

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4384-N-01]

Notice of Title VI Loan Guarantee Demonstration Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The FY 1998 HUD Appropriations Act provided a \$5 million appropriation for the funding of a demonstration program which could guarantee up to \$45 million in Title VI loan guarantees. This notice announces HUD's loan guarantee demonstration program under Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). Through the demonstration program, HUD is seeking to develop models which will provide innovative ways to enhance development of affordable, accessible, and visitable housing in Indian areas, while increasing access to private capital, economic growth, and the investment and participation of traditional financial institutions not customarily serving Indian reservations and other Native American areas. Indian tribes and Tribally Designated Housing Entities (TDHEs) are encouraged to form partnerships (financial, service/supportive and economic development oriented) with investors or financial institutions and submit model Title VI demonstration projects to be evaluated in accordance with criteria listed in this notice. Applications for Title VI loans may be submitted to HUD at any time during the demonstration program, and will be processed on a first-come, first-served basis.

EFFECTIVE DATE: This notice is effective July 23, 1998.

FOR FURTHER INFORMATION CONTACT:

Karen Garner-Wing, Director, Office of Loan Guarantee, Department of Housing and Urban Development, 1999 Broadway—Suite 3390, Box 90, Denver, CO 80202-3390; telephone (303) 675-1600 (this is not a toll free number). Persons with speech or hearing impediments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Authority; Background; Definitions; and Eligibility

(A) Authority

Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA)

(25 U.S.C. 4101 *et seq.*); Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Pub. L. 105-65; 111 Stat. 1344, 1355, approved October 27, 1997).

(B) Background

Title VI of NAHASDA (entitled "Federal Guarantees for Financing for Tribal Housing Activities") establishes a Native American loan guarantee program. Title VI authorizes the Department to guarantee financial obligations issued by Indian tribes or their Tribally Designated Housing Entities (TDHEs) to finance affordable housing activities as defined in Title II of NAHASDA and outlined in their Indian Housing Plan (IHP). To assure the repayment of notes or other obligations, NAHASDA requires Title VI applicants to pledge their Indian Housing Block Grant (IHBG) funds and other security as required by the Department.

(C) Applicability of 24 CFR Part 1000, Subpart E

HUD's regulations implementing Title VI of NAHASDA are located at 24 CFR part 1000, subpart E. Unless specifically referenced in this notice, these regulations do not apply to the Title VI Demonstration Program.

(D) Definitions

(1) *Definitions in 24 CFR part 1000, subpart E.* Unless otherwise defined in this notice, the definitions set forth in 24 CFR part 1000 apply to the Title VI Demonstration Program.

(2) *Definition of "Visitability".* The following definition also applies to the Title VI Demonstration Program:

Visitability means at least one entrance at grade (no steps), approached by an accessible route such as a sidewalk; the entrance door and all interior passage doors provide a minimum 36-inch clear opening. Allowing use of 36-inch doors is consistent with the Fair Housing Act (at least for the interior doors), and may be more acceptable than requiring the 3 foot doors that are required in fully accessible areas under the Uniform Federal Accessibility Standards for a small percentage of units.

(E) Eligible Activities for the Title VI Demonstration Program

Loans and bond issuances are authorized and guaranteed by HUD for the purposes of financing affordable housing activities as planned in the Tribes/TDHEs IHP. For the FY 1998 demonstration program, Title VI activities shall be limited in scope as

described in this notice. The activities authorized in this notice are those which include:

(1) *Indian housing assistance.* The provision of modernization or rehabilitation for housing previously developed or operated pursuant to a contract between the Secretary of HUD and an Indian Housing Authority.

(2) *Development.* The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities.

(3) *Model Activities.* Housing activities under model programs that are designed to carry out the purposes of the NAHASDA and are specifically approved by the Secretary and/or approved in connection with the IHP process.

In undertaking any of the above activities, program participants should design construction, rehabilitation or modifications to buildings and facilities to be accessible and visitable for persons with disabilities and others who may also benefit, such as mothers with strollers or persons delivering appliances. In providing technical assistance, educational opportunities, and loans, training and informational materials related to program activities should be made available in appropriate video, audio, or braille formats, if approved by HUD. If job opportunities are provided through this program, reasonable efforts should be made to employ Native Americans with disabilities in a variety of jobs. Employers should make reasonable accommodations for employees with disabilities.

(F) Eligible Borrowers to Participate in the Demonstration Program

To be eligible to participate in the demonstration program, a borrower must:

(1) Be a Federally recognized Indian tribe or TDHE that is an approved recipient for IHBG funds;

(2) Have experience with complex financial transactions;

(3) Certify that the borrower was unable to obtain financing without the use of this guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee;

(4) Have tribal approval that authorizes the borrower to issue or undertake financial obligations;

(5) Have the capacity to repay the obligation (i.e. to meet the debt service requirement); and

(6) Pledge IHBG grants as security. Although a borrower is required by the NAHASDA to pledge current and future IHBG funds as collateral for the Title VI guarantee, the borrower will be required to furnish additional security to satisfy HUD requirements. Examples of additional security include:

(a) *Funding Reserves.* IHBG or other grant funds may be used to provide capital reserves to provide resource funds to enhance the economic feasibility of a project's early years. This capital advance can be made as a loan, with the intent to repay funds when the project begins to earn sufficient income.

(b) *Over-Collateralization.* The use of grant funds may be structured so that project-generated cash flow will be sufficient to cover debt service and directly enhance the guaranteed loan. One technique for accomplishing this approach is over-collateralization.

An example of this is where grant funds are combined and the borrower makes affordable housing loans to tribal members at an interest rate equal to or greater than the rate on the Title VI loan. The total loan portfolio would be pledged to the repayment of the Title VI loan.

(c) *Letter of Credit.* IHBG and Title VI Loan Guarantee Capacity-Building Grants (see the separate Notice of Funding Availability published elsewhere in today's **Federal Register**) may be used to cover the cost of a letter of credit, issued in favor of HUD. This letter of credit is then available to fund any amounts due on the Title VI loan provided a default should occur and debt obligations remain outstanding after 30 days.

(d) *Interest Rate Subsidy.* Title VI funds may be used to provide an interest rate subsidy to make financing affordable for low-income families or the borrower. NAHASDA funds could be used to "buy down" the interest rate or make full or partial interest payments, allowing the reduction and enhancement of the long term

affordability of homeownership for eligible families and for borrowers to carry out approved affordable housing activities.

II. Submission Requirements

Applications may be submitted to HUD at any time and must contain, at a minimum, the information required under 24 CFR § 1000.424. Applicants are reminded that § 1000.424(d)(6) requires the borrower to submit a certification of compliance with all of the requirements described in 24 CFR part 1000, subpart A, including the environmental review requirements set forth in §§ 1000.18, 1000.20, 1000.22, and 1000.24. No funds may be committed to a project (other than for certain nonphysical activities) before the completion of the environmental review and, where the Indian tribe assumes responsibility for the environmental review, before approval of the request for release of funds and related certification required by sections 105(b) and 105(c) of NAHASDA.

III. Clarifications

HUD will contact an applicant to clarify an item in the application. Applicants must submit clarifications in accordance with the request made by HUD or the Department will reject the application as incomplete.

IV. Notification of Title VI Approval or Disapproval

Upon completion of its review, HUD will notify the Title VI applicant of HUD's decision to approve or disapprove the proposed demonstration project, with an explanation of the reasons for the disapproval. Those applications that HUD approves will include a Firm Commitment notice from HUD to the applicant. Applicants will have 30 days in which to submit an appeal in the event of a disapproval. The appeal must include a narrative statement, with supporting documentation, that addresses the issues in HUD's disapproval and serves to mitigate HUD's reasons for disapproval.

V. Findings and Certifications

(A) Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB approval number, once assigned, will be published in the **Federal Register**. *An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.*

(B) Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

(C) Federalism, Executive Order 12612

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order.

Dated: July 20, 1998.

Deborah Vincent,

General Deputy, Assistant Secretary for Public and Indian Housing.

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