

any applicable state laws) must also be made.

**§ 1000.34 What factors must be considered in making an exception to the conflict of interest provisions?**

In determining whether or not to make an exception to the conflict of interest provisions, HUD must consider whether undue hardship will result, either to the recipient or to the person affected, when weighed against the public interest served by avoiding the prohibited conflict.

**§ 1000.36 How long must a recipient retain records regarding exceptions made to the conflict of interest provisions?**

A recipient must maintain all such records for a period of at least 3 years after an exception is made.

**§ 1000.38 What flood insurance requirements are applicable?**

Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001–4128), a recipient may not permit the use of Federal financial assistance for acquisition and construction purposes (including rehabilitation) in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless the following conditions are met:

(a) The community in which the area is situated is participating in the National Flood Insurance Program in accord with section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106(a)), or less than a year has passed since FEMA notification regarding such flood hazards. For this purpose, the “community” is the governmental entity, such as an Indian tribe or authorized tribal organization, an Alaska Native village, or authorized Native organization, or a municipality or county, that has authority to adopt and enforce flood plain management regulations for the area; and

(b) Where the community is participating in the National Flood Insurance Program, flood insurance on the building is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012(a)); provided, that if the financial assistance is in the form of a loan or an insurance or guaranty of a loan, the

amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

**§ 1000.40 Do lead-based paint poisoning prevention requirements apply to affordable housing activities under NAHASDA?**

Yes, lead-based paint requirements apply to housing activities assisted under NAHASDA. The applicable requirements for NAHASDA are HUD’s regulations at part 35, subparts A, B, H, J, K, M and R of this title, which implement the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822–4846) and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856).

[64 FR 50230, Sept. 15, 1999; 65 FR 3387, Jan. 21, 2000]

**§ 1000.42 Are the requirements of Section 3 of the Housing and Urban Development Act of 1968 applicable?**

No. Recipients shall comply with Indian preference requirements of Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)), or employment and contract preference laws adopted by the recipient’s tribe in accordance with Section 101(k) of NAHASDA.

[85 FR 61568, Sept. 29, 2020]

**§ 1000.44 What prohibitions on the use of debarred, suspended, or ineligible contractors apply?**

In addition to any tribal requirements, the prohibitions in 2 CFR part 2424 on the use of debarred, suspended, or ineligible contractors apply.

[72 FR 73497, Dec. 27, 2007]

**§ 1000.46 Do drug-free workplace requirements apply?**

Yes. In addition to any tribal requirements, the Drug-Free Workplace Act of 1988 (41 U.S.C. 701, *et seq.*) and HUD’s implementing regulations in 2 CFR part 2429 apply.

[76 FR 45168, July 28, 2011]