

## § 1000.54

extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned economic enterprises, and preferences and opportunities for training and employment to Indians.

(iv) The contractor shall include this section 7(b) clause in every subcontract in connection with the project; shall require subcontractors at each level to include this section 7(b) clause in every subcontract they execute in connection with the project; and shall, at the direction of the recipient, take appropriate action pursuant to the subcontract upon a finding by the recipient or HUD that the subcontractor has violated the section 7(b) clause of the Indian Act.

(d) A recipient shall not be required to apply Indian preference requirements under Section 7(b) of the Indian Self-Determination and Education Assistance Act with respect to any procurement, using a grant provided under NAHASDA, of goods and services with a value less than \$5,000.

[77 FR 71523, Dec. 3, 2012, as amended at 80 FR 75944, Dec. 7, 2015]

## § 1000.54 What procedures apply to complaints arising out of any of the methods of providing for Indian preference?

The following procedures are applicable to complaints arising out of any of the methods of providing for Indian preference contained in this part, including alternate methods. Tribal policies that meet or exceed the requirements of this section shall apply.

(a) Each complaint shall be in writing, signed, and filed with the recipient.

(b) A complaint must be filed with the recipient no later than 20 calendar days from the date of the action (or omission) upon which the complaint is based.

(c) Upon receipt of a complaint, the recipient shall promptly stamp the date and time of receipt upon the complaint, and immediately acknowledge its receipt.

(d) Within 20 calendar days of receipt of a complaint, the recipient shall either meet, or communicate by mail or telephone, with the complainant in an effort to resolve the matter. The re-

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cipient shall make a determination on a complaint and notify the complainant, in writing, within 30 calendar days of the submittal of the complaint to the recipient. The decision of the recipient shall constitute final administrative action on the complaint.

## § 1000.56 How are NAHASDA funds paid by HUD to recipients?

(a) Each year funds shall be paid directly to a recipient in a manner that recognizes the right of Indian self-determination and tribal self-governance and the trust responsibility of the Federal government to Indian tribes consistent with NAHASDA.

(b) Payments shall be made as expeditiously as practicable.

## § 1000.58 Are there limitations on the investment of IHBG funds?

(a) A recipient may invest IHBG funds for the purposes of carrying out affordable housing activities in investment securities and other obligations as provided in this section.

(b) The recipient may invest IHBG funds so long as it demonstrates to HUD:

(1) That there are no unresolved significant and material audit findings or exceptions in the most recent annual audit completed under the Single Audit Act or in an independent financial audit prepared in accordance with generally accepted auditing principles; and

(2) That it is a self-governance Indian tribe or that it has the administrative capacity and controls to responsibly manage the investment. For purposes of this section, a self-governance Indian tribe is an Indian tribe that participates in tribal self-governance as authorized under Public Law 93-638, as amended (25 U.S.C. 450 *et seq.*).

(c) Recipients shall invest IHBG funds only in:

(1) Obligations of the United States; obligations issued by Government sponsored agencies; securities that are guaranteed or insured by the United States; mutual (or other) funds registered with the Securities and Exchange Commission and which invest only in obligations of the United States or securities that are guaranteed or insured by the United States; or

(2) Accounts that are insured by an agency or instrumentality of the United States or fully collateralized to ensure protection of the funds, even in the event of bank failure.

(d) IHBG funds shall be held in one or more accounts separate from other funds of the recipient. Each of these accounts shall be subject to an agreement in a form prescribed by HUD sufficient to implement the regulations in this part and permit HUD to exercise its rights under § 1000.60.

(e) Expenditure of funds for affordable housing activities under section 204(a) of NAHASDA shall not be considered investment.

(f) A recipient may invest its IHBG annual grant in an amount equal to the annual formula grant amount.

(g) Investments under this section may be for a period no longer than 5 years.

[63 FR 12349, Mar. 12, 1998, as amended at 77 FR 71524, Dec. 3, 2012]

**§ 1000.60 Can HUD prevent improper expenditure of funds already disbursed to a recipient?**

Yes. In accordance with the standards and remedies contained in § 1000.532 relating to substantial non-compliance, HUD will use its powers under a depository agreement and take such other actions as may be legally necessary to suspend funds disbursed to the recipient until the substantial non-compliance has been remedied. In taking this action, HUD shall comply with all appropriate procedures, appeals, and hearing rights prescribed elsewhere in this part.

[77 FR 71524, Dec. 3, 2012]

**§ 1000.62 What is considered program income?**

(a) Program income is defined as any income that is realized from the disbursement of grant amounts. Program income does not include any amounts generated from the operation of 1937 Act units unless the units are assisted with grant amounts and the income is attributable to such assistance. Program income includes income from fees for services performed from the use of real or rental of real or personal property acquired with grant funds, from the sale of commodities or items devel-

oped, acquired, etc. with grant funds, and from payments of principal and interest earned on grant funds prior to disbursement.

(b) If the amount of income received in a single year by a recipient and all its subrecipients, which would otherwise be considered program income, does not exceed \$25,000, such funds may be retained but will not be considered to be or treated as program income.

(c) If program income is realized from an eligible activity funded with both grant funds as well as other funds (i.e., funds that are not grant funds), then the amount of program income realized will be based on a percentage calculation that represents the proportional share of funds provided for the activity generating the program income.

(d) Costs incident to the generation of program income shall be deducted from gross income to determine program income.

[63 FR 12349, Mar. 12, 1998, as amended at 77 FR 71524, Dec. 3, 2012]

**§ 1000.64 What are the permissible uses of program income?**

Program income may be used for any housing or housing related activity and is not subject to other federal requirements.

[77 FR 71524, Dec. 3, 2012]

**Subpart B—Affordable Housing Activities**

**§ 1000.101 What is affordable housing?**

Eligible affordable housing is defined in section 4(2) of NAHASDA and is described in title II of NAHASDA.

**§ 1000.102 What are eligible affordable housing activities?**

Eligible affordable housing activities are those described in section 202 of NAHASDA.

**§ 1000.103 How may IHBG funds be used for tenant-based or project-based rental assistance?**

(a) IHBG funds may be used for project-based or tenant-based rental assistance.

(b) IHBG funds may be used for project-based or tenant-based rental