

grant funds which will be used in the IHP. HUD approval is required if a higher percentage is requested by the recipient. When HUD approval is required, HUD must take into consideration any cost of preparing the IHP, challenges to and collection of data, the recipient's grant amount, approved cost allocation plans, and any other relevant information with special consideration given to the circumstances of recipients receiving minimal funding.

**§ 1000.240 When is a local cooperation agreement required for affordable housing activities?**

The requirement for a local cooperation agreement applies only to rental and lease-purchase homeownership units assisted with IHBG funds which are owned by the Indian tribe or TDHE.

**§ 1000.242 When does the requirement for exemption from taxation apply to affordable housing activities?**

The requirement for exemption from taxation applies only to rental and lease-purchase homeownership units assisted with IHBG funds which are owned by the Indian tribe or TDHE.

**Subpart D—Allocation Formula**

**§ 1000.301 What is the purpose of the IHBG formula?**

The IHBG formula is used to allocate equitably and fairly funds made available through NAHASDA among eligible Indian tribes. A TDHE may be a recipient on behalf of an Indian tribe.

**§ 1000.302 What are the definitions applicable for the IHBG formula?**

*Allowable Expense Level (AEL) factor.* In rental projects, AEL is the per-unit per-month dollar amount of expenses which was used to compute the amount of operating subsidy used prior to October 1, 1997 for the Low Rent units developed under the 1937 Act. The "AEL factor" is the relative difference between a local area AEL and the national weighted average for AEL.

*Date of Full Availability (DOFA)* means the last day of the month in which substantially all the units in a housing development are available for occupancy.

*Fair Market Rent (FMR) factors* are gross rent estimates; they include shelter rent plus the cost of all utilities, except telephones. HUD estimates FMRs on an annual basis for 354 metropolitan FMR areas and 2,355 non-metropolitan county FMR areas. The "FMR factor" is the relative difference between a local area FMR and the national weighted average for FMR.

*Formula Annual Income.* For purposes of the IHBG formula, annual income is a household's total income as currently defined by the U.S. Census Bureau.

*Formula area.* (1) Formula area is the geographic area over which an Indian tribe could exercise court jurisdiction or is providing substantial housing services and, where applicable, the Indian tribe or TDHE has agreed to provide housing services pursuant to a Memorandum of Agreement with the governing entity or entities (including Indian tribes) of the area, including but not limited to:

- (i) A reservation;
- (ii) Trust land;
- (iii) Alaska Native Village Statistical Area;
- (iv) Alaska Native Claims Settlement Act Corporation Service Area;
- (v) Department of the Interior Near-Reservation Service Area;
- (vi) Former Indian Reservation Areas in Oklahoma as defined by the Census as Tribal Jurisdictional Statistical Area;
- (vii) Congressionally Mandated Service Area; and
- (viii) State legislatively defined Tribal Areas as defined by the Census as Tribal Designated Statistical Areas.

(2) For additional areas beyond those identified in the above list of eight, the Indian tribe must submit on the Formula Response Form the area that it wishes to include in its Formula Area and what previous and planned investment it has made in the area. HUD will review this submission and determine whether or not to include this area. HUD will make its judgment using as its guide whether this addition is fair and equitable for all Indian tribes in the formula.

(3) In some cases the population data for an Indian tribe within its formula area is greater than its tribal enrollment. In general, for those cases to