

(1) As an affordable housing activity as defined in section 202 of NAHASDA; or

(2) As a housing related community development activity under section 601(a) 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) It possesses the legal authority to borrow or issue obligations and to use the guaranteed funds in accordance with the requirements of this subpart.

(3) 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.

(4) The borrower has complied with section 602(a) of NAHASDA.

(5) The borrower will comply with the requirements described in subpart A of this part and other applicable laws.

[63 FR 12349, Mar. 12, 1998, as amended at 77 FR 71528, Dec. 3, 2012]

§ 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(c) 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 either:

- (1) Section 202 of NAHASDA; or
- (2) Section 601(a) of NAHASDA.

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(f) The loan or other obligation documents for which a guarantee is requested do not meet the requirements of this subpart.

[63 FR 12349, Mar. 12, 1998, as amended at 77 FR 71528, Dec. 3, 2012]

§ 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.

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(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.

§ 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.

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.

§ 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