



August 15, 2000 No. 2000-09T

TO: All Tribal Government Leaders and Tribally Designated Housing Entities (TDHE)

FROM: Jacqueline Johnson, Deputy Assistant Secretary, PN

TOPIC: Maintenance of 1937 Housing Act units

SUBJECT: Regulatory and statutory requirements for maintenance of 1937 Housing Act units

PURPOSE: This bulletin highlights for tribes and tribally designated housing entities (TDHE) the maintenance requirements of housing developed under the United States Housing Act of 1937, as amended (1937 Housing Act).

BACKGROUND: Section 203(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) states that:

“Each recipient who owns or operates (or is responsible for funding any entity that owns or operates) housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall, using amounts of any grants received under this Act, reserve and use for operating assistance under section 202(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.”

To assist recipients meet the responsibilities of “the continued maintenance and efficient operation” of 1937 Housing Act units, funding is allocated to IHBG recipients through the Formula Current Assisted Stock (FCAS) portion of the IHBG formula. The FCAS portion of the formula was developed to enable recipients to comply with Section 203(b). Section 102(c)(4)(D) of NAHASDA requires that recipients include in the Indian Housing Plan (IHP), a description on how it will maintain the 1937 Housing Act units.

FREQUENTLY ASKED QUESTIONS:

Are there any requirements on what type of maintenance is required? The statute and regulations are silent in regards to what constitutes maintenance. Section 203(e) requires that recipients develop a policy governing the maintenance of housing assisted with grant amounts. It is suggested that recipients incorporate maintenance standards in this policy. A copy of 24 CFR Part 5, Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing, is attached to this bulletin as a suggested reference in developing your maintenance standards.

Does this responsibility extend to a recipient tribe who does not own the 1937 Housing Act units? As stated in Section 203(b), the IHBG *recipient* (including a tribal recipient) is responsible for maintaining the 1937 Housing Act units, or where the recipient does not own the units, is responsible for ensuring that the owner/operator of the units maintains the units. This responsibility includes providing the owner/operator of the units with the funds necessary to maintain the units. In many cases where the tribe is the recipient, the actual owner/operator of the

1937 Housing Act units is an Indian housing authority or a Regional Native housing authority.

Are there any requirements on how the recipient tribe/TDHE should provide funding to the IHA for maintenance when the tribe does not own the units? The Tribe may provide the funds to the IHA through any method they choose. It is suggested that the tribe enter into a sub-recipient agreement with the IHA which clearly spells out what type of management services, including maintenance, the IHA will do, how often, how the IHA will bill the tribe for providing the services, etc. Guidance on sub-recipient agreements (sub-grants) can be found at 24 CFR 85.37, located in Part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments.

What will happen if grant recipients do not maintain 1937 Housing Act units? Compliance with Section 203(b) will be reviewed by the Area Offices of Native American Programs (ONAP) during monitoring required by §1000.524. Failure by recipients to adequately maintain the units may lead to sanctions authorized under Section 401 of NAHASDA and §1000.532 and/or 1000.538.

FUTURE REGULATORY/LEGISLATIVE CHANGES:

To ensure that maintenance of 1937 Housing Act units is addressed as required by the statute, the ONAP in consultation with Tribes may consider legislative and regulatory amendments to emphasize the requirement. Tribal consultation on the amendments will be conducted before any regulatory changes are made or any legislative changes are proposed. If there are any questions regarding this guidance, please call your Area ONAP.

Attachment



00-09T attachment.pdf