

Subpart D—Program Requirements**§ 1006.301 Eligible families.**

(a) Assistance for eligible housing activities under the Act and this part is limited to low-income Native Hawaiian families who are eligible to reside on the Hawaiian Home Lands, except as provided under paragraphs (b) and (c), of this section.

(b) *Exception to low-income requirement.* (1) *Other Native Hawaiian families.* The DHHL may provide assistance for homeownership activities and through loan guarantee activities to Native Hawaiian families who are not low-income families, as approved by HUD, to address a need for housing for those families that cannot be reasonably met without that assistance.

(2) *Limitations.* HUD approval is required if the DHHL plans to use its annual grant amount for assistance in accordance with paragraph (b)(1), of this section.

(c) *Other families.* The DHHL may provide housing or NHHBG assistance to a family that is not low-income and is not composed of Native Hawaiians if the DHHL documents that:

(1) The presence of the family in the housing involved is essential to the well-being of Native Hawaiian families; and

(2) The need for housing for the family cannot be reasonably met without the assistance.

(d) *Written policies.* The DHHL must develop, follow, and have available for review by HUD written policies governing the eligibility, admission, and occupancy of families for housing assisted with NHHBG funds and governing the selection of families receiving other assistance under the Act and this part.

§ 1006.305 Low-income requirement and income targeting.

(a) *In general.* Housing qualifies as affordable housing for purposes of the Act and this part only if each dwelling unit in the housing:

(1) In the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of the initial occupancy of that family of that unit; and

(2) In the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase, or is an owner-occupied unit in which the family is low-income at the time it receives NHHBG assistance.

(b) NHHBG-assisted rental units must meet the affordability requirements for the remaining useful life of the property, as determined by HUD, or such other period as HUD determines in accordance with section 813(a)(2)(B) of the Act.

(c) *Enforceable agreements.* (1) The DHHL, through binding contractual agreements with owners or other authorized entities, shall ensure long-term compliance with the provisions of this part.

(2) The agreements referred to in paragraph (c)(1) of this section shall provide for:

(i) To the extent allowable by Federal and State law, the enforcement of the provisions of the Act and this part by the DHHL and HUD; and

(ii) Remedies for breach of the provisions of the Act and this part.

(d) *Exception.* Notwithstanding the requirements of this section, housing assisted with NHHBG funds pursuant to § 1006.301(b) shall be considered affordable housing for purposes of the Act and this part.

§ 1006.310 Rent and lease-purchase limitations.

(a) *Rents.* The DHHL must develop and follow written policies governing rents for rental housing units assisted with NHHBG funds, including methods by which rents are determined. The maximum monthly rent for a low-income family may not exceed 30 percent of the family's monthly adjusted income.

(b) *Lease-purchase.* If DHHL assists low-income families to become homeowners of rental housing through a long-term lease (i.e. 10 or more years) with an option to purchase the housing, DHHL must develop and follow written policies governing lease-purchase payments for rental housing units assisted with NHHBG funds, including methods by which payments are determined. The maximum monthly payment for a low-income family

may not exceed 30 percent of the family's monthly adjusted income.

(c) *Exception for certain homeownership payments.* Homeownership payments for families who are not low-income, as permitted under § 1006.301(b), are not subject to the requirement that homebuyer payments may not exceed 30 percent of the monthly adjusted income of that family.

(d) Low-income families who receive homeownership assistance other than lease-purchase assistance are not subject to the limitations in paragraphs (a) and (b) of this section.

§ 1006.315 Lease requirements.

Except to the extent otherwise provided by or inconsistent with the laws of the State of Hawaii, in renting dwelling units in affordable housing assisted with NHHBG funds, the DHHL, owner, or manager must use leases that:

(a) Do not contain unreasonable terms and conditions;

(b) Require the DHHL, owner, or manager to maintain the housing in compliance with applicable local housing codes and quality standards;

(c) Require the DHHL, owner, or manager to give adequate written notice of termination of the lease, which shall be the period of time required under applicable State or local law;

(d) Specify that, with respect to any notice of eviction or termination, notwithstanding any State or local law, a resident shall be informed of the opportunity, before any hearing or trial, to examine any relevant documents, record, or regulations directly related to the eviction or termination;

(e) Require that the DHHL, owner, or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause; and

(f) Provide that the DHHL, owner, or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that:

(1) Threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the DHHL, owner, or manager;

(2) Threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

(3) Involves criminal activity (including drug-related criminal activity) on or off the premises.

§ 1006.320 Tenant or homebuyer selection.

As a condition to receiving grant amounts under the Act, the DHHL must adopt and use written tenant and homebuyer selection policies and criteria that:

(a) Are consistent with the purpose of providing housing for low-income families;

(b) Are reasonably related to program eligibility and the ability of the tenant or homebuyer assistance applicant to perform the obligations of the lease; and

(c) Provide for:

(1) The selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in the housing plan; and

(2) The prompt notification in writing of any rejected applicant of the grounds for that rejection.

§ 1006.325 Maintenance, management and efficient operation.

(a) *Written policies.* The DHHL must develop and enforce policies governing the management and maintenance of rental housing assisted with NHHBG funds.

(b) *Disposal of housing.* This section may not be construed to prevent the DHHL, or any entity funded by the DHHL, from demolishing or disposing of housing, pursuant to regulations established by HUD.

§ 1006.330 Insurance coverage.

(a) *In general.* As a condition to receiving NHHBG funds, the DHHL must require adequate insurance coverage for housing units that are owned or operated or assisted with more than \$5,000 of NHHBG funds, including a loan of more than \$5,000 that includes payback provisions.