

§ 1000.104

assistance that is provided in a manner consistent with section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(c) IHBG funds used for project-based or tenant-based rental assistance must comply with the requirements of NAHASDA and this part.

[72 FR 59004, Oct. 18, 2007]

§ 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 family may receive housing assistance in accordance with §1000.110.

(c) A family may receive housing assistance on a reservation or Indian area if the 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.

(d) A recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under NAHASDA for a law enforcement officer on an Indian reservation or other Indian area, if:

(1) The officer:

(i) Is employed on a full-time basis by the federal government or a state, county, or other unit of local government, or lawfully recognized tribal government; and

(ii) In implementing such full-time employment, is sworn to uphold, and make arrests for, violations of federal, state, county, or tribal law; and

(2) The recipient determines that the presence of the law enforcement officer on the Indian reservation or other Indian area may deter crime.

[63 FR 12349, Mar. 12, 1998, as amended at 77 FR 71524, Dec. 3, 2012]

§ 1000.106 What families receiving assistance under title II of NAHASDA require HUD approval?

(a) Housing assistance for non-low-income families requires HUD approval only as required in §§1000.108 and 1000.110.

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(b) Assistance for essential families under section 201(b)(3) of NAHASDA 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 that the family's housing needs cannot be reasonably met without such assistance.

[77 FR 71525, Dec. 3, 2012]

§ 1000.108 How is HUD approval obtained by a recipient for housing for non-low-income 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 families in accordance with section 201(b)(2) of NAHASDA. Assistance to non-low-income 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 families.

[77 FR 71525, Dec. 3, 2012]

§ 1000.110 Under what conditions may non-low-income Indian families participate in the program?

(a) A family that was low-income at the times described in §1000.147 but subsequently becomes a non-low-income family due to an increase in income may continue to participate in the program in accordance with the recipient's admission and occupancy policies. The 10 percent limitation in paragraph (c) of this section shall not apply to such families. Such families may be made subject to the additional requirements in paragraph (d) of this section based on those policies. This includes a family member or household member who takes ownership of a homeownership unit under §1000.146.

(b) A recipient must determine and document that there is a need for housing for each family that cannot reasonably be met without such assistance.

(c) A recipient may use up to 10 percent of the amount planned for the

tribal program year 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 the amount planned for the tribal program year for such assistance or to provide housing for families with income over 100 percent of median income.

(d) Non-low-income families cannot receive the same benefits provided low-income Indian families. The amount of assistance non-low-income 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 family cannot be less than: (Income of non-low-income family/Income of family at 80 percent of median income) × (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 families, cannot exceed: (Income of family at 80 percent of median income/Income of non-low-income family) × (Present value of the assistance provided to family at 80 percent of median income).

(e) The requirements set forth in paragraphs (c) and (d) of this section do not apply to non-low-income families that the recipient has determined to be essential under § 1000.106(b).

[77 FR 71525, Dec. 3, 2012]

§ 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 families or a model housing activity?

Whether submitted in the IHP or at any other time, HUD will have 60 calendar days after receiving the proposal to notify the recipient in writing that the proposal to provide assistance to non-low-income families or for model activities is approved or disapproved. If no decision is made by HUD within 60 calendar days of receiving the proposal, the proposal is deemed to have been approved by HUD.

[77 FR 71525, Dec. 3, 2012]

§ 1000.116 What should HUD do before declining a proposal to provide assistance to non low-income families or a model housing activity?

HUD shall consult with a recipient regarding the recipient's proposal to provide assistance to non-low-income families or a model housing activity. To the extent that 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.

[77 FR 71525, Dec. 3, 2012]

§ 1000.118 What recourse does a recipient have if HUD disapproves a proposal to provide assistance to non-low-income families or a model housing activity?

(a) Within 30 calendar days of receiving HUD's denial of a proposal to provide assistance to non-low-income 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.