

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 1006 and 1007

[Docket No. FR-4668-F-03]

RIN 2577-AC27

Housing Assistance for Native Hawaiians: Native Hawaiian Housing Block Grant Program and Loan Guarantees for Native Hawaiian Housing Program; Final Rule

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

ACTION: Final rule.

SUMMARY: This rule issues as final, and responds to public comments on, an interim rule published on June 13, 2002, to implement procedures and requirements for two new programs to address the housing needs of Native Hawaiians. The Native Hawaiian Housing Block Grant program will provide housing block grants to fund affordable housing activities. The Section 184A Loan Guarantees for Native Hawaiian Housing program will provide Native Hawaiian families with greater access to private mortgage resources by guaranteeing loans for one- to four-family housing located on Hawaiian Home Lands.

DATES: *Effective Date:* December 29, 2003.

FOR FURTHER INFORMATION CONTACT: Edward Fagan, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-5000, telephone (202) 401-7914. (This is not a toll-free number.) Individuals with speech-or hearing-impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

Section 513 of the Hawaiian Homelands Homeownership Act of 2000, Subtitle B of Title V of the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106-569, approved December 27, 2000) (HHH Act) amends the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA) by adding a new "Title VIII—Housing Assistance for Native Hawaiians." Title VIII (the Act) establishes a program of block grant assistance to provide affordable housing for Native Hawaiians that is closely

modeled on the Indian Housing Block Grant (IHBG) program under NAHASDA. Section 514 of the HHH Act adds a new Section 184A to the Housing and Community Development Act of 1992 to authorize a new program of housing loan guarantees for Native Hawaiians based upon the Section 184 Loan Guarantee for Indian Housing program.

HUD published an interim rule on June 13, 2002 (67 FR 40774), to implement the Act at 24 CFR part 1006 as the Native Hawaiian Housing Block Grant (NHHBG) program, and to implement the Section 184A Native Hawaiian Housing Loan Guarantee program (Section 184A program) at 24 CFR part 1007. Public comment was also invited on the two new programs of housing assistance for Native Hawaiians. This rule issues as final, and responds to public comments received on, the June 13, 2002, interim rule.

II. Response to Public Comment on the Interim Rule

The public comment period on the June 13, 2002, interim rule closed on August 12, 2002. HUD received four comments on the interim rule. Comments were received from a nonprofit organization, a county agency, and two agencies of the state of Hawaii. The comments received are organized below in this section of the preamble to correspond to the rule section that is addressed by the comment. The HUD response follows each comment.

Section 1006.10 Definitions

Comment: The definition of "housing area" should be expanded to include lands outside the jurisdiction of the Department of Hawaiian Home Lands (DHHL), and lands other than the Hawaiian home lands (Hawaiian Home Lands) because there are many native Hawaiians who should qualify for assistance on the basis of income, but have not received a DHHL lease.

HUD response: The language of the definition of "housing area" in the rule is the same language that appears as the definition of "housing area" in section 801(5) of the Act, and HUD may not, by regulation, substantively change this statutory definition.

Comment: In the definition of "Native Hawaiian," DHHL's certification that an individual is a bona fide lessee should be included as acceptable evidence that an individual is a Native Hawaiian, along with genealogical records, verification by elders, and birth records.

HUD response: Section 1006.301 sets forth the statutory requirement that eligibility is limited to Native Hawaiian families who are eligible to reside on the

Hawaiian Home Lands. HUD agrees that an individual who is a bona fide homestead leaseholder satisfies the NHHBG program requirement that the family is eligible to reside on the Hawaiian Home Lands. The lease is sufficient to document the requirement.

Section 1006.101 Housing Plan Requirements

Comment: Since no federal funds were used in constructing past units on the Hawaiian Home Lands, DHHL should not be required to report on the condition or disposition of those dwellings.

HUD response: The housing plan requirements of §§ 1006.101(b)(vii) and (viii), which this comment addresses, are taken directly from the authorizing statute (see 25 U.S.C. 4223(c)(2)(D)(vii) and (viii)). In general, the statutory provisions for a housing plan require a more comprehensive approach that looks at the use of NHHBG funding not in isolation, but within the context of the overall housing needs of Native Hawaiians and the total resources available to address those needs. Therefore, even though no federal funds were used in the construction of past units, it is necessary to consider these existing resources to better utilize the new assistance. In addition, NHHBG funding may be used for the demolition or disposition of existing units, if the DHHL provides for this activity in its housing plan, even though the units were not constructed with federal funds.

Section 1006.201 Eligible Affordable Housing Activities

Comment: Because there are currently no NAHASDA (more specifically, NHHBG) assisted units on the Hawaiian Home Lands, NHHBG funds cannot be used in existing communities. DHHL would like to enable existing communities to use NAHASDA funds for model activities, resident management and crime and safety activities.

HUD response: The eligible activities in section 810 of the Act are "affordable housing" activities. Subsection (b)(1) covers development of affordable housing, subsection (b)(2) covers housing-related services for affordable housing, subsection (b)(3) covers management services for affordable housing, subsection (b)(4) covers crime prevention and safety measures to protect residents of affordable housing, and subsection (b)(5) covers model housing activities. Subpart C of the regulations reflects the statutory language. "Affordable housing" is housing that complies with the requirements for affordable housing in