

Authority that owned or operated 250 or more public housing units on October 1, 1997, the modernization allocation equals 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.

(2) For Indian tribes with an Indian Housing Authority that owned or operated fewer than 250 public housing units on October 1, 1997, the modernization allocation equals the average amount of funds received under the assistance program authorized by section 14 of the 1937 Act (not including funds provided as emergency assistance) for FYs 1992 through 1997.

(c) *Conversion.* Conversion of FCAS units from homeownership (Mutual Help or Turnkey III) to low-rent or from low-rent to a home ownership program.

(1) If units were converted before October 1, 1997, as evidenced by an amended ACC, then those units will be counted for formula funding and eligibility purposes as the type of unit to which they were converted.

(2) If units were converted on or after October 1, 1997, the following applies:

(i) *Funding type.* Units that converted after October 1, 1997 will be funded as the type of unit specified on the original ACC in effect on September 30, 1997.

(ii) *Continued FCAS eligibility.* Whether or not it is the first conversion, a unit converted after October 1, 1997, will be considered as the type converted to when determining continuing FCAS eligibility. A unit that is converted to low-rent will be treated as a low-rent unit for purposes of determining continuing FCAS eligibility. A unit that is converted to homeownership will be treated as a homeownership unit for purposes of determining continuing FCAS eligibility.

(3) The Indian tribe, TDHE, or IHA shall report conversions on the Formula Response Form.

[63 FR 12349, Mar. 12, 1998, as amended at 72 FR 20025, Apr. 20, 2007; 81 FR 83680, Nov. 22, 2016]

**§ 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 the 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)(1) A Mutual Help or Turnkey III unit not conveyed after the unit becomes eligible for conveyance by the terms of the MHOA may continue to be considered Formula Current Assisted Stock only if a legal impediment prevented conveyance; the legal impediment continues to exist; the tribe, TDHE, or IHA has taken all other steps necessary for conveyance and all that remains for conveyance is a resolution of the legal impediment; and the tribe, TDHE, or IHA made the following reasonable efforts to overcome the impediments:

(i) No later than four months after the unit becomes eligible for conveyance, the tribe, TDHE, or IHA creates a written plan of action, which includes a description of specific legal impediments as well as specific, ongoing, and appropriate actions for each applicable

## § 1000.319

unit that have been taken and will be taken to resolve the legal impediments within a 24-month period; and

(ii) The tribe, TDHE, or IHA has carried out or is carrying out the written plan of action; and

(iii) The tribe, TDHE, or IHA has documented undertaking the plan of action.

(2) No Mutual Help or Turnkey III unit will be considered FCAS 24 months after the date the unit became eligible for conveyance, unless the tribe, TDHE, or IHA provides evidence from a third party, such as a court or state or federal government agency, documenting that a legal impediment continues to prevent conveyance. FCAS units that have not been conveyed due to legal impediments on December 22, 2016 shall be treated as having become eligible for conveyance on December 22, 2016.

(c) 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.

(d) 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.

(e) A unit that is demolished pursuant to a planned demolition may be considered eligible as a FCAS unit if, after demolition is completed, the unit is rebuilt within one year. Demolition is completed when the site of the demolished unit is ready for rebuilding. If the unit cannot be rebuilt within one year because of relative administrative capacities and other challenges faced by the recipient, including, but not limited to geographic distribution within the Indian area and technical capacity, the Indian tribe, TDHE or IHA may request approval for a one-time, one-year extension. Requests must be submitted in writing and include a justification for the request.

[63 FR 12349, Mar. 12, 1998, as amended at 81 FR 83680, Nov. 22, 2016]

## 24 CFR Ch. IX (4-1-22 Edition)

### § 1000.319 What would happen if a recipient misreports or fails to correct Formula Current Assisted Stock (FCAS) information on the Formula Response Form?

(a) A recipient is responsible for verifying and reporting changes to their Formula Current Assisted Stock (FCAS) on the Formula Response Form to ensure that data used for the IHBG Formula are accurate (see § 1000.315). Reporting shall be completed in accordance with requirements in this Subpart D and the Formula Response Form.

(b) If a recipient receives an overpayment of funds because it failed to report such changes on the Formula Response Form in a timely manner, the recipient shall be required to repay the funds within 5 fiscal years. HUD shall subsequently distribute the funds to all Indian tribes in accordance with the next IHBG Formula allocation.

(c) A recipient will not be provided back funding for any units that the recipient failed to report on the Formula Response Form in a timely manner.

(d) HUD shall have 3 years from the date a Formula Response Form is sent out to take action against any recipient that fails to correct or make appropriate changes on that Formula Response Form. Review of FCAS will be accomplished by HUD as a component of A-133 audits, routine monitoring, FCAS target monitoring, or other reviews.

[72 FR 20025, Apr. 20, 2007]

### § 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