

§ 1006.335

24 CFR Ch. IX (4-1-05 Edition)

(b) *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 to cover replacement cost.

(c) *Loss covered.* The DHHL must provide for or require insurance in adequate amounts to indemnify against loss from fire, weather, and liability claims for all housing units owned, operated or assisted by the DHHL. NHHBG funds may only be used to purchase insurance for low-income homeowners and only in amounts sufficient to protect against the loss of the NHHBG funds at risk in the property. The cost of such insurance may not include coverage for a resident's personal property.

(d) *Exception.* The DHHL shall not require insurance if the assistance is in an amount less than \$5000.

(e) *Contractor's coverage.* The DHHL shall require contractors and subcontractors to either provide insurance covering their activities or negotiate adequate indemnification coverage to be provided by the DHHL in the contract.

§ 1006.335 Use of nonprofit organizations and public-private partnerships.

(a) *Nonprofit organizations.* The DHHL must, to the extent practicable, provide for private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians to carry out affordable housing activities with NHHBG funds.

(b) *Public-private partnerships.* The DHHL must make all reasonable efforts to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing its housing plan.

§ 1006.340 Treatment of program income.

(a) *Defined.* Program income is income realized from the use of NHHBG funds. If gross income is used to pay costs incurred that are essential or incidental to generating the income, these costs may be deducted from gross income to determine program income. Program income includes income from fees for services performed; from the use or rental of real or personal prop-

erty acquired or assisted with NHHBG funds; from the sale of property acquired or assisted with NHHBG funds; from payments of principal and interest on loans made with NHHBG funds; and from payments of interest earned on investment of NHHBG funds pursuant to § 1006.235.

(b) *Authority to retain.* The DHHL may retain any program income that is realized from any NHHBG funds if:

(1) That income was realized after the initial disbursement of the NHHBG funds received by the DHHL; and

(2) The DHHL agrees to use the program income for affordable housing activities in accordance with the provisions of the Act and this part; and

(3) The DHHL disburses program income before disbursing additional NHHBG funds in accordance with 24 CFR part 85.

(c) *Exclusion of amounts.* If the amount of income received in a single fiscal year by the DHHL, which would otherwise be considered program income, does not exceed \$25,000, such funds may be retained but will not be considered program income.

§ 1006.345 Labor standards.

(a) *Davis-Bacon wage rates.* (1) As described in section 805(b) of the Act, contracts and agreements for assistance, sale or lease under this part must require prevailing wage rates determined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a-276a-5) to be paid to laborers and mechanics employed in the development of affordable housing.

(2) When NHHBG assistance is only used to assist homebuyers to acquire single family housing, the Davis-Bacon wage rates apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that NHHBG assistance will be used to assist homebuyers to buy the housing.

(3) Prime contracts not in excess of \$2000 are exempt from Davis-Bacon wage rates.

(b) *HUD-determined wage rates.* Section 805(b) of the Act also mandates that contracts and agreements for assistance, sale or lease under the Act require that prevailing wages determined

or adopted (subsequent to a determination under applicable State or local law) by HUD shall be paid to maintenance laborers and mechanics employed in the operation, and to architects, technical engineers, draftsmen and technicians employed in the development, of affordable housing.

(c) *Contract Work Hours and Safety Standards Act.* Contracts in excess of \$100,000 to which Davis-Bacon or HUD-determined wage rates apply are subject by law to the overtime provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327).

(d) *Volunteers.* The requirements in 24 CFR part 70 concerning exemptions for the use of volunteers on projects subject to Davis-Bacon and HUD-determined wage rates are applicable.

(e) *Other laws and issuances.* The DHHL, contractors, subcontractors, and other participants must comply with regulations issued under the labor standards provisions cited in this section, and other applicable Federal laws and regulations pertaining to labor standards.

§ 1006.350 Environmental review.

(a) In order to ensure that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA) and other provisions of Federal law which further the purposes of that act (as specified in 24 CFR 58.5) are most effectively implemented in connection with the expenditure of NHHBG funds, HUD will provide for the release of funds for specific projects to the DHHL if the Director of the DHHL assumes all of the responsibilities for environmental review, decisionmaking, and action under NEPA and other provisions of Federal law which further the purposes of that act (as specified in 24 CFR 58.5) that would apply to HUD were HUD to undertake those projects as Federal projects.

(b) An environmental review does not have to be completed before a HUD finding of compliance for the housing plan or amendments to the housing plan submitted by the DHHL.

(c) No funds may be committed to a grant activity or project before the completion of the environmental review and approval of the request for release of funds and related certification

required by sections 806(b) and 806(c) of the Act, except as authorized by 24 CFR part 58.

(d) As set forth in section 806(a)(2)(B) of the Act and 24 CFR 58.77, HUD will:

(1) Provide for the monitoring of environmental reviews performed by the DHHL under this section;

(2) At its discretion, facilitate training for the performance of such reviews by the DHHL; and,

(3) At its discretion, provide for the suspension or termination of the assumption of responsibilities under this section based upon a finding of substantial failure of the DHHL to execute responsibilities under this section.

§ 1006.355 Nondiscrimination requirements.

Program eligibility under the Act and this part may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability. The following nondiscrimination requirements are applicable to the use of NHHBG funds:

(a) The requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) and HUD's implementing regulations in 24 CFR part 146;

(b) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD's regulations at 24 CFR part 8; and

(c) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and the Fair Housing Act (42 U.S.C. 3601 *et seq.*), to the extent that nothing in their requirements concerning discrimination on the basis of race shall be construed to prevent the provision of NHHBG assistance:

(1) To the DHHL on the basis that the DHHL served Native Hawaiians; or

(2) To an eligible family on the basis that the family is a Native Hawaiian family.

§ 1006.360 Conflict of interest.

In the procurement of property and services by the DHHL and contractors, the conflict of interest provisions in 24 CFR 85.36 or 24 CFR 84.42 apply.