

is made by a percentage based on the Indian tribe's proportional share of the initial allocation calculation of all tribes under the umbrella.

(d) Amounts subtracted from an initial allocation calculation under this section shall be redistributed under the need component among all Indian tribes not subject to paragraph (a) of this section (while also retaining the 1996 Minimum).

[81 FR 83682, Nov. 22, 2016]

### **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.

#### **§ 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 guarantees 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.

#### **§ 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.

#### **§ 1000.410 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.