

by the national per-unit amount of allocation for FY 1996 modernization multiplied by an adjustment factor for inflation, the Indian tribe's modernization allocation is calculated under § 1000.316(b)(1). The remaining grants are adjusted to keep the allocation within available appropriations.

(b) If an Indian tribe is allocated less funding under the formula than an IHA received on its behalf in FY 1996 for operating subsidy and modernization, its grant is increased to the amount received in FY 1996 for operating subsidy and modernization. The remaining grants are adjusted to keep the allocation within available appropriations.

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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.

§ 1000.408 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