective date of this Act.

(2) NEGOTIATED RULEMAKING PROCEDURE. –

(A) IN GENERAL. – Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, all regulations required under this Act shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code.

(B) COMMITTEE. –

(i.) IN GENERAL. – The Secretary shall establish a negotiated rulemaking committee, in accordance with the procedures under that subchapter, for the development of proposed regulations under subparagraph (A).

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(2) For additional areas beyond those identified in the above list of eight, the Indian tribe must submit on the Formula Response Form the area that it wishes to include in its Formula area and what previous and planned investment it has made in the area. HUD will review this submission and determine whether or not to include this area. HUD will make its judgment using as its guide whether this addition is fair and equitable for all Indian tribes in the formula. (3) In some cases the population data for an Indian tribe within its formula area is greater than its tribal enrollment. In general, for those cases to maintain fairness for all Indian tribes, the population data will not be allowed to exceed twice an Indian tribe's enrolled population. However, an Indian tribe subject to this cap may receive an allocation based on more than twice its total enrollment if it can show that it is providing housing assistance to substantially more non–member Indians and Alaska Natives who are members of another Federally recognized Indian tribe than it is to members. (4) In cases where an Indian tribe is seeking to receive an allocation more than twice its total enrollment, the tribal enrollment multiplier will be determined by the total number of Indians and Alaska Natives the Indian tribe is providing housing assistance (on July 30 of the year before funding is sought) divided by the number of members the Indian tribe is providing housing assistance. For example, an Indian tribe which provides housing to 300 Indians and Alaska Natives, of which 100 are members, would then be able to receive an allocation for up to three times in tribal enrollment if the Indian and Alaska Native population in the area is three or more times the tribal enrollment. *Formula Median Income.* For purposes of the formula median income is determined in accordance with section 567 of the Housing and Community Development Act of 1987 (42 U.S.C. 1437a note). *Formula Response Form* is the form recipients use to report changes to their Formula Current Assisted stock, formula area, and other formula related information before each year's formula allocation. *Indian Housing Authority (IHA) financed* means a homeownership program where title rests with the homebuyer and a security interest rests with the IHA. *Mutual Help Occupancy Agreement (MHOA)* means a lease with option to purchase contract between an IHA and a homebuyer under the 1937 Act. *Overcrowded* means households with more than 1.01 persons per room as defined by the U.S. Decennial Census. *Section 8* means the making of housing assistance payments to eligible families leasing existing housing pursuant to the provisions of the 1937 Act. *Section 8 unit* means the contract annualized housing assistance payments (certificates, vouchers, and project based) under the Section 8 program. *Continued on the next page*	(ii.) ADAPTATION. – In establishing the negotiated rulemaking committee, the Secretary shall – (I.) adapt the procedures under the subchapter described in clause (i) to the unique government–to–government relationship between the Indian tribes and the United States, and shall ensure that the membership of the committee include only representatives of the Federal Government and of geographically diverse small, medium, and large Indian tribes; and (II.) shall not preclude the participation of tribally designated housing entities should tribes elect to be represented by such entities. (c) EFFECTIVE DATE. – This section shall take effect on the date of the enactment of this Act. **Title III: 302(a). Allocation Formula** (a) ESTABLISHMENT. – The Secretary shall, by regulations issued not later than the expiration of the 12–month period beginning on the date of the enactment of this Act, in the manner provided under section 106, establish a formula to provide for allocating amounts available for a fiscal year for block grants under this Act among Indian tribes in accordance with the requirements of this section.

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Total Development Cost (TDC) is the sum of all costs for a project including all undertakings necessary for administration, planning, site acquisition, demolition, construction or equipment and financing (including payments of carrying charges) and for otherwise carrying out the development of the project, excluding off site water and sewer. Total Development Cost amounts will be based on a moderately designed house and will be determined by averaging the current construction costs as listed in not less than two nationally recognized residential construction cost indices. *Without kitchen or plumbing* means, as defined by the U.S. Decennial Census, an occupied house without one or more of the following items: (1) Hot and cold piped water; (2) A flush toilet; (3) A bathtub or shower; (4) A sink with piped water; (5) A range or cookstove; or (6) A refrigerator.	

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Regulation Cite	**Statute Cite**
Formula Modifications	**Formula Modifications**
1000.304 May the IHBG formula be modified? Yes, as long as any modification does not conflict with the requirements of NAHASDA. **1000.306 How can the IHBG formula be modified?** (a) The IHBG formula can be modified upon development of a set of measurable and verifiable data directly related to Indian and Alaska Native housing need. Any data set developed shall be compiled with the consultation and involvement of Indian tribes and examined and/or implemented not later than 5 years from the date of issuance of the regulations and periodically thereafter. (b) Furthermore, the IHBG formula shall be reviewed within five years to determine if subsidy is needed to operate and maintain NAHASDA units or any other changes are needed in respect to funding under the Formula Current Assisted Stock component of the formula. (c) During the five year review of housing stock for formula purposes, the Section 8 units shall be reduced by the same percentage as the current assisted rental stock has diminished since September 30, 1999. **1000.308 Who can make modifications to the IHBG formula?** HUD can make modifications in accordance with § 1000.304 and § 1000.306 provided that any changes proposed by HUD are published and made available for public comment in accordance with applicable law before their implementation.	**Title I: 106. Regulations** (a) TRANSITION REQUIREMENTS. – (1) IN GENERAL. – Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by notice issued in the Federal Register, establish any requirements necessary to provide for the transition (upon the effectiveness of this Act and the amendments made by this Act) from the provision of assistance for Indian tribes and Indian housing authorities under the United States Housing Act of 1937 and other related provisions of law to the provision of assistance in accordance with this Act and the amendments made by this Act. (2) PUBLIC COMMENTS; GENERAL NOTICE OF PROPOSED RULEMAKING. – The notice issued under paragraph (1) shall – (A) invite public comments regarding such transition requirements and final regulations to carry out this Act; and (B) include a general notice of proposed rulemaking (for purposes of section 564(a) of title 5, United States Code) of the final regulations under subsection (b). (b) FINAL REGULATIONS. – (1) TIMING. – The Secretary shall issue final regulations necessary to carry out this Act not later than September 1, 1997, and such regulations shall take effect not later than the effective date of this Act. (2) NEGOTIATED RULEMAKING PROCEDURE. – (A) IN GENERAL. – Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, all regulations required under this Act shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code. (B) COMMITTEE. – (i.) IN GENERAL. – The Secretary shall establish a negotiated rulemaking committee, in accordance with the procedures under that subchapter, for the development of proposed regulations under subparagraph (A). *Continued on the next page*

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Regulation Cite	Statute Cite
Formula Modifications	Formula Modifications
	(ii.) ADAPTATION. – In establishing the negotiated rulemaking committee, the Secretary shall – (I.) adapt the procedures under the subchapter described in clause (i) to the unique government–to–government relationship between the Indian tribes and the United States, and shall ensure that the membership of the committee include only representatives of the Federal Government and of geographically diverse small, medium, and large Indian tribes; and (II.) shall not preclude the participation of tribally designated housing entities should tribes elect to be represented by such entities. (c) EFFECTIVE DATE. – This section shall take effect on the date of the enactment of this Act. **Title III: 302(a). Allocation Formula** (a) ESTABLISHMENT. – The Secretary shall, by regulations issued not later than the expiration of the 12–month period beginning on the date of the enactment of this Act, in the manner provided under section 106, establish a formula to provide for allocating amounts available for a fiscal year for block grants under this Act among Indian tribes in accordance with the requirements of this section.

Department of Housing and Urban Development 24 CFR Part 1000 Implementation of the Native American Housing Assistance and Self-Determination Act of 1996, Final Rule	Native American Housing Assistance and Self-Determination Act of 1996, as amended October 21, 1998 P.L. 104-330 (25 U.S.C. 4101 — 4212)
Regulation Cite	**Statute Cite**
Current Assisted Stock Component	**Current Assisted Stock Component**
1000.310 What are the components of the IHBG formula? The IHBG formula consists of two components: (a) Formula Current Assisted Housing Stock (FCAS); and (b) Need. **1000.312 What is current assisted stock?** Current assisted stock consists of housing units owned or operated pursuant to an ACC. This includes all low rent, Mutual Help, and Turnkey III housing units under management as of September 30, 1997, as indicated in the Formula Response Form. **1000.314 What is formula current assisted stock?** Formula current assisted stock is current assisted stock as described in § 1000.312 plus 1937 Act units in the development pipeline when they become owned or operated by the recipient and are under management as indicated in the Formula Response Form. Formula current assisted stock also includes Section 8 units when their current contract expires and the Indian tribe continues to manage the assistance in a manner similar to the Section 8 program, as reported on the Formula Response Form. **1000.316 How is the Formula Current Assisted Stock (FCAS) Component developed?** The Formula Current Assisted Stock component consists of two elements. They are: (a) *Operating subsidy.* The operating subsidy consists of three variables which are: (1) The number of low–rent FCAS units multiplied by the FY 1996 national per unit subsidy (adjusted to full funding level) multiplied by an adjustment factor for inflation; (2) The number of Section 8 units whose contract has expired but had been under contract on September 30, 1997, multiplied by the FY 1996 national per unity subsidy adjusted for inflation; and (3) The number of Mutual Help and Turnkey III FCAS units multiplied by the FY 1996 national per unit subsidy (adjusted to full funding level) multiplied by an adjustment factor for inflation. (b) *Modernization allocation.* Modernization allocation consists of the number of Low Rent, Mutual Help, and Turnkey III FCAS units multiplied by the national per unit amount of allocation for FY 1996 modernization multiplied by an adjustment factor for inflation. *Continued on the next page*	**Title III: 302. Allocation Formula** (a) ESTABLISHMENT. – The Secretary shall, by regulations issued not later than the expiration of the 12–month period beginning on the date of the enactment of this Act, in the manner provided under section 106, establish a formula to provide for allocating amounts available for a fiscal year for block grants under this Act among Indian tribes in accordance with the requirements of this section. (b) FACTORS FOR DETERMINATION OF NEED. – The formula shall be based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities, including the following factors: (1) The number of low–income housing dwelling units owned or operated at the time pursuant to a contract between an Indian housing authority for the tribe and the Secretary. (2) The extent of poverty and economic distress and the number of Indian families within Indian areas of the tribe. (3) Other objectively measurable conditions as the Secretary and the Indian tribes may specify. (c) OTHER FACTORS FOR CONSIDERATION. – In establishing the formula, the Secretary shall consider – (1) the relative administrative capacities and other challenges faced by the recipient, including, but not limited to geographic distribution within the Indian area and technical capacity; and (2) the extent to which terminations of assistance under title V will affect funding available to State recognized tribes. (d) FUNDING FOR PUBLIC HOUSING OPERATION AND MODERNIZATION. – (1) FULL FUNDING. – The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is equal to or greater than the total amount made available for fiscal year 1996 for *Continued on the next page*

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Regulation Cite	**Statute Cite**
Current Assisted Stock Component	**Current Assisted Stock Component**
1000.317 Who is the recipient for funds for current assisted stock which is owned by state–created Regional Native Housing Authorities in Alaska? If housing units developed under the 1937 Act are owned by a state–created Regional Native Housing Authority in Alaska, and are not located on an Indian reservation, then the recipient for funds allocated for the current assisted stock portion of NAHASDA funds for the units is the regional Indian tribe. **1000.318 When do units under Formula Current Assisted Stock cease to be counted or expire from the inventory used for the formula?** (a) Mutual Help and Turnkey III units shall no longer be considered Formula Current Assisted Stock when the Indian tribe, TDHE, or IHA no longer has the legal right to own, operate, or maintain the unit, whether such right is lost by conveyance, demolition, or otherwise, provided that: (1) Conveyance of each Mutual Help or Turnkey III unit occurs as soon as practicable after a unit becomes eligible for conveyance by the terms of MHOA; and (2) The Indian tribe, TDHE, or IHA actively enforce strict compliance by the homebuyer with the terms and conditions of the MHOA, including the requirements for full and timely payment. (b) Rental units shall continue to be included for formula purposes as long as they continue to be operated as low income rental units by the Indian tribe, TDHE, or IHA. (c) Expired contract Section 8 units shall continue as rental units and be included in the formula as long as they are operated as low income rental units as included in the Indian tribe's or TDHE's Formula Response Form. **1000.320 How is Formula Current Assisted Stock adjusted for local area costs?** There are two adjustment factors that are used to adjust the allocation of funds for the Current Assisted Stock portion of the formula. They are: (a) Operating Subsidy as adjusted by the greater of the AEL factor or FMR factor (AELFMR); and (b) Modernization as adjusted by TDC. **1000.322 Are IHA financed units included in the determination of Formula Current Assisted Stock?** No. If these units are not owned or operated at the time (September 30, 1997) pursuant to an ACC then they are not included in the determination of Formula Current Assisted Stock.	assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the total amount of such operating and modernization assistance provided for fiscal year 1996 for such tribe. (2) PARTIAL FUNDING. – The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is less than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the amount that bears the same ratio to the total amount available for assistance under this Act for such fiscal year that the amount of operating and modernization assistance provided for the tribe for fiscal year 1996 bears to the total amount made available for fiscal year 1996 for assistance for the operation and modernization of such public housing. (e) EFFECTIVE DATE. – This section shall take effect on the date of the enactment of this Act.

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Regulation Cite	**Statute Cite**
Need Component	**Need Component**
1000.324 How is the need component developed? After determining the FCAS allocation, remaining funds are allocated by need component. The need component consists of seven criteria. They are: (a) American Indian and Alaskan Native (AIAN) Households with housing cost burden greater than 50 percent of formula annual income weighted at 22 percent; (b) AIAN Households which are overcrowded or without kitchen or plumbing weighted at 25 percent; (c) Housing Shortage which is the number of AIAN households with an annual income less than or equal to 80 percent of formula median income reduced by the combination of current assisted stock and units developed under NAHASDA weighted at 15 percent; (d) AIAN households with annual income less than or equal to 30 percent of formula median income weighted at 13 percent; (e) AIAN households with annual income between 30 percent and 50 percent of formula median income weighted at 7 percent; (f) AIAN households with annual income between 50 percent and 80 percent of formula median income weighted at 7 percent; (g) AIAN persons weighted at 11 percent. **1000.325 How is the need component adjusted for local area costs?** The need component is adjusted by the TDC. **1000.326 What if a formula area is served by more than one Indian tribe?** (a) If an Indian tribe's formula area overlaps with the formula area of one or more other Indian tribes, the funds allocated to that Indian tribe for the geographic area in which the formula areas overlap will be divided base on: (1) The Indian tribe's proportional share of the population in the overlapping geographic area; and (2) The Indian tribe's commitment to serve that proportional share of the population in such geographic area. (3) In cases where a State recognized Indian tribe's formula area overlaps with a Federally recognized Indian tribe, the Federally recognized Indian tribe receives the allocation for the overlapping area. *Continued on the next page*	**Title III: 302. Allocation Formula** (a) ESTABLISHMENT. – The Secretary shall, by regulations issued not later than the expiration of the 12–month period beginning on the date of the enactment of this Act, in the manner provided under section 106, establish a formula to provide for allocating amounts available for a fiscal year for block grants under this Act among Indian tribes in accordance with the requirements of this section. (b) FACTORS FOR DETERMINATION OF NEED. – The formula shall be based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities, including the following factors: (1) The number of low–income housing dwelling units owned or operated at the time pursuant to a contract between an Indian housing authority for the tribe and the Secretary. (2) The extent of poverty and economic distress and the number of Indian families within Indian areas of the tribe. (3) Other objectively measurable conditions as the Secretary and the Indian tribes may specify. (c) OTHER FACTORS FOR CONSIDERATION. – In establishing the formula, the Secretary shall consider – (1) the relative administrative capacities and other challenges faced by the recipient, including, but not limited to geographic distribution within the Indian area and technical capacity; and (2) the extent to which terminations of assistance under title V will affect funding available to State recognized tribes. (d) FUNDING FOR PUBLIC HOUSING OPERATION AND MODERNIZATION. – (1) FULL FUNDING. – The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is equal to or greater than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing *Continued on the next page*

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Regulation Cite	**Statute Cite**
Need Component	**Need Component**
(b) Tribal membership in the geographic area (not to include dually enrolled tribal members) will be based on data that all Indian tribes involved agree to use. Suggested data sources include tribal enrollment lists, Indian Health Service User Data, and Bureau of Indian Affairs data. (c) If the Indian tribes involved cannot agree on what data source to use, HUD will make the decision on what data will be used to divide the funds between the Indian tribes by August 1. **1000.327 What is the order of preference for allocating the IHBG formula needs data for Indian tribes in Alaska not located on reservations due to the unique circumstances in Alaska?** (a) Data in areas without reservations. The data on population and housing within an Alaska Native Village is credited to the Alaska Native Village. Accordingly, the village corporation for the Alaska Native Village has no needs data and no formula allocation. The data on population and housing outside the Alaska Native village is credited to the regional Indian tribe, and if there is no regional Indian tribe, the data will be credited to the regional corporation. (b) Deadline for notification on whether an IHP will be submitted. By September 15 of each year, each Indian tribe in Alaska not located on a reservation, including each Alaska Native village, regional Indian tribe, and regional corporation, or its TDHE must notify HUD in writing whether it or its TDHE intends to submit an IHP. If an Alaska Native village notifies HUD that it does not intend either to submit an IHP or to designate a TDHE to do so, or if HUD receives no response from the Alaska Native village or its TDHE, the formula data which would have been credited to the Alaska Native village will be credited to the regional Indian tribe, or if there is no regional Indian tribe, to the regional corporation. **1000.328 What is the minimum amount an Indian tribe can receive under the need component of the formula?** In the first year of NAHASDA participation, an Indian tribe whose allocation is less than $50,000 under the need component of the formula shall have its need component of the grant adjusted to $50,000. An Indian tribe's IHP shall contain a certification of the need for the $50,000 funding. In subsequent years, but not to exceed beyond Federal Fiscal Year 2002, an Indian tribe whose allocation is less than $25,000 under the need component of the formula shall have its need component of the grant adjusted to $25,000. The need for § 1000.328 will be reviewed in accordance with § 1000.306. **1000.330 What are data sources for the need variables?** The sources of data for the need variables shall be data available that is collected in a uniform manner that can be confirmed and verified for all AIAN households and persons living in an identified area. Initially, the data used are U.S. Decennial Census data.	developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the total amount of such operating and modernization assistance provided for fiscal year 1996 for such tribe. (2) PARTIAL FUNDING. – The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is less than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the amount that bears the same ratio to the total amount available for assistance under this Act for such fiscal year that the amount of operating and modernization assistance provided for the tribe for fiscal year 1996 bears to the total amount made available for fiscal year 1996 for assistance for the operation and modernization of such public housing. (e) EFFECTIVE DATE. – This section shall take effect on the date of the enactment of this Act.

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Regulation Cite	**Statute Cite**
Formula Data	**Formula Data**
1000.332 Will data used by HUD to determine an Indian tribe's or TDHE's formula allocation be provided to the Indian tribe or TDHE before the allocation? Yes. HUD shall provide notice to the Indian tribe or TDHE of the data to be used for the formula and projected allocation amount by August 1. **1000.334 May Indian tribes, TDHEs, or HUD challenge the data from the U.S. Decennial Census or provide an alternative source of data?** Yes. Provided that the data are gathered, evaluated, and presented in a manner acceptable to HUD and that the standards for acceptability are consistently applied throughout the Country. **1000.336 How may an Indian tribe, TDHE, or HUD challenge data?** (a) An Indian tribe, TDHE, or HUD may challenge data used in the IHBG formula. The challenge and collection of data for this purpose is an allowable cost for IHBG funds. (b) An Indian tribe or TDHE that has data in its possession that it contends are more accurate than data contained in the U.S. Decennial Census, and the data were collected in a manner acceptable to HUD, may submit the data and proper documentation to HUD. Beginning with the Fiscal Year 1999 allocation, in order for the challenge to be considered for the upcoming Fiscal Year allocation, documentation must be submitted by June 15. HUD shall respond to such data submittal not later than 45 days after receipt of the data and either approve or challenge the validity of such data. Pursuant to HUD's action, the following shall apply: (1) In the event HUD challenges the validity of the submitted data, the Indian tribe or TDHE and HUD shall attempt in good faith to resolve any discrepancies so that such data may be included in formula allocation. Should the Indian tribe or TDHE and HUD be unable to resolve any discrepancy by the date of formula allocation, the dispute shall be carried forward to the next funding year and resolved in accordance with the dispute resolution procedures set forth in this part for model housing activities (§ 1000.118). (2) Pursuant to resolution of the dispute: (i.) If the Indian tribe or TDHE prevails, an adjustment to the Indian tribe's or TDHE's subsequent allocation for the subsequent year shall be made retroactive to include only the disputed Fiscal Year(s); or (ii.) If HUD prevails, no further action shall be required. *Continued on the next page*	**Title III: 302. Allocation Formula** (a) ESTABLISHMENT. – The Secretary shall, by regulations issued not later than the expiration of the 12–month period beginning on the date of the enactment of this Act, in the manner provided under section 106, establish a formula to provide for allocating amounts available for a fiscal year for block grants under this Act among Indian tribes in accordance with the requirements of this section. (b) FACTORS FOR DETERMINATION OF NEED. – The formula shall be based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities, including the following factors: (1) The number of low–income housing dwelling units owned or operated at the time pursuant to a contract between an Indian housing authority for the tribe and the Secretary. (2) The extent of poverty and economic distress and the number of Indian families within Indian areas of the tribe. (3) Other objectively measurable conditions as the Secretary and the Indian tribes may specify. (c) OTHER FACTORS FOR CONSIDERATION. – In establishing the formula, the Secretary shall consider – (1) the relative administrative capacities and other challenges faced by the recipient, including, but not limited to geographic distribution within the Indian area and technical capacity; and (2) the extent to which terminations of assistance under title V will affect funding available to State recognized tribes. (d) FUNDING FOR PUBLIC HOUSING OPERATION AND MODERNIZATION. – (1) FULL FUNDING. – The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is equal to or greater than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing *Continued on the next page*

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Regulation Cite	**Statute Cite**
Formula Data	**Formula Data**
(c) In the event HUD questions that the data contained in the formula does not accurately represent the Indian tribe's need, HUD shall request the Indian tribe to submit supporting documentation to justify the data and provide a commitment to serve the population indicated in the geographic area. **1000.340 What if an Indian tribe is allocated less funding under the block grant formula than it received in Fiscal Year 1996 for operating subsidy and modernization?** If an Indian tribe is allocated less funding under the formula than an IHA received on its behalf in Fiscal Year 1996 for operating subsidy and modernization, its grant is increased to the amount received in Fiscal Year 1996 for operating subsidy and modernization. The remaining grants are adjusted to keep the allocation within available appropriations.	developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the total amount of such operating and modernization assistance provided for fiscal year 1996 for such tribe. (2) PARTIAL FUNDING. – The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is less than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the amount that bears the same ratio to the total amount available for assistance under this Act for such fiscal year that the amount of operating and modernization assistance provided for the tribe for fiscal year 1996 bears to the total amount made available for fiscal year 1996 for assistance for the operation and modernization of such public housing. (e) EFFECTIVE DATE. – This section shall take effect on the date of the enactment of this Act.

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Regulation Cite	**Statute Cite**
Terms	**Terms**
Subpart E — Federal Guarantees for Financing of Tribal Housing Activities	
1000.401 What terms are used throughout this subpart? As used throughout title VI of NAHASDA and in this subpart: *Applicant* means the entity that requests a HUD guarantee under the provisions of this subpart. *Borrower* means an Indian tribe or TDHE that receives funds in the form of a loan with the obligation to repay in full, with interest, and has executed notes or other obligations that evidence that transaction. *Issuer* means an Indian tribe or TDHE that issues or executes notes or other obligations. An issuer can also be a borrower.	**Title I: 106. Regulations** (a) TRANSITION REQUIREMENTS. – (1) IN GENERAL. – Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by notice issued in the Federal Register, establish any requirements necessary to provide for the transition (upon the effectiveness of this Act and the amendments made by this Act) from the provision of assistance for Indian tribes and Indian housing authorities under the United States Housing Act of 1937 and other related provisions of law to the provision of assistance in accordance with this Act and the amendments made by this Act. (2) PUBLIC COMMENTS; GENERAL NOTICE OF PROPOSED RULEMAKING. – The notice issued under paragraph (1) shall – (A) invite public comments regarding such transition requirements and final regulations to carry out this Act; and (B) include a general notice of proposed rulemaking (for purposes of section 564(a) of title 5, United States Code) of the final regulations under subsection (b). (b) FINAL REGULATIONS. – (1) TIMING. – The Secretary shall issue final regulations necessary to carry out this Act not later than September 1, 1997, and such regulations shall take effect not later than the effective date of this Act. (2) NEGOTIATED RULEMAKING PROCEDURE. – (A) IN GENERAL. – Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, all regulations required under this Act shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code. (B) COMMITTEE. – (i.) IN GENERAL. – The Secretary shall establish a negotiated rulemaking committee, in accordance with the procedures under that subchapter, for the development of proposed regulations under subparagraph (A). *Continued on the next page*

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Regulation Cite	Statute Cite
Terms	Terms
	(ii.) ADAPTATION. – In establishing the negotiated rulemaking committee, the Secretary shall – (I.) adapt the procedures under the subchapter described in clause (i) to the unique government–to–government relationship between the Indian tribes and the United States, and shall ensure that the membership of the committee include only representatives of the Federal Government and of geographically diverse small, medium, and large Indian tribes; and (II.) shall not preclude the participation of tribally designated housing entities should tribes elect to be represented by such entities. (c) EFFECTIVE DATE. – This section shall take effect on the date of the enactment of this Act. **Title VI: 601(a). Authority and Requirements** (a) AUTHORITY. – To such extent or in such amounts as provided in appropriations Acts, the Secretary may, subject to the limitations of this title (including limitations designed to protect and maintain the viability of rental housing units owned or operated by the recipient that were developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937), and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing affordable housing activities described in section 202.

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Regulation Cite	**Statute Cite**
Eligible Participants	**Eligible Participants**
1000.402 Are State recognized Indian tribes eligible for guarantees under title VI of NAHASDA? Those State recognized Indian tribes that meet the definition set forth in section 4(12)(C) of NAHASDA are eligible for guarantee under title VI of NAHASDA. **1000.404 What lenders are eligible for participation?** Eligible lenders are those approved under and meeting the qualifications established in this subpart, except that loans otherwise insured or guaranteed by an agency of the United States, or made by an organization of Indians from amounts borrowed from the United States, shall not be eligible for guarantee under this part. The following lenders are deemed to be eligible under this subpart: (a) Any mortgagee approved by HUD for participation in the single family mortgage insurance program under title II of the National Housing Act; (b) Any lender whose housing loans under chapter 37 of title 38, United States Code, are automatically guaranteed pursuant to section 1802(d) of such title; (c) Any lender approved by the Department of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949; (d) Any other lender that is supervised, approved, regulated, or insured by any agency of the United States; and (e) Any other lender approved by the Secretary.	**Section 4 (12)(21). Definitions** (12) INDIAN TRIBE. – (A) IN GENERAL. The term "Indian tribe" means a tribe that is a federally recognized tribe or a State recognized tribe. (B) FEDERALLY RECOGNIZED TRIBE. – The term "federally recognized tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self–Determination and Education Assistance Act of 1975. (C) STATE RECOGNIZED TRIBE. – (i.) IN GENERAL. – The term "State recognized tribe" means any tribe, band, nation, pueblo, village, or community – (I.) that has been recognized as an Indian tribe by any State; and (II.) for which an Indian Housing Authority has, before the effective date under section 705, entered into a contract with the Secretary pursuant to the United States Housing Act of 1937 for housing for Indian families and has received funding pursuant to such contract within the 5–year period ending upon such effective date. (ii.) CONDITIONS. – Notwithstanding clause (i) – (I.) the allocation formula under section 302 shall be determined for a State recognized tribe under tribal membership eligibility criteria in existence on the date of the enactment of this Act; and (II.) nothing in this paragraph shall be construed to confer upon a State recognized tribe any rights, privileges, responsibilities, or obligations otherwise accorded groups recognized as Indian tribes by the United States for other purposes. *Continued on the next page*

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Regulation Cite	**Statute Cite**
Eligible Participants	**Eligible Participants**
	(21) TRIBALLY DESIGNATED HOUSING ENTITY. – The terms "tribally designated housing entity" and "housing entity" have the following meaning: (A) EXISTING IHA'S. – With respect to any Indian tribe that has not taken action under subparagraph (B), and for which an Indian housing authority – (i.) was established for purposes of the United States Housing Act of 1937 before the date of the enactment of this Act that meets the requirements under the United States Housing Act of 1937, (ii.) is acting upon such date of enactment as the Indian housing authority for the tribe, and (iii.) is not an Indian tribe for purposes of this Act, the terms mean such Indian housing authority. (B) OTHER ENTITIES. – With respect to any Indian tribe that, pursuant to this Act, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this Act for affordable housing for Indians, which entity is established – (i.) by exercise of the power of self–government of one or more Indian tribes independent of State law, or (ii.) by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska, the terms mean such entity. (C) ESTABLISHMENT. – A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity. *Continued on the next page*

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Regulation Cite	**Statute Cite**
Eligible Participants	**Eligible Participants**
	Title VI: 601. Authority and Requirements (a) AUTHORITY. – To such extent or in such amounts as provided in appropriations Acts, the Secretary may, subject to the limitations of this title (including limitations designed to protect and maintain the viability of rental housing units owned or operated by the recipient that were developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937), and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing affordable housing activities described in section 202.

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Regulation Cite	**Statute Cite**
Loan Guarantee Requirements	**Loan Guarantee Requirements**
1000.406 What constitutes tribal approval to issue notes or other obligations under title VI of NAHASDA? Tribal approval is evidenced by a written tribal resolution that authorizes the issuance of notes or obligations by the Indian tribe or a TDHE on behalf of the Indian tribe. **1000.408 How does an Indian tribe or TDHE show that it has made efforts to obtain financing without a guarantee and cannot complete such financing in a timely manner?** The Indian tribe or TDHE shall submit a certification that states that the Indian tribe has attempted to obtain financing and cannot complete such financing consistent with the timely execution of the program plans without such guarantee. Written documentation shall be maintained by the Indian tribe or TDHE to support the certification. **1000.410 What conditions shall HUD prescribe when providing a guarantee for notes or other obligations issued by an Indian tribe?** HUD shall provide that: (a) Any loan, note or other obligation guaranteed under title VI of NAHASDA may be sold or assigned by the lender to any financial institution that is subject to examination and supervision by an agency of the Federal government, any State, or the District of Columbia without destroying or otherwise negatively affecting the guarantee; and (b) Indian tribes and housing entities are encouraged to explore creative financing mechanisms and in so doing shall not be limited in obtaining a guarantee. These creative financing mechanisms include but are not limited to: (1) Borrowing from private or public sources or partnerships; (2) Issuing tax exempt and taxable bonds where permitted; and (3) Establishing consortiums or trusts for borrowing or lending, or for pooling loans. (c) The repayment period may exceed twenty years and the length of the repayment period cannot be the sole basis for HUD disapproval; and (d) Lender and issuer/borrower must certify that they acknowledge and agree to comply with all applicable tribal laws.	**Title VI: 601(b)(c)(d). Authority and Requirements** (b) LACK OF FINANCING ELSEWHERE. – A guarantee under this title may be used to assist an Indian tribe or housing entity in obtaining financing only if the Indian tribe or housing entity has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee. (c) TERMS OF LOANS. – Notes or other obligations guaranteed pursuant to this title shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this title on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk. (d) LIMITATION ON OUTSTANDING GUARANTEES. – No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations of the issuer guaranteed under this title (excluding any amount defeased under the contract entered into under section 602(a)(1) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to title III. **Title VI: 602(a). Security and Repayment** (a) REQUIREMENTS ON ISSUER. – To assure the repayment of notes or other obligations and charges incurred under this title and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or housing entity issuing such notes or obligations to – (1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this title; (2) pledge any grant for which the issuer may become eligible under this Act; (3) demonstrate that the extent of such issuance and guarantee under this title is within the financial capacity of the tribe and is not likely to impair the ability to use grant amounts under title I, taking into consideration the requirements under section 203(b); and
Continued on the next page	*Continued on the next page*

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Regulation Cite	**Statute Cite**
Loan Guarantee Requirements	**Loan Guarantee Requirements**
1000.412 Can an issuer obtain a guarantee for more than one note or other obligation at a time? Yes. To obtain multiple guarantees, the issuer shall demonstrate that: (a) The issuer will not exceed a total for all notes or other obligations in an amount equal to five times its grant amount, excluding any amount no longer owed on existing notes or other obligations; and (b) Issuance of additional notes or other obligations is within the financial capacity of the issuer. **1000.414 How is an issuer's financial capacity demonstrated?** An issuer must demonstrate its financial capacity to: (a) Meet its obligations; and (b) Protect and maintain the viability of housing developed or operated pursuant to the 1937 Act.	(4) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Act or disposition proceeds from the sale of land or rehabilitated property.

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Regulation Cite	**Statute Cite**
Repayment Contracts	**Repayment Contracts**
1000.416 What is a repayment contract in a form acceptable to HUD? (a) The Secretary's signature on a contract shall signify HUD's acceptance of the form, terms and conditions of the contract. (b) In loans under title VI of NAHASDA, involving a contract between an issuer and a lender other than HUD, HUD's approval of the loan documents and guarantee of the loan shall be deemed to be HUD's acceptance of the sufficiency of the security furnished. No other security can or will be required by HUD at a later date.	**Title VI: 602(a)(1). Security and Repayment** (a) REQUIREMENTS ON ISSUER. – To assure the repayment of notes or other obligations and charges incurred under this title and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or housing entity issuing such notes or obligations to – (1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this title;

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Regulation Cite	**Statute Cite**
Uses of Grant Funding	**Uses of Grant Funding**
1000.418 Can grant funds be used to pay costs incurred when issuing notes or other obligations? Yes. Other costs that can be paid using grant funds include but are not limited to the costs of servicing and trust administration, and other costs associated with financing of debt obligations. **1000.420 May grants made by HUD under section 603 of NAHASDA be used to pay net interest costs incurred when issuing notes or other obligations?** Yes. Other costs that can be paid using grant funds include but are not limited to the costs of servicing and trust administration, and other costs associated with financing of debt obligations, not to exceed 30 percent of the net interest cost.	**Title VI: 602(b)(2). Security and Repayment** (b) REPAYMENT FROM GRANT AMOUNTS. – Notwithstanding any provision of this Act – (2) grants allocated under this Act for an Indian tribe or housing entity (including program income derived therefrom) may be used to pay principal and interest due (including such servicing, underwriting, and other costs as may be specified in regulations issued by the Secretary) on notes or other obligations guaranteed pursuant to this title. **Title VI: 603. Payment of Interest** The Secretary may make, and contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of an Indian tribe or housing entity issuing notes or other obligations guaranteed under this title, to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriations Acts, assist the issuer of a note or other obligation guaranteed under this title in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

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Regulation Cite	**Statute Cite**
Applications Requirements	**Application Requirements**
1000.422 What are the procedures for applying for loan guarantees under title VI of NAHASDA? (a) The borrower applies to the lender for a loan using a guarantee application form prescribed by HUD. (b) The lender provides the loan application to HUD to determine if funds are available for the guarantee. HUD will reserve these funds for a period of 90 days if the funds are available and the applicant is otherwise eligible under this subpart. HUD may extend this reservation period for an extra 90 days if additional documentation is necessary. (c) The borrower and lender negotiate the terms and conditions of the loan in consultation with HUD. (d) The borrower and lender execute documents. (e) The lender formally applies for the guarantee. (f) HUD reviews and provides a written decision on the guarantee. **1000.424 What are the application requirements for guarantee assistance under title VI of NAHASDA?** The application for a guarantee must include the following: (a) An identification of each of the activities to be carried out with the guaranteed funds and a description of how each activity qualifies as an affordable housing activity as defined in section 202 of NAHASDA. (b) A schedule for the repayment of the notes or other obligations to be guaranteed that identifies the sources of repayment, together with a statement identifying the entity that will act as the borrower. (c) A copy of the executed loan documents, if applicable, including, but not limited to, any contract or agreement between the borrower and the lender. (d) Certifications by the borrower that: (1) The borrower possesses the legal authority to pledge and that it will, if approved, make the pledge of grants required by section 602(a)(2) of NAHASDA. (2) The borrower has made efforts to obtain financing for the activities described in the application without use of the guarantee; the borrower will maintain documentation of such efforts for the term of the guarantee; and the borrower cannot complete such financing consistent with the timely execution of the program plans without such guarantee. (3) It possesses the legal authority to borrow or issue obligations and to use the guaranteed funds in accordance with the requirements of this subpart. *Continued on the next page*	**Title II: 202. Eligible Affordable Housing Activities** Affordable housing activities under this title are activities, in accordance with the requirements of this title, to develop or to support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing, through the following activities: (1) INDIAN HOUSING ASSISTANCE. – The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority. (2) DEVELOPMENT. – The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities. (3) HOUSING SERVICES. – The provision of housing–related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self–sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section. (4) HOUSING MANAGEMENT SERVICES. – The provision of management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant–based rental assistance, and management of affordable housing projects. (5) CRIME PREVENTION AND SAFETY ACTIVITIES. – The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime. (6) MODEL ACTIVITIES. – Housing activities under model programs that are designed to carry out the purposes of this Act and are specifically approved by the Secretary as appropriate for such purpose. *Continued on the next page*

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Applications Requirements	**Application Requirements**
(4) Its governing body has duly adopted or passed as an official act a resolution, motion, or similar official action that: (i.) Identifies the official representative of the borrower, and directs and authorizes that person to provide such additional information as may be required; and (ii.) Authorizes such official representative to issue the obligation or to execute the loan or other documents, as applicable. (5) The borrower has complied with section 602(a) of NAHASDA. (6) The borrower will comply with the requirements described in subpart A of this part and other applicable laws.	**Title VI: 602(a). Security and Repayment** (a) REQUIREMENTS ON ISSUER. – To assure the repayment of notes or other obligations and charges incurred under this title and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or hosuing entity issuing such notes or obligations to – (1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this title; (2) pledge any grant for which the issuer may become eligible under this Act; (3) demonstrate that the extent of such issuance and guarantee under this title is within the financial capacity of the tribe and is not likely to impair the ability to use grant amounts under title I, taking into consideration the requirements under section 203(b); and (4) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Act or disposition proceeds from the sale of land or rehabilitated property.

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Regulation Cite	**Statute Cite**
HUD Review of Application	**HUD Review of Application**
1000.426 How does HUD review a guarantee application? The procedure for review of a guarantee application includes the following steps: (a) HUD will review the application for compliance with title VI of NAHASDA and these implementing regulations. (b) HUD will accept the certifications submitted with the application. HUD may, however, consider relevant information that challenges the certifications and require additional information or assurances from the applicant as warranted by such information. **1000.428 For what reasons may HUD disapprove an application or approve an application for an amount less than that requested?** HUD may disapprove an application or approve a lesser amount for any of the following reasons: (a) HUD determines that the guarantee constitutes an unacceptable risk. Factors that will be considered in assessing financial risk shall include, but not be limited to, the following: (1) The ratio of the expected annual debt service requirements to the expected available annual grant amount, taking into consideration the obligations of the borrower under the provisions of section 203(b) of NAHASDA; (2) Evidence that the borrower will not continue to receive grant assistance under this part during the proposed repayment period; (3) The borrower's inability to furnish adequate security pursuant to section 602(a) of NAHASDA; and (4) The amount of program income the proposed activities are reasonably estimated to contribute toward repayment of the guaranteed loan or other obligations. (b) The loan or other obligation for which the guarantee is requested exceeds any of the limitations specified in sections 601(d) or section 605(d) of NAHASDA. (c) Funds are not available in the amount requested. (d) Evidence that the performance of the borrower under this part has been determined to be unacceptable pursuant to the requirements of subpart F of this part, and that the borrower has failed to take reasonable steps to correct performance. (e) The activities to be undertaken are not eligible under section 202 of NAHASDA. (f) The loan or other obligation documents for which a guarantee is requested do not meet the requirements of this subpart. *Continued on the next page*	**Title IV: 403. Monitoring of Compliance** (a) ENFORCEABLE AGREEMENTS. – Each recipient, through binding contractual agreements with owners and otherwise, shall ensure long–term compliance with the provisions of this Act. Such measures shall provide for (1) enforcement of the provisions of this Act by the grant beneficiary or by recipients and other intended beneficiaries, and (2) remedies for the breach of such provisions. (b) PERIODIC MONITORING. – Not less frequently than annually, each recipient shall review the activities conducted and housing assisted under this Act to assess compliance with the requirements of this Act. Such review shall include onsite inspection of housing to determine compliance with applicable requirements. The results of each review shall be included in the performance report of the recipient submitted to the Secretary under section 404 and made available to the public. (c) PERFORMANCE MEASURES. – The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this Act. **Title VI: 601(a)(c). Authority and Requirements** (a) AUTHORITY. – To such extent or in such amounts as provided in appropriations Acts, the Secretary may, subject to the limitations of this title (including limitations designed to protect and maintain the viability of rental housing units owned or operated by the recipient that were developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937), and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing affordable housing activities described in Section 202. (c) TERMS OF LOANS. – Notes or other obligations guaranteed pursuant to this title shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this title on the *Continued on the next page*

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Regulation Cite	**Statute Cite**
HUD Review of Application	**HUD Review of Application**
1000.430 When will HUD issue notice to the applicant if the application is approved at the requested or reduced amount? (a) HUD shall make every effort to approve a guarantee within 30 days of receipt of a completed application including executed documents and, if unable to do so, will notify the applicant within the 30 day timeframe of the need for additional time and/or if additional information is required. (b) HUD shall notify the applicant in writing that the guarantee has either been approved, reduced, or disapproved. If the request is reduced or disapproved, the applicant will be informed of the specific reasons for reduction or disapproval. (c) HUD shall issue a certificate to guarantee the debt obligation of the issuer subject to compliance with NAHASDA including but not limited to sections 105, 601(a), and 602(c) of NAHASDA, and such other reasonable conditions as HUD may specify in the commitment documents in a particular case. **1000.432 Can an amendment to an approved guarantee be made?** (a) Yes. An amendment to an approved guarantee can occur if an applicant wishes to allow a borrower/issuer to carry out an activity not described in the loan or other obligation documents, or substantially to change the purpose, scope, location, or beneficiaries of an activity. (b) Any changes to an approved guarantee must be approved by HUD. **1000.434 How will HUD allocate the availability of loan guarantee assistance?** (a) Each fiscal year HUD may allocate a percentage of the total available loan guarantee assistance to each Area ONAP equal to the percentage of the total NAHASDA grant funds allocated to the Indian tribes in the geographic area of operation of that office. (b) These allocated amounts shall remain exclusively available for loan guarantee assistance for Indian tribes or TDHEs in the area of operation of that office until committed by HUD for loan guarantees or until the end of the second quarter of the fiscal year. At the beginning of the third quarter of the fiscal year, any residual loan guarantee commitment amount shall be made available to guarantee loans for Indian tribes or TDHEs regardless of their location. Applications for residual loan guarantee money must be submitted on or after April 1. (c) In approving applications for loan guarantee assistance, HUD shall seek to maximize the availability of such assistance to all interested Indian tribes or TDHEs. HUD may limit the proportional share approved to any one Indian tribe or TDHE to its proportional share of the block grant allocation based upon the annual plan submitted by the Indian tribe or TDHE indicating intent to participate in the loan guarantee allocation process. *Continued on next page*	basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk. **Title VI: 602(a)(c). Security and Repayment** (a) REQUIREMENTS ON ISSUER. – To assure the repayment of notes or other obligations and charges incurred under this title and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or housing entity issuing such notes or obligations to – (1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this title; (2) pledge any grant for which the issuer may become eligible under this Act; (3) demonstrate that the extent of such issuance and guarantee under this title is within the financial capacity of the tribe and is not likely to impair the ability to use grant amounts under title I, taking into consideration the requirements under section 203(b); and (4) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Act or disposition proceeds from the sale of land or rehabilitated property. (c) FULL FAITH AND CREDIT. – The full faith and credit of the United States is pledged to the payment of all guarantees made under this title. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations. **Title VI: 605(d). Limitations on Amount of Guarantee** (a) FISCAL YEAR LIMITATIONS ON TRIBES. – The Secretary shall monitor the use of guarantees under this title by Indian tribes. If the Secretary finds that 50 percent of the aggregate guarantee authority under subsection (c) has been committed, the Secretary may – *Continued on next page*

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Regulation Cite	**Statute Cite**
HUD Review of Application	**HUD Review of Application**
1000.436 How will HUD monitor the use of funds guaranteed under this subpart? HUD will monitor the use of funds guaranteed under this subpart as set forth in section 403 of NAHASDA, and the lender is responsible for monitoring performance with the documents.	(1) impose limitations on the amount of guarantees any one Indian tribe may receive in any fiscal year of $50,000,000; or (2) request the enactment of legislation increasing the aggregate outstanding limitation on guarantees under this title.

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Regulation Cite	**Statute Cite**
Monitoring, Oversight and Accountability	**Monitoring, Oversight and Accountability**
Subpart F — Recipient Monitoring, Oversight and Accountability	
1000.501 Who is involved in monitoring activities under NAHASDA? The recipient, the grant beneficiary and HUD are involved in monitoring activities under NAHASDA.	**Title IV: 403. Monitoring of Compliance**
1000.502 What are the monitoring responsibilities of the recipient, the grant beneficiary and HUD under NAHASDA? (a) The recipient is responsible for monitoring grant activities, ensuring compliance with applicable Federal requirements and monitoring performance goals under the IHP. The recipient is responsible for preparing at least annually: a compliance assessment in accordance with section 403(b) of NAHASDA; a performance report covering the assessment of program progress and goal attainment under the IHP; and an audit in accordance with the Single Audit Act, as applicable. The recipient's monitoring should also include an evaluation of the recipient's performance in accordance with performance objectives and measures. At the request of a recipient, other Indian tribes and/or TDHEs may provide assistance to aid the recipient in meeting its performance goals or compliance requirements under NAHASDA. (b) Where the recipient is a TDHE, the grant beneficiary (Indian tribe) is responsible for monitoring programmatic and compliance requirements of the IHP and NAHASDA by requiring the TDHE to prepare periodic progress reports including the annual compliance assessment, performance and audit reports. (c) HUD is responsible for reviewing the recipient as set forth in 1000.520. (d) HUD monitoring will consist of on–site as well as off–site review of records, reports and audits. To the extent funding is available, HUD or its designee will provide technical assistance and training, or funds to the recipient to obtain technical assistance and training. In the absence of funds, HUD shall make best efforts to provide technical assistance and training.	(a) ENFORCEABLE AGREEMENTS. – Each recipient, through binding contractual agreements with owners and otherwise, shall ensure long–term compliance with the provisions of this Act. Such measures shall provide for (1) enforcement of the provisions of this Act by the grant beneficiary or by recipients and other intended beneficiaries, and (2) remedies for the breach of such provisions. (b) PERIODIC MONITORING. – Not less frequently than annually, each recipient shall review the activities conducted and housing assisted under this Act to assess compliance with the requirements of this Act. Such review shall include onsite inspection of housing to determine compliance with applicable requirements. The results of each review shall be included in the performance report of the recipient submitted to the Secretary under section 404 and made available to the public. (c) PERFORMANCE MEASURES. – The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this Act.
1000.504 What are the recipient performance objectives? Performance objectives are developed by each recipient. Performance objectives are criteria by which the recipient will monitor and evaluate its performance. For example, if in the IHP the recipient indicates it will build new houses, the performance objective may be the completion of the homes within a certain time period and within a certain budgeted amount.	**Title IV: 404. Performance Reports** (a) REQUIREMENT. – For each fiscal year, each recipient shall – (1) review the progress it has made during such fiscal year in carrying out the Indian housing plan (or plans) for the Indian tribes for which it administers grant amounts; and (2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review. (b) CONTENT. – Each report under this section for a fiscal year shall – (1) describe the use of grant amounts provided to the recipient for such fiscal year; (2) assess the relationship of such use to the goals identified in the Indian housing plan of the grant beneficiary;
1000.506 If the TDHE is the recipient, must it submit its monitoring evaluation/results to the Indian tribe? Yes. The Indian tribe as the grant beneficiary must receive a copy of the monitoring evaluation/results so that it can fully carry out its oversight responsibilities under NAHASDA.	
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Regulation Cite	**Statute Cite**
Monitoring, Oversight and Accountability	**Monitoring, Oversight and Accountability**
1000.508 If the recipient monitoring identifies programmatic concerns, what happens? If the recipient's monitoring activities identify areas of concerns, the recipient will take corrective actions which may include but are not limited to one or more of the following actions: (a) Depending upon the nature of the concern, the recipient may obtain additional training or technical assistance from HUD, other Indian tries or TDHEs, or other entities. (b) The recipient may develop and/or revise policies, or ensure that existing policies are better enforced. (c) The recipient may take appropriate administrative action to remedy the situation. (d) The recipient may refer the concern to an auditor or to HUD for additional corrective action. **1000.510. What happens if tribal monitoring identifies compliance concerns?** The Indian tribe shall have the responsibility to ensure that appropriate corrective action is taken.	(3) indicate the programmatic accomplishments of the recipient; and (4) describe the manner in which the recipient would change its programs as a result of its experiences. (c) SUBMISSION. – The Secretary shall establish dates for submission of reports under this section, and review such reports and make such recommendations as the Secretary considers appropriate to carry out the purposes of this Act. (d) PUBLIC AVAILABILITY. – A recipient preparing a report under this section shall make the report publicly available to the citizens in the jurisdiction of the recipient in sufficient time to permit such citizens to comment on such report prior to its submission to the Secretary, and in such manner and at such times as the recipient may determine. The report shall include a summary of any comments received by the grant beneficiary or recipient from citizens in its jurisdiction regarding its program.

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Regulation Cite	**Statute Cite**
Performance Reports	**Performance Reports**
1000.512 Are performance reports required? Yes. An annual report shall be submitted by the recipient to HUD and the Indian tribe being served in a format acceptable by HUD. Annual performance reports shall contain: (a) The information required by sections 403(b) and 404(b) of NAHASDA; (b) Brief information on the following: (1) A comparison of actual accomplishments to the objectives established for the period; (2) The reasons for slippage if established objectives were not met; and (3) Analysis and explanation of cost overruns or high unit costs; and (c) Any information regarding the recipient's performance measures, as set forth in section 1000.524. **1000.514 When must the annual performance report be submitted?** The annual performance report must be submitted within 60 days of the end of the recipient's program year. If a justified request is submitted by the recipient, the Area ONAP may extend the due date for submission of the performance report. **1000.516 What reporting period is covered by the annual performance report?** For the first year of NAHASDA, the period to be covered by the annual performance report will be October 1, 1997 through September 30, 1998. Subsequent reporting periods will coincide with the recipient's program year. **1000.518 When must a recipient obtain public comment on its annual performance report?** The recipient must make its report publicly available to tribal members, non–Indians served under NAHASDA, and other citizens in the Indian area, in sufficient time to permit comment before submission of the report to HUD. The recipient determines the manner and times for making the report available. The recipient shall include a summary of any comments received by the grant beneficiary or recipient from tribal members, non–Indians served under NAHASDA, and other citizens in the Indian area.	**Title IV: 403(b). Monitoring of Compliance** (b) PERIODIC MONITORING. – Not less frequently than annually, each recipient shall review the activities conducted and housing assisted under this Act to assess compliance with the requirements of this Act. Such review shall include onsite inspection of housing to determine compliance with applicable requirements. The results of each review shall be included in the performance report of the recipient submitted to the Secretary under section 404 and made available to the public. **Title IV: 404(e)(f)(g)(h). Performance Reports** (e) REQUIREMENT. – For each fiscal year, each recipient shall – (1) review the progress it has made during such fiscal year in carrying out the Indian housing plan (or plans) for the Indian tribes for which it administers grant amounts; and (2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review. (f) CONTENT. – Each report under this section for a fiscal year shall – (1) describe the use of grant amounts provided to the recipient for such fiscal year; (2) assess the relationship of such use to the goals identified in the Indian housing plan of the grant beneficiary; (3) indicate the programmatic accomplishments of the recipient; and (4) describe the manner in which the recipient would change its programs as a result of its experiences. (g) SUBMISSION. – The Secretary shall establish dates for submission of reports under this section, and review such reports and make such recommendations as the Secretary considers appropriate to carry out the purposes of this Act. (h) PUBLIC AVAILABILITY. – A recipient preparing a report under this section shall make the report publicly available to the citizens in the jurisdiction of the recipient in sufficient time to permit such citizens to comment on such report *Continued on the next page*

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Regulation Cite	**Statute Cite**
Performance Reports	**Performance Reports**
	prior to its submission to the Secretary, and in such manner and at such times as the recipient may determine. The report shall include a summary of any comments received by the grant beneficiary or recipient from citizens in its jurisdiction regarding its program. **Title IV: 408. Public Availability of Information** Each recipient shall make any housing plan, policy, or annual report prepared by the recipient available to the general public.

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Regulation Cite	**Statute Cite**
HUD Review	**HUD Review**
1000.520 What are the purposes of HUD review? At least annually, HUD will review each recipient's performance to determine whether the recipient: (a) Has carried out its eligible activities and certifications in accordance with the requirements and the primary objective of NAHASDA and with other applicable laws and has a continuing capacity to carry out those activities in a timely manner; (b) Has complied with the IHP of the grant beneficiary; and (c) Whether the performance reports of the recipient are accurate. **1000.521 After the receipt of the recipient's performance report, how long does HUD have to make recommendations under section 404(c) of NAHASDA?** 60 days. **1000.522 How will HUD give notice of on-site reviews?** HUD shall generally provide a 30 day written notice of an impending on-site review to the Indian tribe and TDHE. Prior written notice will not be required in emergency situations. All notices shall state the general nature of the review. **1000.524 What are HUD's performance measures for the review?** HUD has the authority to develop performance measures which the recipient must meet as a condition for compliance under NAHASDA. The performance measures are: (a) Within 2 years of grant award under NAHASDA, no less than 90 percent of the grant must be obligated. (b) The recipient has complied with the required certifications in its IHP and all policies and the IHP have been made available to the public. (c) Fiscal audits have been conducted on a timely basis and in accordance with the requirements of the Single Audit Act, as applicable. Any deficiencies identified in audit reports have been addressed within the prescribed time period. (d) Accurate annual performance reports were submitted to HUD within 60 days after the completion of the recipient's program year. (e) The recipient has met the IHP goals and objectives in the 1-year plan and demonstrated progress on the 5-year plan goals and objectives. *Continued on the next page*	**Title IV: 403(c). Monitoring of Compliance** (c) PERFORMANCE MEASURES. – The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this Act. **Title IV: 405. Review and Audit by Secretary** (a) ANNUAL REVIEW. – The Secretary shall, not less than on an annual basis, make such reviews and audits as may be necessary or appropriate to determine – (1) whether the recipient has carried out its eligible activities and certifications in accordance with the requirements and the primary objectives of this Act and with other applicable laws, and has a continuing capacity to carry out those activities in a timely manner; (2) whether the recipient has complied with the Indian housing plan of the grant beneficiary; and (3) whether the performance reports under section 404 of the recipient are accurate. Reviews under this section shall include, insofar as practicable, onsite visits by employees of the Department of Housing and Urban Development. (b) REPORT BY SECRETARY. – The Secretary shall give a recipient not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the recipient, the Secretary may revise the report and shall make the comments of the recipient and the report, with any revisions, readily available to the public not later than 30 days after receipt of the comments of the recipient. (c) EFFECT OF REVIEWS. – The Secretary may make appropriate adjustments in the amount of the annual grants under this Act in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided on behalf of an Indian tribe.

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HUD Review	**HUD Review**
(f) The recipient has substantially complied with the requirements of 24 CFR part 1000 and all other applicable Federal statutes and regulations. **1000.526 What information will HUD use for its review?** In reviewing each recipient's performance, HUD may consider the following: (a) The approved IHP and any amendment thereto; (b) Reports prepared by the recipient; (c) Records maintained by the recipient; (d) Results of HUD's monitoring of the recipient's performance, including on–site evaluation of the quality of the work performed; (e) Audit reports; (f) Records of drawdown(s) of grant funds; (g) Records of comments and complaints by citizens and organizations within the Indian area; (h) Litigation; and (i) Any other reliable relevant information which relates to the performance measures under 1000.524. **1000.528 What are the procedures for the recipient to comment on the result of HUD's review when HUD issues a report under section 405(b) of NAHASDA?** HUD will issue a draft report to the recipient and Indian tribe within thirty (30) days of the completion of HUD's review. The recipient will have at least thirty (30) days to review and comment on the draft report. HUD shall consider the comments and any additional information provided by the recipient. HUD may also revise the draft report based on the comments and any additional information provided by the recipient. HUD shall make the recipient's comments and a final report readily available to the recipient, grant beneficiary, and the public not later than thirty (30) days after receipt of the recipient's comments and additional information.	

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1000.530 What corrective and remedial actions will HUD request or recommend to address performance problems prior to taking action under 1000.532 or 1000.538? (a) The following actions are designed, first, to prevent the continuance of the performance problem(s); second, to mitigate any adverse effects or consequences of the performance problem(s); and third, to prevent a recurrence of the same or similar performance problem. The following actions, at least one of which must be taken prior to a sanction under paragraph (b), may be taken by HUD singly or in combination, as appropriate for the circumstances: (1) Issue a letter of warning advising the recipient of the performance problem(s), describing the corrective actions that HUD believes should be taken, establishing a completion date for corrective actions, and notifying the recipient that more serious actions may be taken if the performance problem(s) is not corrected or is repeated; (2) Request the recipient to submit progress schedules for completing activities or complying with the requirements of this part; (3) Recommend that the recipient suspend, discontinue, or not incur costs for the affected activity; (4) Recommend that the recipient redirect funds from affected activities to other eligible activities; (5) Recommend that the recipient reimburse the recipient's program account in the amount improperly expended; and (6) Recommend that the recipient obtain appropriate technical assistance using existing grant funds or other available resources to overcome the performance problem(s). (b) Failure of a recipient to address performance problems specified in paragraph (a) above may result in the imposition of sanctions as prescribed in 1000.532 (providing for adjustment, reduction, or withdrawal of future grant funds, or other appropriate actions), or 1000.538 (providing for termination, reduction, or limited availability of payments, or replacement of the TDHE). **1000.532 What are the adjustments HUD makes to a recipient's future year's grant amount under section 405 of NAHASDA?** (a) HUD may, subject to the procedures in paragraph (b) below, make appropriate adjustments in the amount of the annual grants under NAHASDA in accordance with the findings of HUD pursuant to reviews and audits under section 405 of NAHASDA. HUD may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided on behalf of an Indian tribe. *Continued on the next page*	**Title II: 209. Repayment** If a recipient uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing the housing does not comply with the requirement under section 205(a)(2), the Secretary shall reduce future grant payments on behalf of the grant beneficiary by an amount equal to the grant amounts used for such housing (under the authority under section 401(a)(2)) or require repayment to the Secretary of an amount equal to such grant amounts. **Title IV: 401. Remedies for Noncompliance** (a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS. – Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this Act has failed to comply substantially with any provision of this Act, the Secretary shall – (1) terminate payments under this Act to the recipient; (2) reduce payments under this Act to the recipient by an amount equal to the amount of such payments that were not expended in accordance with this Act; (3) limit the availability of payments under this Act to programs, projects, or activities not affected by such failure to comply; or (4) in the case of noncompliance described in section 402(b), provide a replacement tribally designated housing entity for the recipient, under section 402. If the Secretary takes an action under paragraph (1), (2), or (3), the Secretary shall continue such action until the Secretary determines that the failure to comply has ceased. (b) NONCOMPLIANCE BECAUSE OF TECHNICAL INCAPACITY. – If the Secretary makes a finding under subsection (a), but determines that the failure to comply substantially with the provisions of this Act – (1) is not a pattern or practice of activities constituting willful noncompliance, and (2) is a result of the limited capability or capacity of the recipient, *Continued on the next page*

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(b) Before undertaking any action in accordance with paragraphs (a) and (c) of this section, HUD will notify the recipient in writing of the actions it intends to take and provide the recipient an opportunity for an informal meeting to resolve the deficiency. In the event the deficiency is not resolved, HUD may take any of the actions available under paragraphs (a) and (c) of this section. However, the recipient may request, within 30 days of notice of the action, a hearing in accordance with 1000.540. The amount in question shall not be reallocated under the provisions of 1000.536, until 15 days after the hearing has been held and HUD has rendered a final decision. (c) Absent circumstances beyond the recipient's control, when a recipient is not complying significantly with a major activity of its IHP, HUD shall make appropriate adjustment, reduction, or withdrawal of some or all of the recipient's subsequent year grant in accordance with this section. **1000.534 What constitutes substantial noncompliance?** HUD will review the circumstances of each noncompliance with NAHASDA and the regulations on a case–by–case basis to determine if the noncompliance is substantial. This review is a two step process. First, there must be a noncompliance with NAHASDA or these regulations. Second, the noncompliance must be substantial. A noncompliance is substantial if: (a) The noncompliance has a material effect on the recipient meeting its major goals and objectives as described in its Indian Housing Plan; (b) The noncompliance represents a material pattern or practice of activities constituting willful noncompliance with a particular provision of NAHASDA or the regulations, even if a single instance of noncompliance would not be substantial; (c) The noncompliance involves the obligation or expenditure of a material amount of the NAHASDA funds budgeted by the recipient for a material activity; or (d) The noncompliance places the housing program at substantial risk of fraud, waste or abuse. **1000.536 What happens to NAHASDA grant funds adjusted, reduced, withdrawn, or terminated under 1000.532 or 1000.538?** Such NAHASDA grant funds shall be distributed by HUD in accordance with the next NAHASDA formula allocation. **1000.538 What remedies are available for substantial noncompliance?** (a) If HUD finds after reasonable notice and opportunity for hearing that a recipient has failed to comply substantially with any provisions of NAHASDA, HUD shall: *Continued on the next page*	the Secretary may provide technical assistance for the recipient (directly or indirectly) that is designed to increase the capability and capacity of the recipient to administer assistance provided under this Act in compliance with the requirements under this Act. (c) REFERRAL FOR CIVIL ACTION. – (1) AUTHORITY. – In lieu of, or in addition to, any action authorized by subsection (a), if the Secretary has reason to believe that a recipient has failed to comply substantially with any provision of this Act, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted. (2) CIVIL ACTION. – Upon such a referral, the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this Act that was not expended in accordance with it, or for mandatory or injunctive relief. (d) REVIEW. – (1) IN GENERAL. – Any recipient who receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act – (A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and (B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation. (2) PROCEDURE. – The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary. *Continued on the next page*

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(1) Terminate payments under NAHASDA to the recipient; (2) Reduce payments under NAHASDA to the recipient by an amount equal to the amount of such payments that are not expended in accordance with NAHASDA; (3) Limit the availability of payments under NAHASDA to programs, projects, or activities not affected by the failure to comply; or (4) In the case of noncompliance described in 1000.542, provide a replacement TDHE for the recipient. (b) HUD may, upon due notice, suspend payments at any time after the issuance of the opportunity for hearing pending such hearing and final decision, to the extent HUD determines such action necessary to preclude the further expenditure of funds for activities affected by such failure to comply. (c) If HUD determines that the failure to comply substantially with the provisions of NAHASDA is not a pattern or practice of activities constituting willful noncompliance, and is a result of the limited capability or capacity of the recipient, HUD may provide technical assistance for the recipient (directly or indirectly) that is designed to increase the capability or capacity of the recipient to administer assistance under NAHASDA in compliance with the requirements under NAHASDA. (d) In lieu of, or in addition to, any action described in this section, if HUD has reason to believe that the recipient has failed to comply substantially with any provisions of NAHASDA, HUD may refer the matter to the Attorney General of the United States, with a recommendation that appropriate civil action be instituted. **1000.540 What hearing procedures will be used under NAHASDA?** The hearing procedures in 24 CFR part 26 shall be used. **1000.542 When may HUD require replacement of a recipient?** (a) In accordance with section 402 of NAHASDA, as a condition of HUD 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 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.	(3) DISPOSITION. – (A) COURT PROCEEDINGS. – The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. (B) SECRETARY. – The Secretary – (i.) may modify the findings of fact of the Secretary, or make new findings, by reason of the new evidence so taken and filed with the court; and (ii.) shall file – (I.) such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole; and (II.) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary. (4) FINALITY. – Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgement shall be final, except that such judgement shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United State Code. **Title IV: 402. Replacement of Recipient** (a) AUTHORITY. – As a condition of the Secretary making a grant under this Act on behalf of an Indian tribe, the tribe shall agree that, notwithstanding any other provision of law, the Secretary may, only in the circumstances set forth in subsection (b), require that a replacement tribally designated housing entity serve as the recipient for the tribe, in accordance with subsection (c). *Continued on the next page*

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IHP Review	**IHP Review**
	(b) CONDITIONS OF REMOVAL. – The Secretary may require such replacement tribally designated housing entity for a tribe only upon a determination by the Secretary on the record after opportunity for a hearing that the recipient for the tribe has engaged in a pattern or practice of activities that constitutes substantial or willful noncompliance with the requirements under this Act. (c) CHOICE AND TERM OF REPLACEMENT. – If the Secretary requires that a replacement tribally designated housing entity serve as the recipient for a tribe (or tribes) – (1) the replacement entity shall be an entity mutually agreed upon by the Secretary and the tribe (or tribes) for which the recipient was authorized to act, except that if no such entity is agreed upon before the expiration of the 60–day period beginning upon the date that the Secretary makes the determination under subsection (b), the Secretary shall act as the replacement entity until agreement is reached upon a replacement entity; and (2) the replacement entity (or the Secretary, as provided in paragraph (1)) shall act as the tribally designated housing entity for the tribe (or tribes) for a period that expires upon – (A) a date certain, which shall be specified by the Secretary upon making the determination under subsection (b); or (B) the occurrence of specific conditions, which conditions shall be specified in written notice provided by the Secretary to the tribe upon making the determination under subsection (b). **Title IV: 405(c). Review and Audit by Secretary** (c) EFFECT OF REVIEWS. – The Secretary may make appropriate adjustments in the amount of the annual grants under this Act in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided on behalf of an Indian tribe.

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Regulation Cite	**Statute Cite**
Audits	**Audits**
1000.544 What audits are required? The recipient must comply with the requirements of the Single Audit Act and OMB Circular A – 133 which require annual audits of recipients that expend Federal funds equal to or in excess of an amount specified by the U.S. Office of Management and Budget, which is currently set at $300,000. **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?** Yes. A copy of the latest recipient audit under the Single Audit Act relating to NAHASDA activities must be submitted with the Annual Performance Report. **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 document, 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 three years from the date the recipient submits to HUD the annual performance report that covers the last expenditure of grant funds under a particular grant. (c) If any litigation, claim, negotiation, audit to 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. **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. *Continued on the next page*	**Title IV: 405(d)(e)(f). Review and Audit by Secretary** (d) ANNUAL REVIEW. – The Secretary shall, not less than on an annual basis, make such reviews and audits as may be necessary or appropriate to determine – (4) whether the recipient has carried out its eligible activities and certifications in accordance with the requirements and the primary objectives of this Act and with other applicable laws, and has a continuing capacity to carry out those activities in a timely manner; (5) whether the recipient has complied with the Indian housing plan of the grant beneficiary; and (6) whether the performance reports under section 404 of the recipient are accurate. Reviews under this section shall include, insofar as practicable, onsite visits by employees of the Department of Housing and Urban Development. (e) REPORT BY SECRETARY. – The Secretary shall give a recipient not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the recipient, the Secretary may revise the report and shall make the comments of the recipient and the report, with any revisions, readily available to the public not later than 30 days after receipt of the comments of the recipient. (f) EFFECT OF REVIEWS. – The Secretary may make appropriate adjustments in the amount of the annual grants under this Act in accordance with the findings of the Secretary pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided on behalf of an Indian tribe. *Continued on the next page*

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(b) The right of access in this section lasts as long as the records are maintained. **1000.556 Does the Freedom of Information Act (FOIA) apply to recipient records?** FOIA does not apply to recipient records. However, there may be other applicable State and tribal access laws or recipient policies which may apply. **1000.558 Does the Federal Privacy Act apply to recipient records?** The Federal Privacy Act does not apply to recipient records. However, there may be other applicable State and tribal access laws or recipient policies which may apply.	**Title IV: 406. GAO Audits** To the extent that the financial transactions of Indian tribes and recipients of grant amounts under this Act relate to amounts provided under this Act, such transactions may be audited by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files and other papers, things, or property belonging to or in use by such tribes and recipients pertaining to such financial transactions and necessary to facilitate the audit. **Title IV: 407. Reports to Congress** (a) IN GENERAL. – Not later than 90 days after the conclusion of each fiscal year in which assistance under this Act is made available, the Secretary shall submit to the Congress a report that contains – (1) a description of the progress made in accomplishing the objectives of this Act; (2) a summary of the use of funds available under this Act during the preceding fiscal year; and (3) a description of the aggregate outstanding loan guarantees under title VI. (b) RELATED REPORTS. – The Secretary may require recipients of grant amounts under this Act to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a).

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Regulation Cite	**Statute Cite**
Loan Guarantees for Indian Housing	**Loan Guarantees for Indian Housing**
1005.101 What is the applicability and scope of these regulations? Under the provisions of section 184 of the Housing and Community Development Act of 1992, as amended by the Native American Housing Assistance and Self–Determination Act of 1996 (12 U.S.C. 1515z–13a), the Department of Housing and Urban Development (the Department or HUD) has the authority to guarantee loans for the construction, acquisition, or rehabilitation of 1 – to 4 – family homes that are standard housing located on trust land or land located in an Indian or Alaska Native area, and for which an Indian Housing Plan has been submitted and approved under 24 CFR part 1000. This part provides requirements that are in addition to those in section 184. 6. Newly designated 1005.103 is amended by revising the section heading and by adding the definitions of the term "Holder" and "Mortgagee" in alphabetical order, to read as follows: **1005.103 What definitions are applicable to this program?** *Holder* means the holder of the guarantee certificate and in this program is variously referred to as the lender holder, the holder of the certificate, the holder of the guarantee, and the mortgagee. *Mortgage* means the same as "Holder." 7. A new 1005.104 is added to read as follows **1005.104 What lenders are eligible for participation?** Eligible lenders are those approved under and meeting the qualifications established in this subpart, except that loans otherwise insured or guaranteed by an agency of the United States, or made by an organization of Indians from amounts borrowed from the United states, shall not be eligible for guarantee under this part. The following lenders are deemed to be eligible under this part: (a) Any mortgage approved by HUD for participation in the single family mortgage insurance program under title II of the National Housing Act; (b) Any lender whose housing loans under chapter 37 of title 38, United States Code are automatically guaranteed pursuant to section 1802(d) of such title; (c) Any lender approved by the Department of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949; (d) Any other lender that is supervised, approved, regulated, or insured by any agency of the United States; or (e) Any other lender approved by the Secretary. *Continued on the next page*	**Title VII: 701. Loan Guarantees for Indian Housing** (a) DEFINITION OF ELIGIBLE BORROWERS TO INCLUDE INDIAN TRIBES. – Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1515z–13a) is amended— (1) in subsection (a) – (A) by striking "and Indian housing authorities" and inserting ", Indian housing authorities, and Indian tribes,"; and (B) by striking "or Indian housing authority" and inserting ", Indian housing authority or Indian tribe"; and (2) in subsection (b)(1), by striking "or Indian housing authorities" and inserting ", Indian housing authorities, or Indian tribes". (b) NEED FOR LOAN GUARANTEE. – Section 184(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(a)) is amended by striking "trust land" and inserting "lands or as a result of a lack of access to private financial markets". (c) IHP REQUIREMENT. – Section 184(b)(2) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(b)(2)) is amended by inserting before the period at the end the following "that is under the jurisdiction of an Indian tribe for which an Indian housing plan has been submitted and approved pursuant to sections 102 and 103 of the Native American Housing Assistance and Self–Determination Act of 1996 that provides for the use of loan guarantees under this section to provide affordable homeownership housing in such areas". (d) LENDER OPTION TO OBTAIN PAYMENT UPON DEFAULT WITHOUT FORECLOSURE. – Section 184(h) of the Housing and Community Act of 1992 (12 U.S.C. 1715z–13a(h)) is amended – (1) in paragraph (1)(A) – (A) in the first sentence of clause (i), by striking "in a court of competent jurisdiction"; and *Continued on the next page*

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(8) Newly designated 1005.105 is amended by: a. Revising the section heading; b. Revising paragraphs (b) and (d)(3); and c. Adding a new paragraph (f), to read as follows: **1005.105 What are eligible loans?** (b) *Eligible borrowers.* A loan guarantee under section 184 may be made to: (1) An Indian family who will occupy the home as a principal residence and who is otherwise qualified under section 184; (2) An Indian Housing Authority or tribally Designated Housing Entity; or (3) An Indian tribe. (d)*** (3) the principal amount of the mortgage is held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor, pending advancement to the mortgagor's creditors as provided in the loan agreement; and (f) *Lack of access to private financial markets.* In order to be eligible for a loan guarantee if the property is not on trust or restricted lands, the borrower must certify that the borrower lacks access to private financial markets. Borrower certification is the only certification required by HUD. 9. Newly designated 1005.107 is amended by: a. Revising the section heading; b. Revising paragraph (a) introductory text; c. Revising paragraph (a)(2); d. Revising paragraph (b) introductory text; e. Redesignating paragraphs (b)(3) and (b)(4) as paragraphs (b)(4) and (b)(5), respectively; and f. Adding a new paragraph (b)(3), to read as follows:	(B) by striking clause (ii) and inserting the following: "(ii) NO FORECLOSURE. – Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary."; (2) by striking paragraph (2); and (3) by redesignating paragraph (3) as paragraph (2). (e) LIMITATION OF MORTGAGE AUTHORITY. – Section 184(h)(2) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(h)(2)), as so redesignated by subsection (e)(3) of this section, is amended – (1) in the first sentence, by striking "tribal allotted or trust land," and inserting "restricted Indian land, the mortgagee or"; and (2) in the second sentence, by striking "Secretary" each place it appears, and inserting "mortgagee or the Secretary". (f) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT. – Section 184(i)(5)(C) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)(5)(C)) is amended by striking "1993" and all that follows through "such year" and inserting "1997, 1998, 1999, 2000, and 2001 with an aggregate outstanding principal amount note exceeding $400,000,000 for each such fiscal year". (g) AUTHORIZATION OF APPROPRIATIONS FOR GUARANTEE FUND. – Section 184(i)(7) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)(7) is amended by striking "such sums" and all that follows
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1005.107 What is eligible collateral? (a) A loan guaranteed under section 184 may be secured by any collateral authorized under and not prohibited by Federal, state, or tribal law and determined by the lender and approved by the Department to be sufficient to cover the amount of the loan, and may include, but is not limited to, the following: (2) A first and/or second mortgage on property other than trust land; (b) If trust land or restricted Indian land is used as collateral or security for the loan, the following additional provisions apply: (3) The mortgagee or HUD shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the Indian tribe, or the Indian housing authority servicing the Indian tribe or the TDHE servicing the Indian tribe. The mortgagee or HUD shall not sell, transfer, or otherwise dispose of or alienate the property except to one of these three entities. **1005.109 [Amended]** 10. Newly designated 1005.109 is amended by revising the section heading to read *"1005.109 What is a guarantee fee?"* **1005.111 [Amended]** 11. Newly designated 1005.111 is amended by revising the section heading to read *"1005.111 What safety and quality standards apply?"* 12. Newly designated 1005.112 is added to read as follows: **1005.112 How do eligible lenders and eligible borrowers demonstrate compliance with applicable tribal laws?** The lender/borrower will certify that they acknowledge and agree to comply with all applicable tribal laws. An Indian tribe with jurisdiction over the dwelling unit does not have to be notified of individual section 184 loans unless required by applicable tribal law. 13. Section 1005.113 is added to read as follows: **1005.113 How does HUD enforce lender compliance with applicable tribal laws?** Failure of the lender to comply with applicable tribal law is considered to be a practice detrimental to the interest of the borrower and may be subject to enforcement action(s) under section 184(g) of the statute.	through "1994" and inserting "such sums as may be necessary for each of fiscal years 1997, 1998, 1999, 2000, and 2001". (h) DEFINITIONS. – Section 184(k) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(k) is amended— (1) in paragraph (4), by inserting after "authority" the following: "or Indian tribe"; (2) in paragraph (5) – (A) by striking subparagraph (A) and inserting the following new subparagraph: "(A) is authorized to engage in or assist in the development or operation of— (i.) low–income housing for Indians; or (ii.) housing subject to the provisions of this section; and"; and (B) by adding at the end the following: "The term includes tribally designated housing entities under the Native American Housing Assistance and Self–Determination Act of 1996."; and (3) by striking paragraph (8) and inserting the following new paragraph: "(8) TRIBE INDIAN TRIBE. – The term 'tribe' or 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self–Determination and Education Assistance Act of 1976.". (i) PRINCIPAL OBLIGATION AMOUNTS. – Section 184(b)(5)(C) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(b)(5)(C) is amended by striking clause (i) and inserting the following new clause: *Continued on the next page*

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	"(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is $50,000 or less); and". (j) AVAILABILITY OF AMOUNTS. – (1) REQUIREMENT OF APPROPRIATIONS. – Section 184(i)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)(5)) is amended by striking subparagraph (A) and inserting the following: "(A) REQUIREMENT OF APPROPRIATIONS. – The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent or in such amounts as are or have been provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.". (2) COSTS. – Section 184(i)(5)(B) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)(5)(B) is amended by adding at the end the following subparagraph shall remain available until expended.". (k) GNMA AUTHORITY. – The first sentence of section 306(g)(1) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(1)) is amended by inserting before the period at the end the following: "; or guaranteed under section 184 of the Housing and Community Development Act of 1992". **Title VII: 702. 50–Year Leasehold Interest in Trust or Restricted Lands for Housing Purposes** (a) AUTHORITY TO LEASE. – Notwithstanding any other provision of law, any trust or restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, subject to the approval of the affected Indian tribe and the Secretary of the Interior, for housing development and residential purposes. (b) TERM. – Each lease pursuant to subsection(a) shall be for a term not exceeding 50 years. *Continued on the next page*

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	(c) RULE OF CONSTRUCTION. – This section may not be construed to repeal, limit, or affect any authority to lease any trust or restricted Indian lands that— (1) is conferred by or pursuant to any other provision of law; or (2) provides for leases for any period exceeding 50 years. (d) SELF–IMPLEMENTATION. – This section is intended to be self–implementing and shall not require the issuance of any rule, regulation, or order to take effect as provided in section 705. **Title VII: 703. Training and Technical Assistance** There are authorized to be appropriated for assistance for a national organization representing Native American housing interests for providing training and technical assistance to Indian housing authorities and tribally designated housing entities such sums as may be necessary for each of fiscal years 1997, 1998, 1999, 2000, and 2001. **Title VII: 704. Public and Assisted Housing Drug Elimination Act of 1990** The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended – (1) in section 5123 – (A) by striking "(including Indian Housing Authorities)'; and (B) by inserting "tribally designated housing entities," before "and private"; and (2) in section 5124(a)(7) – (A) by inserting "or tribally designed housing entity" after "public housing agency"; and (B) by striking "public housing" after nonprofit; (3) in section 5125, by inserting "a tribally designated housing entity," after "resident management corporation,"; and (4) in section 5126 – *Continued on the next page*

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	(A) in paragraph (4) – (i.) in subparagraph (B), by striking "or" at the end; (ii) in subparagraph (C), by striking the period at the end and inserting "; or"; and (iii) by adding at the end the following new subparagraph: "(D) the Native American Housing Assistance and Self–Determination Act."; and (B) by adding at the end the following new paragraph: "(5) TRIBALLY DESIGNATED HOUSING ENTITY. – The term "tribally designated housing entity' has the meaning given such term in section 4 of the Native American Housing Assistance and Self–Determination Act of 1996.". **Title VII: 705. Effective Date** This title and the amendments made by this title (but not including the amendments made by section 704) shall take effect on the date of the enactment of this Act.