

(b) The recipient may adopt written standards for its affordable housing programs that reflect the requirement specified in §1000.156. The standards must describe the type of housing, explain the basis for the standards, and use similar housing in the Indian tribe's general geographic area. For each affordable housing project, the recipient must maintain documentation substantiating compliance with the adopted housing standards. The standards and documentation substantiating compliance for each activity must be available for review by the general public and, upon request, by HUD. Prior to awarding a contract for the construction of housing or beginning construction using its own workforce, the recipient must complete a comparison of the cost of developing or acquiring/rehabilitating the affordable housing with the limits provided by the TDC discussed in paragraph (c) of this section and may not, without prior HUD approval, exceed by more than 10 percent the TDC maximum cost for the project. In developing standards under this paragraph, the recipient must establish, maintain, and follow policies that determine a local definition of moderate design which considers:

- (1) Gross area;
- (2) Total cost to provide the housing;
- (3) Environmental concerns and mitigations;
- (4) Climate;
- (5) Comparable housing in geographical area;
- (6) Local codes, ordinances and standards;
- (7) Cultural relevance in design;
- (8) Design and construction features that are reasonable, and necessary to provide decent, safe, sanitary and affordable housing; and
- (9) Design and construction features that are accessible to persons with a variety of disabilities.

(c) If the recipient has not adopted housing standards specified in paragraph (b) of this section, Total Development Cost (TDC) limits published periodically by HUD establish the maximum amount of funds (from all sources) that the recipient may use to develop or acquire/rehabilitate affordable housing. The recipient must complete a comparison of the cost of devel-

oping or acquiring/rehabilitating the affordable housing with the limits provided by the TDC and may not, without prior HUD approval, exceed the TDC maximum cost for the project.

[66 FR 49790, Sept. 28, 2001]

**§ 1000.160 Are non-dwelling structures developed, acquired or assisted under the IHBG program subject to limitations on cost or design standards?**

Yes. Non-dwelling structures must be of a design, size and with features or amenities that are reasonable and necessary to accomplish the purpose intended by the structures. The purpose of a non-dwelling structure must be to support an affordable housing activity, as defined by the Act.

[66 FR 49790, Sept. 28, 2001]

**§ 1000.162 How will a recipient know that non-dwelling structures assisted under the IHBG program meet the requirements of 1000.160?**

(a) The recipient must use one of the methods described in paragraph (b) or (c) of this section to determine if a non-dwelling structure meets the limitation requirements of §1000.160. If the recipient develops, acquires, or rehabilitates a non-dwelling structure with funds from NAHASDA and other sources, then the cost limit standard established under these regulations applies to the entire structure. If funds are used from two different sources, the standards of the funding source with the more restrictive rules apply.

(b)(1) The recipient may adopt written standards for non-dwelling structures. The standards must describe the type of structures and must clearly describe the criteria to be used to guide the cost, size, design, features, amenities, performance or other factors. The standards for such structures must be able to support the reasonableness and necessity for these factors and to clearly identify the affordable housing activity that is being provided.

(2) When the recipient applies a standard to particular structures, it must document the following: (i) Identification of targeted population to benefit from the structures;

(ii) Identification of need or problem to be solved;