

## § 1005.112

35, subparts A, B, H, J, K, M, and R of this title apply to this part.

[63 FR 48991, Sept. 11, 1998, as amended at 64 FR 50230, Sept. 15, 1999]

### § 1005.112 How do eligible lenders and eligible borrowers demonstrate compliance with applicable tribal laws?

The lender and the borrower will each certify that they acknowledge and agree to comply with all applicable tribal laws. An Indian tribe with jurisdiction over the dwelling unit does not have to be notified of individual section 184 loans unless required by applicable tribal law.

[63 FR 12373 Mar. 12, 1998, as amended at 63 FR 48991, Sept. 11, 1998]

### § 1005.113 How does HUD enforce lender compliance with applicable tribal laws?

Failure of the lender to comply with applicable tribal law is considered to be a practice detrimental to the interest of the borrower and may be subject to enforcement action(s) under section 184(g) of the statute.

[63 FR 12373 Mar. 12, 1998]

## PART 1006—NATIVE HAWAIIAN HOUSING BLOCK GRANT PROGRAM

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AUTHORITY: 25 U.S.C. 4221 *et seq.*; 42 U.S.C. 3535(d).

SOURCE: 67 FR 40776, June 13, 2002, unless otherwise noted.

### Subpart A—General

#### § 1006.1 Applicability.

The requirements and procedure of this part apply to grants under the Native Hawaiian Housing Block Grant (NHHBG) Program, authorized by the Hawaiian Homelands Homeownership Act of 2000 (HHH Act), which adds Title VIII—Housing Assistance For Native Hawaiians (25 U.S.C. 4221 *et seq.*), to the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4101 *et seq.*).

#### § 1006.10 Definitions.

The following definitions apply in this part:

*Act* means title VIII of NAHASDA, as amended.

*Adjusted income* means the annual income that remains after excluding the following amounts:

(1) *Youths, students, and persons with disabilities.* \$480 for each member of the

family residing in the household (other than the head of the household or the spouse of the head of the household):

- (i) Who is under 18 years of age; or
- (ii) Who is:
  - (A) 18 years of age or older; and
  - (B) A person with disabilities or a full-time student.

(2) *Elderly and disabled families.* \$400 for an elderly or disabled family.

(3) *Medical and attendant expenses.* The amount by which 3 percent of the annual income of the family is exceeded by the aggregate of:

- (i) Medical expenses, in the case of an elderly or disabled family; and
- (ii) Reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed.

(4) *Child care expenses.* Child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education.

(5) *Earned income of minors.* The amount of any earned income of any member of the family who is less than 18 years of age.

(6) *Travel expenses.* Excessive travel expenses, not to exceed \$25 per family per week, for employment—or education-related travel.

(7) *Other amounts.* Such other amounts as may be provided in the housing plan for Native Hawaiians.

*Affordable Housing* means housing that complies with the requirements of the Act and this part. The term includes permanent housing for homeless persons who are persons with disabilities, transitional housing, and single room occupancy housing.

*Assistant Secretary* means HUD's Assistant Secretary for Public and Indian Housing.

*Department of Hawaiian Home Lands (DHHL)* means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (HHCA 1920) (42 Stat. 108 *et seq.*).

*Director* means the Director of the Department of Hawaiian Home Lands.

*Drug-Related Criminal Activity* means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

*Elderly families; near-elderly families* means:

(1) *In general.* The term “elderly family” or “near-elderly family” means a family whose head (or his or her spouse), or whose sole member, is:

- (i) For an elderly family, an elderly person; or
- (ii) For a near-elderly family, a near-elderly person.

(2) *Certain families included.* The term “elderly family” or “near-elderly family” includes:

- (i) Two or more elderly persons or near-elderly persons, as the case may be, living together; and
- (ii) One or more persons described in paragraph (2)(i) of this definition living with one or more persons determined under the housing plan to be essential to their care or well-being.

*Elderly person* means an individual who is at least 62 years of age.

*Family* includes, but is not limited to, a family with or without children, an elderly family, a near-elderly family, a disabled family, a single person, as determined by the DHHL.

*Hawaiian Home Lands* means lands that:

(1) Have the status as Hawaiian home lands under section 204 of the HHCA 1920 (42 Stat. 110); or

(2) Are acquired pursuant to the HHCA 1920.

*Homebuyer payment* means the payment of a family purchasing a home pursuant to a long-term lease purchase agreement.

*Housing area* means an area of Hawaiian Home Lands with respect to which the DHHL is authorized to provide assistance for affordable housing under the Act and this part.

*Housing plan* means a plan developed by the DHHL pursuant to the Act and this part, particularly §1006.101.

*HUD* means the Department of Housing and Urban Development.

*Low-income family* means a family whose income does not exceed 80 percent of the median income for the area,

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as determined by HUD with adjustments for smaller and larger families, except that HUD may, for purposes of this paragraph, establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of HUD or the agency that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

*Median income* means, with respect to an area that is a housing area, the greater of:

(1) The median income for the housing area, which shall be determined by HUD; or

(2) The median income for the State of Hawaii.

*Native Hawaiian* means any individual who is:

(1) A citizen of the United States; and

(2) A descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by:

(i) Genealogical records;

(ii) Verification by kupuna (elders) or kama'aina (long-term community residents); or

(iii) Birth records of the State of Hawaii.

*Native Hawaiian Housing Block Grant (NHHBG) Funds* means funds made available under the Act, plus program income.

*Near-elderly person* means an individual who is at least 55 years of age and less than 62 years of age.

*Nonprofit* means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

*Secretary* means the Secretary of Housing and Urban Development.

*Tenant-based rental assistance* means a form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. Tenant-based rental assistance under this part also includes security deposits for rental of dwelling units.

*Transitional housing* means housing that:

(1) Is designed to provide housing and appropriate supportive services to persons, including (but not limited to) deinstitutionalized individuals with disabilities, homeless individuals with disabilities, and homeless families with children; and

(2) Has as its purpose facilitating the movement of individuals and families to independent living within a time period that is set by the DHHL or project owner before occupancy.

**§ 1006.20 Grants for affordable housing activities.**

(a) *Annual grant.* Each fiscal year, HUD will make a grant (to the extent that amounts are made available) under the Act to the DHHL to carry out affordable housing activities for Native Hawaiian families who are eligible to reside on the Hawaiian Home Lands, if:

(1) The Director has submitted to HUD a housing plan for that fiscal year; and

(2) HUD has determined that the housing plan complies with the requirements of §1006.101.

(b) *Waiver.* HUD may waive housing plan requirements if HUD finds that the DHHL has not complied or cannot comply with those requirements due to circumstances beyond the control of the DHHL.

**§ 1006.30 Waivers.**

Upon determination of good cause, the Secretary may, subject to statutory limitations, waive any provision of this part and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)).

**Subpart B—Housing Plan**

**§ 1006.101 Housing plan requirements.**

The DHHL must submit a housing plan for each Federal Fiscal Year grant. The housing plan has two components, a five-year plan and a one-year plan, as follows:

(a) *Five-year plan.* Each housing plan must contain, for the 5-year period beginning with the fiscal year for which the plan is first submitted, the following information: