

verifies its income, and this documentation must be retained by the recipient.

**§1000.130 May a recipient charge a non low-income family rents or homebuyer payments which are more than 30 percent of the family's adjusted income?**

Yes. A recipient may charge a non low-income family rents or homebuyer payments which are more than 30 percent of the family's adjusted income.

**§1000.132 Are utilities considered a part of rent or homebuyer payments?**

Utilities may be considered a part of rent or homebuyer payments if a recipient decides to define rent or homebuyer payments to include utilities in its written policies on rents and homebuyer payments required by section 203(a)(1) of NAHASDA. A recipient may define rents and homebuyer payments to exclude utilities.

**§1000.134 When may a recipient (or entity funded by a recipient) demolish or dispose of current assisted stock?**

(a) A recipient (or entity funded by a recipient) may undertake a planned demolition or disposal of current assisted stock owned by the recipient or an entity funded by the recipient when:

(1) A financial analysis demonstrates that it is more cost-effective or housing program-effective for the recipient to demolish or dispose of the unit than to continue to operate or own it; or

(2) The housing unit has been condemned by the government which has authority over the unit; or

(3) The housing unit is an imminent threat to the health and safety of housing residents; or

(4) Continued habitation of a housing unit is inadvisable due to cultural or historical considerations.

(b) No action to demolish or dispose of the property other than performing the analysis cited in paragraph (a) of this section can be taken until HUD has been notified in writing of the recipient's intent to demolish or dispose of the housing units consistent with section 102(c)(4)(H) of NAHASDA. The written notification must set out the analysis used to arrive at the decision

to demolish or dispose of the property and may be set out in a recipient's IHP or in a separate submission to HUD.

(c) In any disposition sale of a housing unit, a sale process designed to maximize the sale price will be used. However, where the sale is to a low-income Indian family, the home may be disposed of without maximizing the sale price so long as such price is consistent with a recipient's IHP. The sale proceeds from the disposition of any housing unit are program income under NAHASDA and must be used in accordance with the requirements of NAHASDA and these regulations.

**§1000.136 What insurance requirements apply to housing units assisted with NAHASDA grants?**

(a) The recipient shall provide adequate insurance either by purchasing insurance or by indemnification against casualty loss by providing insurance in adequate amounts to indemnify the recipient against loss from fire, weather, and liability claims for all housing units owned or operated by the recipient.

(b) The recipients shall not require insurance on units assisted by grants to families for privately owned housing if there is no risk of loss or exposure to the recipient or if the assistance is in an amount less than \$5000, but will require insurance when repayment of all or part of the assistance is part of the assistance agreement.

(c) The recipient shall require contractors and subcontractors to either provide insurance covering their activities or negotiate adequate indemnification coverage to be provided by the recipient in the contract.

(d) These requirements are in addition to applicable flood insurance requirements under §1000.38.

**§1000.138 What constitutes adequate insurance?**

Insurance is adequate if it is a purchased insurance policy from an insurance provider or a plan of self-insurance in an amount that will protect the financial stability of the recipient's IHBG program. Recipients may purchase the required insurance without regard to competitive selection procedures from nonprofit insurance

**§ 1000.140**

entities which are owned and controlled by recipients and which have been approved by HUD.

**§ 1000.140 May a recipient use grant funds to purchase insurance for privately owned housing to protect NAHASDA grant amounts spent on that housing?**

Yes. All purchases of insurance must be in accordance with §§1000.136 and 1000.138.

**§ 1000.142 What is the “useful life” during which low-income rental housing and low-income homebuyer housing must remain affordable as required in sections 205(a)(2) and 209 of NAHASDA?**

Each recipient shall describe in its IHP its determination of the useful life of each assisted housing unit in each of its developments in accordance with the local conditions of the Indian area of the recipient. By approving the plan, HUD determines the useful life in accordance with section 205(a)(2) of NAHASDA and for purposes of section 209.

**§ 1000.144 Are Mutual Help homes developed under the 1937 Act subject to the useful life provisions of section 205(a)(2)?**

No.

**§ 1000.146 Are homebuyers required to remain low-income throughout the term of their participation in a housing program funded under NAHASDA?**

No. The low-income eligibility requirement applies only at the time of purchase. However, families purchasing housing under a lease purchase agreement who are not low-income at the time of purchase are eligible under §1000.110.

**§ 1000.150 How may Indian tribes and TDHEs receive criminal conviction information on adult applicants or tenants?**

(a) As required by section 208 of NAHASDA, the National Crime Information Center, police departments, and other law enforcement agencies shall provide criminal conviction information to Indian tribes and TDHEs upon request. Information regarding juveniles shall only be released to the ex-

**24 CFR Ch. IX (4-1-03 Edition)**

tent such release is authorized by the law of the applicable state, Indian tribe or locality.

(b) For purposes of this section, the term “tenants” includes homebuyers who are purchasing a home pursuant to a lease purchase agreement.

**§ 1000.152 How is the recipient to use criminal conviction information?**

The recipient shall use the criminal conviction information described in §1000.150 only for applicant screening, lease enforcement and eviction actions. The information may be disclosed only to any person who has a job related need for the information and who is an authorized officer, employee, or representative of the recipient or the owner of housing assisted under NAHASDA.

**§ 1000.154 How is the recipient to keep criminal conviction information confidential?**

(a) The recipient will keep all the criminal conviction record information it receives from the official law enforcement agencies listed in §1000.150 in files separate from all other housing records.

(b) These criminal conviction records will be kept under lock and key and be under the custody and control of the recipient’s housing executive director/lead official and/or his designee for such records.

(c) These criminal conviction records may only be accessed with the written permission of the Indian tribe’s or TDHE’s housing executive director/lead official and/or his designee and are only to be used for the purposes stated in section 208 of NAHASDA and these regulations.

**§ 1000.156 Is affordable housing developed, acquired, or assisted under the IHBG program subject to limitations on cost or design standards?**

Yes. Affordable housing must be of moderate design. For these purposes, moderate design is defined as housing that is of a size and with amenities consistent with unassisted housing offered for sale in the Indian tribe’s general geographic area to buyers who are at or below the area median income. The local determination of moderate design applies to all housing assisted