



Housing Assistance Council

**MAKING RURAL HOUSING  
PROGRAMS WORK  
IN INDIAN COUNTRY:  
A GUIDE FOR  
TRIBES AND  
TRIBAL HOUSING  
ORGANIZATIONS**

\$5.00

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Housing Assistance Council  
1025 Vermont Avenue, N.W.  
Suite 606  
Washington, DC 20005  
202-842-8600 (voice)  
202-347-3441 (fax)  
hac@ruralhome.org  
<http://www.ruralhome.org>

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HAC, founded in 1971, is a nonprofit corporation that supports the development of rural low-income housing nationwide. HAC provides technical housing services, loans from a revolving fund, housing program and policy assistance, research and demonstration projects, and training and information services. HAC is an equal opportunity lender.

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## INTRODUCTION

The 1996 Native American Housing Assistance and Self-Determination Act (NAHASDA, Public Law 104-330) is changing the housing assistance landscape in Indian Country. It is clear, however, that no single agency or program alone has sufficient funds to address Native American housing needs, estimated in recent years at about 220,000 affordable units, plus related infrastructure (HUD 2000, vii). Previously underused resources must be explored and understood to complement and supplement the opportunities provided by NAHASDA and to reach a diverse population in need of housing improvement.

While not designated exclusively for Native Americans living on restricted lands,<sup>1</sup> the housing programs administered by the United States Department of Agriculture's Rural Housing Service (RHS) broaden the tools that housing practitioners and individuals have to meet housing demands. Improving access to RHS programs and demonstrating the connection between the RHS programs, NAHASDA, and the Affordable Housing Program, among other resources, is the purpose of this guide.

The Section 184 Loan Guarantee Program authorized by the Housing and Community Development Act of 1992 and administered by the Department of Housing and Urban Development (HUD) currently is the most widely used product to encourage private lending on restricted lands. Loans disbursed under this program totaled 1,555 (\$154,969,750) as of May 1, 2004, according to HUD's Office of Native American Programs. Interest in the program continues to grow. But the successful use of the Section 184 Loan Guarantee Program and the availability and flexibility of NAHASDA funding (\$650 million in fiscal year 2004) do not negate the persistent need for quality housing and financial infrastructure on Native American lands. Decent, affordable, and appropriate housing is needed for households of all income levels in Indian Country, and the current programs specifically designed for Native American use cannot, at their current levels, meet the considerable and growing demand. With its funding limitation, NAHASDA, in particular, may best work as a catalyst for non-NAHASDA financing.

RHS's housing programs are administered by USDA Rural Development (USDA RD) staff located in state and local offices. Single-family programs, such as the Section 502 Direct and Guarantee Mortgage Loan Programs and the Section 504 Home Repair Loan and Grant Programs, and multifamily programs that include the Section 515 Rural Rental Housing Program, as well as the Section 538 Rental Housing Guarantee Program, are the heart of RHS's ability to serve rural housing needs. These programs have been used minimally in Native American communities, however, often because of insufficient outreach efforts or an inadequate understanding of the available program resources. In contrast, in non-Native American communities, over time these programs have substantially improved the housing conditions of rural America.

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<sup>1</sup>"Restricted lands," in this context, refer to lands that are held in trust by the federal government and that cannot be offered as security on a mortgage with the approval of the government.

- ⏏ With low interest rates and no downpayment under the Direct Section 502 Loan Program, homeownership has become a reality for very low-income families earning under 50 percent of median income.
- ⏏ In rural areas throughout the country, families join with other families and, under expert supervision, cooperatively build their homes. These “mutual self-help” efforts help reduce the cost of housing to an affordable level.
- ⏏ Elderly homeowners have essential repairs made to their homes under the Section 504 grant program, making the homes safer and more comfortable. Both elderly and non-elderly homeowners borrow home repair loan funds (also under Section 504) to help transform their homes into more liveable space.
- ⏏ Over 460,000 rental housing units enable the lowest income households in rural America to live in affordable housing through the Section 515 program with related rental assistance. (RHS 2003)

These programs have been used successfully in Indian Country, but the numbers are considerably lower than the need.

In a January 5, 2001 transmittal letter to congressional committees, USDA’s then Under Secretary for Rural Development noted that the report *Rural Housing Service Beneficiaries 1992 to 1999: A Report to Congress* showed the agency had made “great strides” in treating the rural population equitably, but indicated “the remaining objectives that must be reached: namely, ending the under-representation of American Indians and Alaskan Natives as potential beneficiaries in all of the Rural Housing Service’s programs . . . .” (USDA RD 2000, 1) The programs are underused by Native Americans, yet they are designed to serve mostly lower-income families who cannot afford private lender mortgage rates, which in many Native American areas are prohibitive. Perhaps the USDA Rural Development mission statement speaks loudest on this issue:

Enhance the ability of rural communities to develop, to grow, and to improve their quality of life by *targeting financial and technical resources in areas of greatest need through activities of greatest potential*. [Emphasis added]

“Greatest need” is readily apparent in Indian Country. Showing the “potential” for successful access of the programs is an intended outcome of this guide.

### ***What is Covered in This Guide?***

This guide contains:

- ⏏ general information about USDA’s housing programs’ structure and how they operate;
- ⏏ housing program descriptions;
- ⏏ information about RHS’s specific response to Indian Country;

- ⬢ filling gaps in the RHS programs – other housing program resources;
- ⬢ what tribes, tribal housing agencies, and individuals need to do to “get ready” for assistance; and
- ⬢ a glossary of terms, documents, key regulations, and contacts (see Appendix A).

### ***What is NOT Covered?***

This guide does not provide detailed program descriptions and regulations. For these, it is important to check <http://www.rurdev.usda.gov> or to contact the USDA Service Center nearest the reader (see “Where Are USDA RD Offices Located?” on pages 4-5).

Also, the Housing Assistance Council (HAC) has program guides on many RHS programs. See HAC’s website, <http://www.ruralhome.org>, for a listing of all HAC’s publications, many of which are available free on the website, or call 202-842-8600 to ask for a publications list.

\* \* \* \* \*

This guide is intended to improve tribes’ and tribal housing organizations’ understanding of programs administered by USDA Rural Development and currently underused by Native Americans. The guide demonstrates how these programs can work with related housing programs to serve Native Americans living on restricted lands. It is also intended to improve the reader’s understanding of mortgage lending as a *process* that involves government agencies (tribal and federal and, in some instances, state), private financial institutions, and individual borrowers. The contributions of each entity differ – financial, regulatory, and credit counseling are some examples – but each contribution is critical to using available housing resources successfully.

## **RURAL HOUSING PROGRAMS**

### ***First, Some General Information***

The introduction refers to the Rural Housing Service (RHS) of the United States Department of Agriculture (USDA). RHS, which sets policies and regulations for the programs covered in this guide, is one of three agencies created when the former Farmers Home Administration (FmHA) was dismantled during the 1990s. The other agencies are the Rural Business-Cooperative Service and the Rural Utility Service. Each of these agencies carries out the Rural Development “mission” highlighted in the introductory section of this guide. USDA Rural Development (RD) is also the name given to the USDA state, area, and local offices that administer the RHS programs. USDA RD staff are your key contacts.

- ⏏ USDA RD state offices administer programs in a state or multi-state area. In states with significant numbers of rural Native Americans, State USDA RD directors may designate a staff person as the Native American coordinator (see Appendix B for a list).
- ⏏ USDA RD area offices may provide administrative supervision for a number of local offices, and process loan and grant applications from *organizations*.
- ⏏ USDA RD local offices receive and process RHS housing applications for *individuals*, primarily for single-family home purchase or repair, provide some credit counseling and loan supervision, and provide back-up servicing assistance for single-family loans. They may also provide assistance on loans to organizations.

Since there are variations of this structure in the states, some of the local or area offices may be called by different names, such as county or district offices. Also, USDA RD offices are generally part of USDA Service Centers. When dialing the Service Center number, in most instances you will be asked to press “4” to speak with a USDA Rural Development representative.

### ***Where Are USDA RD Offices Located?***

USDA Rural Development maintains more than 1,000 county or local offices serving all rural areas of the United States, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Western Pacific Territories. Offices are usually located in county seats, with many offices serving several counties. Offices serving large areas may maintain sub-offices in other locations, where USDA Rural Development staff interview applicants during certain hours. This arrangement has been used in some Native American areas to reduce travel time and inconvenience for applicants.



To locate the USDA Rural Development local office serving your area:

- ⏏ Look for the local USDA RD office in the telephone book under U.S. Government, Department of Agriculture, Rural Development.
- ⏏ Contact the local Cooperative Extension Service, if there is one.
- ⏏ Write or call the USDA Rural Development state office.
- ⏏ Go to <http://www.rurdev.usda.gov>, click on “state offices,” and click on your state. Your state address/telephone number will be shown; scroll down for “region” or “county” for local office information.
- ⏏ Contact the national RHS office for the current office address of any USDA RD office: RHS, USDA, Washington, DC 20250, 202-720-9725, or <http://www.rurdev.usda.gov>.

### ***What Areas Do the RHS Programs Serve?***

With the exception of RHS's Section 514/516 Farm Labor Housing Loan and Grant Programs, which are not described in this guide, housing program assistance is limited to places considered to be “rural areas.” “Rural” is defined by federal law as “any open country, or any place, town, village, or city which is not . . . part of or associated with an urban area and which (1) has a population not in excess of 2,500 inhabitants, or (2) has a population in excess of 2,500 but not in excess of 10,000 if it is rural in character, or (3) has a population in excess of 10,000 but not in excess of 20,000, and (A) is not contained within a standard metropolitan statistical area, and (B) has a serious lack of mortgage credit for lower and moderate-income families, as determined by the Secretary [of Agriculture] and the Secretary of Housing and Urban Development” (Section 520, Housing Act of 1949). In some cases, communities between 20,000 and 25,000 population may be served; these communities have been designated by Congress and were eligible for USDA RD assistance prior to the 2000 decennial census.

When in doubt, ask local USDA RD staff whether your reservation or community is eligible – or consult the local office map. Each local office displays a map showing eligible rural areas within that office's jurisdiction.

### ***Program Regulations***

The Rural Housing Service has issued extensive regulations for its single-family programs (Section 502 and Section 504). In 2003 the agency published a draft of new regulations for its multifamily programs, including Section 515 rental housing and Sections 514/516 farm labor housing; as of August 2004 those new regulations were not yet in effect. The primary regulations for each program will be noted in the program descriptions below and are important for organizations to read when considering the implementation of RHS programs in Indian Country. Copies of the regulations, generally called “instructions,” were formerly readily available from local or state USDA RD offices, but the agency now encourages the use of its website to access these instructions and its handbooks at <http://rdinit.usda.gov/regs>. To request a printed copy if preferred, write to the state, area, or local office, or to:

USDA Rural Development  
FC-313  
1520 Market Street  
St. Louis, MO 63103

- △ Note that you are a public or nonprofit organization.
- △ Note the instruction number.
- △ To subscribe for instruction changes, on a calendar year basis, send a check for \$40.00 payable to the Treasury of the United States.

There are five basics to understanding and properly using RHS housing programs:

- △ Know what they do. Know the programs' purposes, as defined by law.
- △ Know how they do it. Know the programs' processing procedures, as established by the appropriate instructions, which are used by USDA RD and RHS loan processing and approval officials.
- △ Know why they do it a particular way. Know how much authority USDA RD officials have. Variations from national instructions may occur because of state or local law or because of misinterpretation by individual officials. Keep in mind that USDA RD staff have authority to waive certain requirements under certain conditions and with the appropriate paperwork – and that negative decisions may be appealed through a formal process.
- △ Follow agency instructions. Provide what is asked for in the manner requested. Consult with the USDA RD office prior to developing an application.
- △ Obtain information on the current and future availability of funds. This has become essential as funds for some RHS programs have been reduced. You need to also obtain information on whether there are priorities set for the use of the funds.

### ***Now, for the Specific Programs***

PLEASE NOTE: Some terms used in this publication may be found in the Glossary (Appendix A).

#### ***Section 502 Direct Homeownership Loan Program***

The Section 502 program has two major parts: direct loans and guaranteed loans. “Direct” means that USDA Rural Development serves as the lender, directly lending the funds needed to acquire single-family housing. The borrower does not go to a bank or other private lender for these funds. The guaranteed program will be described later.

a. *Purpose*

Section 502 direct mortgage loans enable low- and very low-income households to purchase, build, repair, renovate, or relocate houses, including manufactured homes. These loans are also used to purchase and prepare sites and/or to provide water supplies and sewage disposal for sites. Section 502 loans may be used to refinance debts when necessary to avoid losing a home or when required to make necessary rehabilitation of a house affordable.

Security on a Section 502 direct loan may include a leasehold on trust or otherwise restricted land.

b. *Eligibility*

Eligible applicants must have very low or low incomes. Adjusted income ceilings are the same as for the HUD Section 8 Housing Choice Voucher program, and are available at <http://www.huduser.org/datasets/il.html> or from USDA Rural Development or HUD offices. Basically, low income is 80 percent or below of area median income, and very low income is 50 percent or below of area median income.

Families must be:

- ⊞ currently without adequate housing;
- ⊞ able to afford the mortgage payments, taxes, and insurance, typically within 22 to 26 percent of their incomes;
- ⊞ unable to obtain a mortgage loan elsewhere on similar terms; and
- ⊞ credit worthy, according to program instructions.

Priority is provided to families:

- ⊞ with hardships, including those currently living in deficient housing;
- ⊞ participating in self-help housing developments;
- ⊞ with current loans that have servicing issues; and
- ⊞ who obtain participation loans (see page 9).

“Credit worthiness” is carefully defined in program instructions and can deter many applicants until certain debts are cleared and/or a designated time period has expired. Obtaining an early credit evaluation and counseling, if needed, is probably the most critical aspect of receiving Section 502 assistance (see “Indicators of Unacceptable Credit” in Appendix C).

c. *Terms*

Loans are for terms up to 33 years, or 38 years for those with incomes below 60 percent of the area median and who cannot afford 33-year terms, or 30 years for manufactured homes.

No downpayment is required.

RHS sets a maximum interest rate for the promissory note; however, a payment assistance subsidy in the form of subsidized interest may be provided. This subsidy is directly related to the applicant/borrower's adjusted income as a percentage of area median income. For example, if an applicant's adjusted income is 50 percent or less of area median income, the mortgage loan interest rate would be 1 percent, but if the applicant's adjusted income is between 65 and 70 percent of area median, the interest rate is 5 percent (see Appendix D for interest rates). In no case would the interest rate exceed the promissory note rate established by RHS.

Changes to the Section 502 direct program during the 1990s also require that the family pay a minimum of 22, 24, or 26 percent of their income (22 percent for borrowers whose median income is 50 percent or less of area median, 24 percent for families at 50.01 to 65 percent of area median, and 26 percent for families at 65.01 to 80 percent of area median) for principal, interest, taxes, and insurance (PITI). This required payment level can never exceed the payment required at the promissory note rate, but it can exceed the payment computed at the payment assistance subsidy level, described above. Families that obtain participation loans (described on page 9) are not required to meet the 22, 24, or 26 percent of adjusted income conditions.

A participant household's total debt, which is PITI – which may not exceed 29 percent of adjusted income – and certain other short and long term debts (e.g., car loans and alimony), generally may not exceed 41 percent of repayment income.

d. *Housing Standards*

Housing built under the Section 502 program must be modest. Each USDA Rural Development state office can choose between two ways of setting a cost limit to define “modest housing” in its state. A state office can adopt the limit established by its state housing agency or a limit calculated according to USDA's regulations that takes cost and market value into account. Check with a USDA Rural Development office to find the limits applicable in a particular area.

Houses constructed, purchased, or rehabilitated with Section 502 funds must comply with the voluntary national model building code adopted for the state as well as with RHS thermal and site standards. Manufactured housing must be permanently installed and meet the HUD Manufactured Housing Construction and Safety Standards and RHS thermal standards.

e. *Comments*

RHS may compensate Section 502 borrowers to correct construction defects discovered within the first year of occupancy and not covered by the contractor.

Should a borrower run into payment trouble due to circumstances beyond the family's control (e.g., loss of employment or major illness), there is a moratorium provision that enables the agency to defer payments while the family recovers. This is not automatic, but when granted is very helpful in avoiding loan foreclosure.

USDA RD encourages "graduation" from its subsidized loans if a family's income increases to a level where a private lending institution would be willing to make them a loan, but "graduation reviews" are not scheduled until loans are at least five years old.

If a home is sold before the end of the term of the loan, USDA RD may recapture part or all of the subsidy provided depending on how many years the borrower has held the loan.

USDA RD encourages banks or nonprofit organizations to participate in loans under the Section 502 direct program, which allows often scarce Section 502 dollars to serve more borrowers. These are called "participation" loans. Particularly when banks are involved, the blended interest rate (private and federal) may be higher than with a straight Section 502 loan, so borrower income may have to be higher. As mentioned earlier, however, borrowers who obtain participation loans do not have to meet the minimum 22, 24, or 26 percent of income for principal, interest, taxes, and insurance (PITI).

f. *Variations*

i) Rural Housing Demonstration Program. This program finances innovative housing that does not meet existing published standards, rules, regulations, or policies, provided that the housing is not constructed contrary to law and does not present an impediment to health or safety. RHS issues an annual Notice of Funding Availability in the *Federal Register*,<sup>2</sup> usually in December.

ii) Conditional Commitments. For a fee of \$350, which includes appraisal and inspection, builders or manufactured home contractors may receive a commitment by USDA Rural Development to finance a given house, conditioned on sale to a qualified applicant and the availability of funds. The conditional commitment and the demonstration program have worked together.

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<sup>2</sup>The *Federal Register* is available online at <http://www.gpoaccess.gov/fr/index.html>.

iii) Self-Help Housing Development. Groups of families unable to obtain housing through conventional methods because of limited income may construct their homes by participating in mutual self-help projects, with construction and permanent mortgage funding through the Section 502 program. These groups (most often six to twelve families) perform a substantial amount (approximately 65 percent) of the construction labor on each other's homes, under expert supervision, with certain tasks performed by professionals. RHS provides technical assistance funds to nonprofit organizations to assemble the families, including homebuyer education and loan packaging, and the land, and to provide construction supervision as well as hire skilled contractors for work the families are not able to do. Regional technical assistance providers help create local nonprofit self-help technical assistance organizations (see Appendix E for a listing of these regional organizations). There are several Native American self-help housing organizations operating on Indian land, including Twilight Dawn (Navajo Nation) and Oglala Sioux Tribe's Partnership for Housing (OSTPH, Pine Ridge Reservation, S.D.).

*g. Approval*

USDA Rural Development local managers have authority to approve most Section 502 loans. There is a formal procedure for appealing negative decisions. Contact your local office to learn more about the appeals procedure.

*h. Availability of Funds*

Funding levels for Section 502, as for all RHS programs, are set by Congress in the Department of Agriculture's appropriation bill. The Section 502 funds are then apportioned for use in each quarter of the federal fiscal year. After national and designated reserves are deducted, the balance is allocated by formula to USDA Rural Development state offices. RHS pools unused money each fiscal year, usually in mid-summer. The demand for funds normally exceeds supply and RHS may choose to make all unused funds available to the state offices on a first come, first served basis.

*i. Basic Instruction*

7 CFR Part 3550 subparts A, B, D and E and HB-1-3550

*j. Contact*

Contact a local USDA Rural Development office through your state office. State offices are listed at [http://www.rurdev.usda.gov/recd\\_map.html](http://www.rurdev.usda.gov/recd_map.html).

Section 502 Guaranteed Loan Program

This program encourages banks and other private lenders to make loans that are guaranteed by RHS/USDA Rural Development against any losses to the lender should the borrower default on the loan. Unlike HUD under the Section 184 loan guarantee program, RHS/USDA Rural

Development does not assume a loan in default, so the private lender must pursue foreclosure on its own. Some private lenders are wary of pursuing foreclosure in tribal courts, so they shy away from participating in the Section 502 guarantee program. Yet Fannie Mae provides a secondary market for private lenders to make loans on restricted lands and is willing to accept tribal court proceedings as long as the tribe has adopted an acceptable ordinance on foreclosures and evictions. (The “One Stop Model Ordinance” is discussed in the next section of this publication under “Leases and Mortgages.”)

As of summer 2002, about six loans in four states had been made under the agency’s Section 502 guarantee initiative on Native American lands. These numbers were expected to increase due to growing lender interest, but updated figures were not available from RHS in early 2004.

*a. Purpose*

Like direct loans, Section 502 guaranteed mortgage loans may be used to purchase, build, repair, renovate, or relocate houses, including manufactured homes, to purchase and prepare sites, or to provide water supplies and sewage disposal for sites, and, in some circumstances, to refinance debts.

*b. Eligibility*

i) Borrower. Eligible applicants must have incomes at or below 115 percent of area median income. Like Section 502 direct borrowers, families must be without adequate housing; able to afford the mortgage payments, taxes, and insurance; and unable to obtain credit from a lender without the guarantee. They must have reasonable credit histories.

ii) Lender. Lenders are approved by USDA Rural Development state offices. USDA RD local offices can provide lists of approved lenders.

*c. Terms*

Loans are for terms up to 30 years. The promissory note interest rate is set by the lender. No downpayment is required. Although there is legislative authority to provide subsidized loans, currently the program is limited to unsubsidized loans. The lender pays RHS a one-time 1 percent guarantee fee that is collected from the borrower.

*d. Housing Standards*

This program previously used the HUD 203(b) limits to denote “modest” housing, but had to stop using them due to an adverse legal ruling. For this program, then, a “modest” home is one that the applicant/borrower can afford.

Like those financed by Section 502 direct loans, houses constructed, purchased, or rehabilitated with Section 502 guaranteed loans must comply with the voluntary

national model building code adopted for the state as well as with RHS thermal and site standards. Manufactured housing must be permanently installed and meet the HUD manufactured home construction and safety standards and RHS thermal standards.

*e. Comments*

Because of the differences in interest rate and subsidy, the guaranteed program generally serves borrowers with higher incomes than the direct loan program.

A lender's loan denial cannot be appealed, nor are moratorium rights applied to a borrower under the guarantee program should the family be unable to pay its mortgage due to circumstances outside the family's control.

*f. Approval*

USDA Rural Development local managers have authority to approve most Section 502 guaranteed loans. The guaranteed program does not provide for appeals to USDA RD on negative decisions by private lenders.

*g. Availability of funds*

The Section 502 guarantee loan program is well funded by Congress, since it is considered a less expensive program to operate than the direct program. Program use has never yet met the funding level, so funding is readily available.

*h. Basic Instruction*

7 CFR Part 1980

*i. Contact*

Contact a local USDA Rural Development office through your state office. The local office can provide information on participating lenders. State offices are listed at [http://www.rurdev.usda.gov/recd\\_map.html](http://www.rurdev.usda.gov/recd_map.html).

*Section 504 Very Low-Income Housing Repair Loans and Grants*

*a. Purpose*

Loans up to \$20,000 and grants up to \$7,500 (loans and grants can be combined up to \$27,500) are provided to very low-income homeowners to repair, improve, or modernize their dwellings or to remove health and/or safety hazards, and to make dwellings accessible for household members with disabilities.



*b. Eligibility*

i) Loans. Eligible homeowner-occupants must have incomes below 50 percent of area median and be unable to obtain affordable credit elsewhere. Applicants must need to make repairs and improvements to make their dwellings more safe and sanitary or to remove health and safety hazards.

ii) Grants. Grants are available only to those homeowners 62 years of age or older who cannot repay part or all of Section 504 loans. Grant funds may be used only to pay for repairs and improvements resulting in removal of health and/or safety hazards. If the participant household can pay part of the cost, a combination grant and loan is made.

*c. Terms*

Loans are for a period of up to 20 years at 1 percent interest. A grant may be recaptured if the property is sold in less than three years.

*d. Security*

Real estate mortgages are required for loans of \$7,500 or more. "Ownership" may consist of a leasehold interest, which must have a term at least two years beyond the note term for a loan or, in the case of a grant, for at least five years. There is no minimum lease period for mutual help housing on Indian land. A lease for a mutual help home is proof of ownership under the Section 504 program.

*e. Housing Standards*

Repaired properties do not need to meet other RHS code requirements, except that installation of water and waste systems and related fixtures must meet local health department requirements. Water supply and sewage disposal systems should normally meet RHS requirements. All work must meet local codes and standards.

*f. Approval*

The USDA Rural Development local office has the authority to make a decision on a Section 504 loan and/or grant application.

*g. Comments*

Not all the health and safety hazards in a home must be removed with Section 504 funds, provided major health and safety hazards are removed. Some groups, including Native American organizations, have been successful in combining Section 504 funds with funds such as weatherization grants, Community Development Block Grants, Bureau of Indian Affairs Housing Improvement Program repair funds, volunteer work camps, tribes' own home repair programs, and USDA's Section 533 Housing

Preservation Grants (described below), among other resources, sometimes accomplishing major home renovations.

*h. Basic Instruction*

7 CFR Part 3550 Subpart A, C, D and E and HB-1-3550

*i. Contact*

Contact a USDA Rural Development office through your state office. State offices are listed at [http://www.rurdev.usda.gov/recd\\_map.html](http://www.rurdev.usda.gov/recd_map.html).

*Section 533 Rural Housing Preservation Grants*

*a. Purpose*

Rural Housing Preservation Grant (HPG) funds enable sponsoring organizations to assist low- and very low-income homeowners, and landlords serving low- and very low-income renters, to repair or rehabilitate their dwellings. The grants are competitive and made available in areas where there is a concentration of need. Sponsors combine HPG funds with other programs or funds and use them as loans, grants, or other subsidies for their clients, based on plans contained in the sponsors' applications.

*b. Eligibility*

Sponsors may be nonprofit organizations, Indian tribes, units of local government, or state agencies.

*c. Terms*

Funds must be used within a period of two years. RHS/USDA Rural Development annually issues a request for proposals in each state and rates pre-applications by a weighted point system. Grantees may use up to 20 percent of the HPG for administration.

*d. Housing Standards*

The property must meet locally accepted development standards or the voluntary model national standards recognized by RHS/USDA Rural Development. The Secretary of Interior's Standards for Historical Properties apply to historic properties.

*e. Variations*

The program may be used on rental properties when landlords agree to maintain the units for low-income use for a minimum of five years.

*f. Approval*

State USDA RD directors approve HPG requests and have authority to interchange funds between HPG and the Section 504 grant program.

*g. Comments*

HPG enables local organizations to design their own programs. USDA Rural Development monitors but does not participate in the approval process for individual homeowner clients.

*h. Basic Instruction*

Instruction 1944-N

*i. Contact*

Contact a USDA Rural Development office through your state office. State offices are listed at [http://www.rurdev.usda.gov/recd\\_map.html](http://www.rurdev.usda.gov/recd_map.html).

*Section 515 Rural Rental and Cooperative Housing Loans*

*a. Purpose*

Section 515 provides direct loans to finance modest rental or cooperatively owned housing designed for very low-, low- and moderate-income families, elderly people, and persons with disabilities. Funds may be used to construct new housing or to purchase and rehabilitate existing structures for rental purposes. A portion of funds in recent years has been used to maintain the existing Section 515 housing stock. Congregate housing for the elderly and persons with disabilities, as well as group homes for developmentally disabled people, are authorized through special regulations and requirements, but nursing homes are not eligible. Funds may also be used to buy and improve land and to provide necessary facilities such as water and waste disposal systems.

*b. Eligibility*

i) Owners. Individuals, partnerships, limited partnerships, for-profit corporations, nonprofit organizations, limited equity cooperatives, Indian tribes, and public agencies are eligible.

Borrowers must be unable to obtain credit elsewhere that will result in rents affordable to low- and moderate-income tenants. A loan to a nonprofit organization or public body may be for up to 100 percent of the appraised value or development cost, whichever is less, plus 2 percent initial operating capital. A loan to an individual,

partnership, limited partnership, or for-profit corporation operating on a limited-profit basis cannot exceed 97 percent (95 percent if Low Income Housing Tax Credits are involved) of the appraised value or development costs, whichever is less, and the borrower must provide the 2 percent initial operating capital.

ii) Tenants. Very low-, low-, and moderate-income households are eligible to live in Section 515-financed housing. Priority is given to those living in substandard housing. For new projects, priority for 95 percent of all units goes to very low-income households (incomes at or below 50 percent of area median) to the extent that rental assistance subsidy is available (see “Terms” below).

c. *Terms*

Loans are for up to 30 years but amortized over 50 years at a 1 percent interest rate. Tenants pay the greater of “basic rent” or 30 percent of adjusted income. RHS rental assistance subsidy (under Section 521) can be used to limit tenant payments to 30 percent of income. In some cases, HUD Section 8 vouchers or state rental assistance have also been utilized with Section 515 loans.

Loans made through contracts entered into on or after December 15, 1989 cannot be prepaid. Owners may obtain guaranteed equity loans after 20 years as an incentive to continue participation in the program.

d. *Housing Standards*

The voluntary national model building codes and thermal standards apply. When moderate rather than substantial rehabilitation is involved, a separate RHS standard is used. RHS maintains allowable square foot ranges by number of bedrooms to limit unit size. Projects must be designed to have two or more units per building, except for group homes or cooperatives, which may use detached units.

e. *Variations*

i) Cooperative Housing. Separate rules (within the basic rental housing regulations) apply for the use of Section 515 limited equity consumer cooperative loans. Housing units can be detached. Once eligible, owner-occupants are always eligible, even if their incomes increase beyond the moderate limit.

ii) Downtown Renewal Areas. RHS rules require that Section 515 projects be located in residential areas of rural communities where certain services are provided.

iii) Congregate Housing. The capital costs for congregate or group home services may be financed for semi-independent tenants provided there is either an assured source of funding for the operating costs or these costs are affordable to the eligible client populations.

iv) Rural Housing Demonstration Program. This program permits the financing of innovative housing that does not meet existing published standards, rules, regulations, or policies, provided that the housing is not contrary to law and does not result in an impediment to health and safety.

*f. Approval*

State directors have the authority to approve loans of up to \$1,500,000. All requests for loans above \$1,500,000 must be reviewed and approved by the RHS national office. Currently Section 515 loans are made available on a competitive basis, using a national Notice of Funding Availability published annually in the *Federal Register*.

*g. Comments*

Projects may be on one or more sites. Scattered site authority adds flexibility. The overwhelming majority of loans are to entities using the Low Income Housing Tax Credit.

RHS employs a “weighted priority” system for pre-applications. Weights are assigned for each funding cycle (fiscal year).

Each year, a portion of the new construction allocation of funds is set aside for nonprofit housing developers.

The program’s 50-year amortized mortgages at 1 percent are a unique and valuable resource for sponsors of low-income rental projects.

*h. Basic Instruction*

Instruction 1944-E. In spring 2003 RHS issued a long awaited major revision of its multifamily housing regulations, which will impact the Section 515 program as well as the Sections 514/516 farm labor housing loan and grant and Section 521 Rental Assistance programs. As of August 2004, the agency had not put the changes into effect.

*i. Contact*

Contact a USDA Rural Development office through your state office. State offices are listed at [http://www.rurdev.usda.gov/recd\\_map.html](http://www.rurdev.usda.gov/recd_map.html).

## Section 538 Guaranteed Rural Rental Housing Program

### *a. Purpose*

Under the Section 538 program, RHS guarantees loans made by private lenders for the development of affordable rural rental housing.

### *b. Eligibility*

i) Lenders. The banks or thrifts that receive loan guarantees are approved by RHS in Washington, D.C. To obtain that approval, a lender must be approved to make multifamily housing loans by HUD, Fannie Mae, Freddie Mac, or by the state or local housing finance agency, or it must be a member of the Federal Home Loan Bank System with demonstrated multifamily housing loan ability.

ii) Borrowers. Eligible borrowers include individuals, nonprofit or for-profit corporations, partnerships, state or local public agencies, limited liability companies, trusts, and Indian tribes.

iii) Tenants. Households with incomes below 115 percent of area median income may live in units developed with Section 538 guarantees.

### *c. Terms*

The maximum term is the lesser of 40 years or the remaining economic life of the project. Interest rates must be fixed and must not exceed the rate published in RHS's Notice of Funding Availability (NOFA). Loans may be prepaid. Rent, including utilities paid by the tenants, cannot exceed 30 percent of 115 percent of the area median income.

RHS must provide interest credit to reduce the interest to the Treasury rate for at least 20 percent of the loans made.

### *d. Housing Standards*

The program permits varying housing types. Each project must contain at least five units, be in a rural area, and be under one management entity.

### *e. Approval*

Approval is made by RHS on a competitive basis, the scoring for which is outlined in the NOFA published each fiscal year in the *Federal Register*.

*f. Comments*

Priority is given to applications for projects located in smaller rural communities, those located in the most needy communities with the highest percentage of leveraged funds, those with the highest ratio of three- to five-bedroom units, those located in Empowerment Zones or Enterprise Communities, or those on tribal land. Priority loans compete for set-aside funds.

Section 538 units tend to be larger than those financed under Section 515. Tenant incomes are higher because the subsidy is not as deep.

Tax-exempt financing can be used as a source of capital for the guaranteed loan.

Recent legislation defined “Indian tribe” as an eligible applicant under the 538 program, and adopted 1990 legislative language that prohibits program loans from leading to the alienation of Indian trust lands.

*g. Basic Instruction*

7 CFR Part 3565 Subparts A through J, aided by the application submission and ranking criteria in an annual NOFA.

*h. Contact*

Contact a USDA Rural Development office through your state office. State offices are listed at [http://www.rurdev.usda.gov/recd\\_map.html](http://www.rurdev.usda.gov/recd_map.html).

or

Joyce Allen  
Multi-Family Guaranteed Loan Division  
Rural Housing Service  
U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Stop 0781  
Washington, DC 20250  
202-690-4499  
[joyce.allen@usda.gov](mailto:joyce.allen@usda.gov)

## **RHS/USDA RURAL DEVELOPMENT'S RESPONSES TO INDIAN COUNTRY**

Prior to 1990, there was considerable reason for tribes and tribal members to be wary of mortgage lending through the Farmers Home Administration (FmHA), now the Rural Housing Service/Rural Development. There was no protection at the time against the alienation (see below) of trust land should a loan go to foreclosure. Federal legislation in 1990 went a long way in changing this perception and, at the same time, numerous counties were targeted for RHS funding set-asides, many of which are home to reservations. The decade of the 1990s witnessed growing interest on the part of FmHA, and its successor, RHS, to understand the unique issues of sovereignty, land tenure, leaseholds, isolation, and considerable poverty – and to begin to make program resources and staff responsive. The following items reflect some of the agency's responses, and identify some issues that still need to be resolved.

### ***No Alienation***

The 1990 National Affordable Housing Act contained a provision, Section 708, which amended Section 509 of the Housing Act of 1949 to strictly prohibit the use of agency funds to remove the trust status of Indian lands through foreclosure on a housing loan. The provision reads as follows.

In the event of default involving a security interest in tribal allotted or trust land, the Secretary [of Agriculture] shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority, serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

If the agency is unable to transfer the property to any of the entities cited, it may rent the property to a non-tribal member, but the land does not lose its trust status. Any sublease or assignment of the property must be consistent with tribal law and federal law.

### ***Leases and Mortgages***

With over 550 federally recognized tribes, there are probably almost that many differing legal documents. When federal and private lending agencies are put in the mix, the range of acceptable legal language with regard to lease and mortgage documents grows. Until recently, a tribe would often come to an agreement on a lease that was acceptable to HUD, and find that USDA wanted something different, or that the Department of Veterans Affairs would have a different take on what was acceptable.

In an Executive Memorandum dated August 6, 1998, President Clinton directed the Secretaries of HUD and Treasury to “develop recommendations to help streamline mortgage lending in Indian Country.” In addition to two pilot projects creating “one stop mortgage centers,” inter-agency task forces began meeting and broadened membership to include USDA, Veterans



Affairs, and the Department of Interior. Barriers and possible solutions to mortgage lending were explored, a report to the President was issued in 2000, and critical documents emerged from this initiative. (HUD 2000, vii)

The “Model Interagency Lease and Lending Procedure” establishes a lease document that is agreeable to the various federal lending agencies and, if adopted by a tribe, may be used as security for loans from HUD, VA, or USDA. If modifications are made to the lease in negotiation with one federal agency, then the others will want to review and approve those modifications for their own lending. The report to the President also provides “Model Tribal Lending Procedures for: Lien Priority, Eviction and Foreclosure and Leasing.” (A copy of the model lease is found in Appendix F, along with related other documents.)

Establishing a legal and administrative framework for these issues is key to federal lenders agreeing to use tribal courts when these issues become tangible. In a 1995 Administrative Notice (Number 3152) to its field offices, RHS clarified that for loans made on trust land, any foreclosure must be “in accordance with the laws of the tribe which has jurisdiction over the land if the tribe has established a tribal foreclosure law.” Further, a “tribal foreclosure law may require a foreclosure action to be brought in tribal court.” USDA RD Instruction 2000-NNN, on the “Memorandum of Understanding (MOU) to Enhance Mortgage Lending on American Indian Lands,” incorporates as exhibits the actual MOU with HUD and Veterans Affairs, the “Model Tribal Lending Procedures For: Lien Priority, Eviction and Foreclosure and Leasing,” the model lease, and a blank MOU between one of the federal agencies and a specific tribe in which the tribe certifies, among other items, that it has the procedures in place for foreclosure and eviction enabling the use of tribal court. (See Appendix F for many of these documents.)

### ***Funding Set-Asides***

RHS does not have any specific set-asides of funds for Native Americans on restricted lands, but the agency does set aside funds for specific purposes that include Native Americans. These funding set-asides are important in that they allow the eligible participants to compete for funding on a much smaller scale. In areas where program knowledge or capacity to prepare funding applications is limited, the funding set-asides target resources to the greatest need. Funding set-asides are shown in the annual allocation of funds, referred to as the “1940-L,” published in the *Federal Register*, generally by December of each year.

- ◻ *Underserved Counties* – A provision in the 1990 National Affordable Housing Act requires RHS to set aside a portion of each housing program’s funding for the 100 counties exhibiting the greatest need and reflecting inadequate service from the agency in prior years. The first list of 100 counties, and many identified in the following years, included counties where reservations were located. A list of 100 counties selected for the FY 2004 set-aside, as well as the list of “pooled” counties – those that are eligible for the set aside if the first 100 counties do not use all the funding – is found in Appendix G.

- ⏏ *Colonias* – These are communities along the U.S.-Mexico border in four states – California, Arizona, New Mexico, and Texas – that exhibit a serious lack of infrastructure (e.g., water, sewer, roads). Tribes located within these border areas may be eligible for this funding set-aside.
- ⏏ *EC-EZ Communities* – In 1997, under the Taxpayer Relief Act, Indian reservations became eligible applicants for the “community empowerment” program, which was created in 1993 to encourage economic development in selected urban and rural communities. Prior to 1997, reservations may have contributed to the need data critical to qualifying as an Enterprise Zone (EZ) or an Enterprise Community (EC), and may have benefitted from successful applications, but could not apply directly. Currently, four Enterprise Zones, which receive targeted tax benefits for economic development activities, include tribes: the Oglala Sioux EZ (fully tribal, South Dakota), and the Desert Community EZ in southern California, Aroostook EZ in Maine, and the Futuro EZ in Texas, each of which partners with tribes within the Zone. In addition, about 17 tribes benefit from the EC program, and several ECs are fully tribal: Ft. Peck (Montana), Northwood’s Nijji (Wisconsin), Four Corners (includes the Navajo Nation and the Hopi in four Southwestern states), and Metlakatla (Alaska). For a full list of rural EZ and EC communities, go to <http://www.ezec.gov>.

### ***Strategic Plans***

The 1996 Farm Bill added reservations to USDA Rural Development’s national and state strategic planning. For the state plans, USDA RD instructions require that the planning include consultation with, among other governmental entities and non-governmental agencies, Native Americans. This requirement enhanced USDA RD state office outreach to tribes and tribal housing organizations. The original plans were for five years. The Farm Bill passed in 2002 is silent on strategic planning, but it is hoped that the momentum gained in consulting with and including tribes’ housing and related needs in the state plans will encourage the continuation of this effort.

### ***Appraisals***

Cost appraisals – appraisals based on construction costs, rather than on analyses of “comparable” home sales in the area – are authorized for new construction loans in remote rural areas or tribal lands. In many Native American areas, much of the housing built for many years was HUD-financed mutual help housing. This housing rarely was sold and, therefore, provided few if any comparables on which to base an appraisal for a USDA RD-financed home. Cost appraisals, therefore, became an important component of USDA RD lending on Indian lands. But there was a hitch: until 1996, the agency could adjust the appraised value by a factor called “external depreciation,” or remoteness. In 1996, an Administrative Notice (AN) was issued clarifying the use of cost appraisals in remote and tribal

lands, and removing “external depreciation” from consideration. AN 3681, issued November 1, 2001, clarifies that cost appraisals apply to the Section 502 loan guarantee program as well.

Cost appraisals are performed by USDA RD staff, who use the *Marshall and Swift Residential Cost Handbook* for guidance. This handbook does not take into consideration certain “necessary and reasonable costs” that RHS noted, also in 1996, in granting an exception to what was then the cost appraisal instructions. This exception letter noted that one of these costs may be the Tribal Employment Rights Ordinance (TERO), which may tax subcontractors or contractors working on developments benefitting tribal members. In a USDA Policy Statement, dated April 8, 1996, the agency accepted the imposition of the TERO tax.

### ***Income***

Income to determine eligibility (i.e., very low, low, or moderate income) and income to determine repayment ability differ somewhat, but certain types of income are excluded from consideration in calculating both types of income,<sup>3</sup> and among these exclusions are those specific to Native Americans, including:

- ⊞ payments received under the “Alaska Native Claims Settlement Act” or the “Maine Indian Claims Settlement Act”;
- ⊞ income derived from certain submarginal land of the United States that is held in trust for certain American Indian tribes;
- ⊞ income derived from the disposition of funds of the Grand River Band of Ottawa Indians; and
- ⊞ the first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims, or from funds held in trust for an American Indian tribe by the Secretary of Interior.

### ***Native American Coordinators***

USDA RD state directors in states with significant Native American populations may designate staff members as Native American coordinators (these coordinators often perform other functions within the agency). The role of the Native American coordinator varies with the priorities established by the USDA RD state director, but some common roles may be to initiate outreach to tribes within the state office’s jurisdiction (some USDA RD state offices cover more than one state), help develop a strategic plan to focus on Native Americans, help educate state and local office staff on issues pertaining to Native American program access, and provide input on policy and program issues relating to Native Americans.

At the national level within the USDA Rural Development mission area, there is a Native American coordinator who serves on inter-agency task forces, provides training at national and regional conferences, and raises policy and program issues that need national attention.

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<sup>3</sup>These are found in the 3550 Handbook, Section 4, Attachments 4-C and 4-D.

There is no line authority between the state level Native American coordinators and the national Native American coordinator, although work is underway to provide uniformity among the state level coordinators, offer guidance in outreach efforts, and create a strategic plan for the Native American coordinators. Appendix B contains a listing of state Native American coordinators, as well the name and contact information for the national coordinator.

### ***Building Standards***

USDA Rural Development allows for homes to meet one of three standards: 1) a standard adopted by the agency for each state; 2) a standard that meets the requirements of voluntary national model building codes (model codes); 3) minimum property standards developed by the Department of Housing and Urban Development. If a tribal building code is equivalent to at least one of these standards, then USDA RD can recognize that building code in developments it finances. More information on building standards is found in USDA RD Instruction 1924-A and its exhibits found on the USDA website at <http://rdinit.usda.gov/regs>.

### ***Still to Resolve . . .***

RHS at the national level, and its USDA Rural Development field staff, continue to address several issues specific to Native American program use. Briefly, they are:

- ⏏ Leveraging Section 515 with NAHASDA funding – In Section 515 rental housing program implementation, two issues are being addressed, but have not been resolved. 1) The NAHASDA Indian Housing Block Grant and the Section 515 program have different income eligibility requirements, which makes IHBG leveraging of the 515 program challenging. 2) The Section 515 program prohibits discrimination in marketing rental units, yet tribes may have an interest in restricting tenancy when the rental units are developed on restricted lands. On the second issue, the USDA Office of General Counsel has looked at but not reached its own opinion regarding a 2001 HUD Office of General Counsel opinion on the NAHASDA program stating that when NAHASDA funding is used in a development on land under the sovereignty or civil control of an Indian tribe, and is combined with other federal funding, federal fair housing laws do not pertain. Legislation introduced in 2004 by Senator Tim Johnson (D-S.D.), S. 1802, the Native American Housing Enhancement Act, includes a provision allowing Indian preference when NAHASDA and USDA funding are combined.
- ⏏ Property/Title Insurance – Borrowers under the Section 502 homeownership program need to show proof of homeowner's insurance, but it is not always readily available at affordable prices. Program instructions require that insurance carriers be certified by the USDA RD state office. Amerind, an insurance company originally created to serve Indian Housing Authority (IHA) insurance needs, operates nationally and is annually certified by HUD to serve

IHA insurance needs in all the states. RHS is exploring a similar national certification, or acceptance of HUD's certification, to open Amerind insurance coverage to single-family homebuyers under the Section 502 program. In the meantime, each USDA RD state office may certify Amerind's insurance coverage in the state. Title insurance is rarely available on Indian lands, but some companies have come to the forefront in offering this insurance in some regions. Information about these companies can be obtained from USDA RD offices or from state RD Native American coordinators.

- △ Environmental Protection – For projects with one to four Section 502 single-family housing units, the Rural Housing Service provides a “categorical exclusion” from environmental review, unless there is some known, sensitive environmental impact. Then it may require a Class I Assessment, which is conducted by the local USDA RD office staff. The Bureau of Indian Affairs (BIA), however, generally requires a more thorough review/analysis of environmental impact, which may delay the lease approval process if BIA does not have sufficient staff to complete this work.

While the “One Stop” deliberations discussed under “Leases and Mortgages” resulted in agreement among several federal agencies on many issues, the process did not result in an agreed-upon process for environmental approvals.

- △ Consultation – Executive Order 13175, dated November 6, 2000, required all federal agencies to consult with Indian tribes on regulation changes that would have a direct effect on them. HUD has used the consultative process in developing regulations for programs under the NAHASDA legislation. USDA/RHS has not implemented a formal consultative process. Consultation with tribes was key to the development of many of the state strategic plans first implemented in 1997. New five-year plans have not been developed as of August 2004, but it is expected that tribes will be consulted. It is also expected that a formal process for consultation will be issued.

## **FILLING GAPS IN RHS PROGRAMS . . . OTHER PROGRAM RESOURCES**

Years ago, the rural housing programs generally were funded at a level sufficient to meet the construction and permanent mortgage needs of both single-family and multifamily housing developments. Housing development costs, including land and infrastructure prices, have risen, while incomes have not grown at a parallel rate. RHS program resources, at least in the direct lending programs, have been slashed, so RHS has been concerned with leveraging its scarce dollars with other resources to build housing that is affordable to its borrowers. The need to leverage is now common with most federal housing programs, and is well recognized among tribes and their tribally designated housing entities (TDHEs), particularly as programs are created under the Indian Housing Block Grant to assist tribal members in obtaining affordable housing.

Some of the housing program resources that can provide leverage for RHS programs are described below. In addition, the Section 184 loan guarantee program and the Department of Veterans Affairs direct loan program for Native Americans on trust land are described as alternative resources for homeownership.

### *Indian Housing Block Grants – NAHASDA*

#### *a. Purpose*

The Indian Housing Block Grant program was created by the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). It separated Indian housing from public housing, and is intended to maintain the current stock of HUD-financed housing and to give TDHEs flexibility in exploring a variety of new options. Under NAHASDA, HUD funds for Indian housing are provided to tribes or TDHEs as a block grant, rather than as a specific program design. Recipients may use the funds in a variety of ways, including for development of new units, assistance to residents of existing units, provision of services, management, crime prevention and safety, security on loans for predevelopment or subdivision development, and much more.

The Hawaiian Homelands Homeownership Act of 2000 (part of Public Law 106-569) created a similar housing block grant program, as well as a loan guarantee program (called Section 184A), specifically for Native Hawaiians.

#### *b. Eligibility*

i) Applicant. An Indian tribe or TDHE is eligible for Indian housing block grant funds when it submits an Indian housing plan that complies with NAHASDA requirements.

ii) Beneficiary. Funds are used to aid families with incomes below 80 percent of area median. Ten percent of each grant can be used to serve families between 80 and 100 percent of area median income. HUD's headquarters office must approve funding for families whose incomes exceed 100 percent of the median income.

c. *Terms*

Amounts are made available to Indian tribes on a formula basis in compliance with the requirements of NAHASDA. Within two years of a grant award, no less than 90 percent of the grant must be obligated. These funds may be used as grants or loans, or can secure bond financing to increase the amount of funds available. The main term requirement is that the housing created is affordable to eligible beneficiaries under NAHASDA legislation.

d. *Comments*

In 2002, the U.S. Congress approved an extension of the NAHASDA legislation for an additional five years.

Some TDHEs have used block grants to create downpayment and closing cost funds that enable tribal members to purchase housing, including housing financed by USDA Rural Development. These funds may be administered by the TDHE or, in some cases, money has been provided to nonprofit organizations involved in housing development. Some of the funds created require that the participating family enroll in homebuyer education classes, which may also be financed with the block grant allocation.

e. *Contact*

National Office of Native American Programs  
U.S. Department of Housing and Urban Development  
1999 Broadway, Suite 3390  
Box 90  
Denver, CO 80202  
303-675-1600  
<http://www.hud.gov/progdesc/pihindx.cfm>

*Title VI Loan Guarantee Program*

a. *Purpose*

Recipients of the Indian Housing Block Grant (IHBG) may pledge this grant as security on loans from a private lender or investor, thereby increasing the amount of funds available to finance housing activities eligible under the NAHASDA legislation (see above for eligible activities). The tribe or TDHE is able to leverage additional funding for housing activities by pledging future grant funds as security for repayment of the loan guarantee. HUD provides a guarantee to the lender or investor that it will repay 95 percent of the unpaid principal balance and accrued interest should the IHBG recipient fail to repay its obligation to the lender or investor. Though all IHBG recipients may benefit from Title VI loan guarantees, this NAHASDA provision is

especially important to tribes and TDHEs that generally receive small grants and cannot, on their own, leverage sufficient funds to improve local housing conditions.

Title VI loan guarantees have encouraged many banks to make both construction and long-term loans available for infrastructure and housing development, including homeownership and rental housing.

*b. Eligibility*

i) Borrower. Eligible borrowers include both federally recognized tribes that receive IHBG funds and their TDHEs, which are authorized to make obligations or pledge IHBG funds as security for those obligations.

ii) Lender. Many lenders are eligible, including those approved by HUD, FHA, VA, or USDA, or other lenders supervised, approved, regulated, or insured by any agency of the United States government.

*c. Terms*

To use the Title VI loan guarantee provision, the tribe or TDHE submits a letter of request to the Office of Native American Programs' Office of Loan Guarantee (OLG contact information is shown below) for review and must show that the Indian Housing Plan for this borrower has identified the proposed Title VI project. Upon satisfactory review, the borrower then negotiates terms with the lender, which are reviewed by the OLG to determine the borrower's ability to repay, among other items.

*d. Contact*

Housing and Urban Development, Office of Native American Programs  
Office of Loan Guarantee, Title VI Loan Program  
1999 Broadway, Suite 3390  
Denver, CO 80202  
303-675-1600 or 1-800-561-5913

*Indian Community Development Block Grant Program*

*a. Purpose*

Indian tribes and Alaskan Native Villages may use this program to improve housing stock, provide community facilities, make infrastructure improvements, and expand job opportunities by supporting the economic development of their communities. Eligible activities include housing rehabilitation programs, acquisition of land for housing, direct assistance to facilitate homeownership among low- and moderate-income persons, construction of tribal and other facilities for single or multiple uses, streets and other public facilities, and economic development projects. Eligible activities do *not*



include construction and improvement of government facilities, the purchase of equipment, general government expenses, operating and maintenance expenses, political activities, new housing construction (except through community-based development organizations), or income payments.

*b. Eligibility*

i) Applicant. Any Indian tribe, band, group, or nation (including Alaskan Indians, Aleuts, and Eskimos) and any Alaskan Native Village is eligible for assistance.

ii) Beneficiary. Low- to moderate-income persons may receive assistance under this program. Moderate income is generally defined as 80 percent of the area median income, as determined by HUD, and adjusted for family size.

*c. Terms*

Funding amounts and application deadlines are published each year in a Notice of Funding Availability in the *Federal Register*. Once committed, assistance is available until project completion, usually within two years.

*d. Contact*

HUD Field Office (for the location, see <http://www.hud.gov/local>)  
or  
Office of Block Grant Assistance  
Community Planning and Development  
U.S. Department of Housing and Urban Development  
451 Seventh St., S.W.  
Washington, DC 20410  
202-708-1322  
<http://www.hud.gov/progdesc/cpdindx.cfm>

*Section 184 Loan Guarantees for Indian Housing*

*a. Purpose*

The Section 184 program provides homeownership opportunities to Native Americans, tribes, tribally designated housing entities, and Indian housing authorities on Indian land. It guarantees mortgage loans made by private financial institutions for the purchase and/or rehabilitation of existing homes, or construction of new homes.

*b. Eligibility*

The homeowner is the ultimate beneficiary of the program. The loan applicant must be a Native American, including Alaska Natives, or a TDHE, tribe, or an Indian housing

authority (IHA) that meets certain requirements. The financial institution that originates the loan must meet certain requirements. When a TDHE or IHA is the home buyer, it is then able to resell or to rent out the property.

*c. Terms*

A borrower applies for a loan through a private lender approved by HUD. The lender prepares the loan application and submits it to HUD. Both the interest rate and term of the loan to the borrower must be at a fixed rate. According to HUD staff, the average interest rate in mid 2003 was 6.10 percent. A downpayment, ranging from 1.25 to 2.25 percent of loan value, is required of the borrower, with the smaller amount tied to loans valued under \$50,000.

The tribe must demonstrate that a legal and administrative framework exists that is sufficient to protect the interests of the borrower, the lender, and HUD. To establish this legal and administrative framework, tribes must have adopted procedures for foreclosure, eviction, priority of liens, and leasing that will apply to Section 184 loans wherever the tribal court has legal jurisdiction.

*d. Standards*

General construction standards for the area apply.

*e. Contact*

Director, Office of Loan Guarantee  
National Program Office of Native American Programs  
U.S. Department of Housing and Urban Development  
1999 Broadway, Suite 3390  
Box 90  
Denver, CO 80202  
303-675-1600  
<http://www.hud.gov/prodgesc/phindx.html>

*Affordable Housing Program*

*a. Purpose*

The Affordable Housing Program (AHP) subsidizes the interest rate on advances (loans) and provides direct subsidies to Federal Home Loan Bank System (FHLB) member institutions engaged in lending for long-term, very low-, low-, and moderate-income housing. The AHP helps member banks to meet Community Reinvestment Act (CRA) requirements through creative efforts to increase their areas' supplies of affordable housing.

Subsidies under the AHP must be used to:

- ⊞ finance the purchase, construction, and/or rehabilitation of rental housing, at least 20 percent of the units of which will be occupied by and affordable for very low-income households for at least 15 years; or
- ⊞ finance the purchase, construction, and/or rehabilitation of owner-occupied housing for very low-, low- and moderate-income households.

*b. Terms*

Grants from member banks or interest rate reductions (under the Community Investment Program) are typical of the AHP program. The grants generally are a fixed dollar amount per unit. AHP is used with such resources as the Low Income Housing Tax Credit program, as well as other federal, state, local, and private assistance programs.

*c. Comments*

Annual priorities for the program are set by the national Federal Housing Finance Board, with discretion given to the district banks to add priorities. Most of the Federal Home Loan Banks have taken advantage of an option to set aside part of their AHP funds for homeownership assistance to low- and moderate-income buyers. A number of them have established priorities for rural projects, and several of the district banks are actively involved in grant making to Indian housing organizations for a variety of purposes, including revolving loan funds for down payment/closing cost assistance. In 2002, for example, the Federal Home Loan Bank of Des Moines set aside \$250,000 in grants for downpayment/closing cost and rehabilitation assistance for people living on reservations.

Each of the 12 district Federal Home Loan Banks determines the number of competitive application periods it will have each year and when applications will be due.

*d. Contact*

For additional information on any Federal Home Loan Bank program, contact the District Bank's Community Investment Officer in your area (for the location, see [http://www.fhfb.gov/FHLB/FHLBP\\_officers.htm](http://www.fhfb.gov/FHLB/FHLBP_officers.htm)).  
or contact

Office of Policy, Research, and Analysis  
Federal Housing Finance Board  
1700 G Street, N.W.  
Washington, DC 20006  
202-408-2537  
<http://www.fhfb.gov>

## VA Direct Loans for Native American Veterans Living on Trust Lands

### *a. Purpose*

The federal Department of Veterans Affairs (VA) will make direct loans (the borrower does not have to go through a private lender) to purchase, construct, or improve a home on Native American trust lands. Funds may be used to purchase and improve an existing home. They may not be used for rental or investment property purposes.

### *b. Eligibility*

These loans are made to veterans of World War II and later periods (for Korean War and Vietnam-era and Persian Gulf Conflict veterans, 90 days of service is required). In most instances, reservists with at least six years of service are also eligible. Eligibility is more specific than provided here, so a call to a local VA office is advised. A veteran must have a Certificate of Eligibility, which can be obtained by applying to a local VA office on VA Form 26-1880, Request for Determination of Eligibility and Available Loan Guarantee Entitlement. If the veteran has used a portion of his or her “available entitlement” for other types of loans, there may not be sufficient entitlement to guarantee the loan. Again, an interested veteran would need to check with a local VA office on the amount of “entitlement” available.

### *c. Terms*

Loans are generally limited to the price of the home or \$80,000, whichever is less. VA will perform an appraisal to determine “reasonable” value. The VA determines the interest rate, which in May 2003 was 5.5 percent. Generally, VA prefers a debt to income ratio of no more than 41 percent, similar to the USDA Section 502 program, but has some flexibility in its underwriting.

For this program to work on trust land, there must be a signed Memorandum of Understanding between the veteran’s tribe and the Department of Veterans Affairs (a model MOU is located in Appendix F).

Closing costs, such as the appraisal fee, credit report, a loan processing fee of up to \$300, title search/title insurance or other title review fees, recording fees, survey, hazard insurance premium and any other applicable transfer fees, are not included in the loan. Should a loan not be approved, however, the appraisal fee is returned.

### *d. Standards*

General construction standards for the area apply.

*e. Comments*

The VA's usual "guarantee" program is not available on trust lands; instead, the direct loan program was created and is currently scheduled to terminate on December 31, 2005, unless it is extended. As of May 2003, about 20 federally recognized tribes had signed MOUs with the VA and about 10 more MOUs were pending. Though the program is new, there have been one or more loan closings, and considerable outreach is being done in certain targeted states.

*f. Contact*

Senior Loan Specialist/Loan Guaranty  
U.S. Department of Veterans Affairs  
155 Van Gordon Street  
Lakewood, CO 80228  
303-914-5626

A list of VA regional offices can be obtained by calling 1-800-872-1000.

## GETTING READY FOR RHS/USDA RURAL DEVELOPMENT HOUSING ASSISTANCE

The introductory part of this guide mentioned the USDA Rural Development mission of “targeting financial and technical resources to areas of greatest need through activities of greatest potential.” There is growing evidence that this mission is beginning to resonate in Indian Country. Numerous agency responses to the unique conditions of Indian Country are evident, and those issues that still impede access of Native Americans to RHS program resources are targeted for resolution. There is reason to be hopeful that present barriers to Native American usage of RHS programs will disappear, and a population that exhibits not only “greatest need,” but also “greatest potential,” will be served.

Earlier in the guide, there was information about what RHS/USDA Rural Development was doing to reach out to Native Americans:

- △ through strategic planning and the consultations such planning involves;
- △ through the state and national Native American coordinators;
- △ through collaborations with other federal lending agencies to provide consistency and efficiency; and
- △ through changes in policies and program implementation that recognize the unique qualities of tribal sovereignty and restricted lands.

In any good and lasting relationship, whether it be personal or as formal as the mortgage lending process, each party has something of value to contribute and much to gain. Following are some suggestions to tribes and tribal housing organizations to improve the odds of their members and clients benefitting from the housing assistance resources of the Rural Housing Service/Rural Development.

### ***Let's Meet***

Chances are that every state, area, or local USDA Rural Development staff member has met with tribal leadership at some point, but if previous encounters have not been about housing assistance, it is time to call a meeting. If the tribe's leadership or a tribal housing organization is not yet familiar with USDA RD staff at the local level (possibly in a USDA Rural Development Service Center), then a call to the RD state office's Native American coordinator is appropriate, requesting that the state director, the coordinator, and/or local USDA RD staff make plans to visit the reservation to explain what programs the agency has to offer.

Either at that first meeting, or at a subsequent meeting, it would be informative to include staff from the tribe's land committee or realty office, and representatives of the BIA, Indian Health Service (IHS), TERO, and other offices (including housing entities that provide either housing or services related to housing, such as water, sewer, roads, environmental/historic approvals, downpayment/closing cost assistance, and home repair). These representatives should meet early in the housing development/mortgage lending process to see what each can contribute,

and what their limitations might be.<sup>4</sup> If loan guarantees are being discussed, any and all interested private lenders – and USDA RD staff can help identify them – should be invited to attend.

Also, early in the process, it is important to evaluate contractors capable of doing new construction or home repairs, as well as manufactured housing companies. Knowing that these resources are both capable and available is critical to delivering housing to families when they are ready. If the contractors or manufacturers are not approved or available, then knowing this in advance provides the opportunity for training programs for contractors and searching the list of approved manufacturers until the USDA RD-approved companies are identified.

Each tribe that receives NAHASDA funding must prepare a plan for the use of the funds and submit it to HUD. This plan should specifically include RHS/USDA Rural Development program assistance as part of the strategy for serving a broad range of housing needs. And this works both ways. Tribes should ask USDA RD to specifically include tribal housing needs in its own strategic planning. This reciprocal planning allows for partnerships between NAHASDA funding and RHS programs, as well as demonstration programs.

### ***Get the Legal Documents in Order***

Earlier in this guide, there was information about the model lease and the “Model Tribal Lending Procedures for: Lien Priority, Eviction and Foreclosure and Leasing” (also called the “Model Documents”). HUD, VA, and USDA have signed a Memorandum of Understanding (MOU) accepting these documents and agreeing that when a tribe adopts the Model Documents and signs an MOU with one of the federal lending agencies, the other agencies will not need to review the documents on their own. This is intended to streamline mortgage lending in Indian Country, but each tribe that wants its members to participate in federal housing lending needs to review these documents and, if they are found acceptable and legal within the framework of that tribe’s legal structure, then the tribe needs to sign an MOU with one of the three federal agencies.

The HUD Office of Native American Programs (ONAP), under an agreement with VA and USDA, intends to maintain a list of “approved” tribes on its website, <http://www.codetalk.fed.us>. If not listed, a tribe or tribal housing organization should approach USDA RD staff and ask for copies of the documents to review and the MOU. This is a critical starting point for federal mortgage lending and, once accepted, should overcome what

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<sup>4</sup>The importance of the Bureau of Indian Affairs cannot be emphasized too much since this agency generally is involved in lease approval, title status reporting, and mortgage approval. Mortgage lending has not been a priority issue for the agency in past years, but more emphasis is being put on this growing area. During summer 2002, the agency held public hearings leading to a rewrite of its residential leasing regulations. The revised regulations were published for public comment in 2004, but final regulations had not been issued when this guide was published in August 2004.

in the past may have been a slow and frustrating process. These documents are found in USDA RD Instruction 2000-NNN and on the HUD website shown above.

### ***Homebuyer Education***

It is easy to become excited about the prospect of obtaining a decent, safe, and affordable home, but unless the financing for that home is entirely a grant, the lending agency will want to see that the borrower is reliable and relatively debt free. USDA Rural Development, like most other lenders, will run an “in file” or “profile” credit report early in the process and, later, a full mortgage credit report. The early report may identify a few or many items that unless resolved will hinder the family’s application (see “Indicators of Unacceptable Credit” criteria in Appendix C).

This report may inform many families for the first time of certain credit issues, or they may find that payments they made were not properly recorded, or that the loan they co-signed for a relative or friend has not been repaid and, as a co-signer, they are responsible too. Credit reports are a wake-up call that may ring late. A family is anxious to obtain a new house, but may be deterred for months or even years while credit issues are resolved, debts eliminated, or income increased.

Tribes and tribal housing organizations can prepare families for USDA Rural Development lending, or other public and private lending, through a curriculum of budget and credit counseling, and a thorough introduction to the homebuying process and to the personal responsibilities of homeownership. Some tribes already require successful completion of a homebuyer curriculum for a family to receive downpayment and/or closing cost assistance funded by the tribe. USDA RD may even waive some of its creditworthiness requirements for a family that has completed such training. Training-the-trainer programs, various homebuyer curricula geared to Native Americans or to a more general public, and local, regional, and national organizations provide advice, materials, or help set up a homebuyer education program.<sup>5</sup> For some families, the route to successful homeownership may be delayed, but obtaining budgeting and home maintenance skills from homebuyer education classes will help the family not only to purchase a home, but to keep the home.

### ***Developing Capacity***

In 1991, the Housing Assistance Council (HAC) embarked on a program to assist a limited number of tribes to gain knowledge of what were then Farmers Home Administration (FmHA) rural housing programs, and to improve the local capability to bring those programs to Native American lands. Each of the tribes designated a staff member for training and technical support, and this person became a certified “packager” of single-family loans and grants under

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<sup>5</sup>Curricula have been developed by First Nations Development Institute, National American Indian Housing Council, and Fannie Mae, among other organizations (see Appendix H for contact information). HAC has several publications on housing counseling that examine the needs and potential solutions. These are found on HAC’s website, <http://www.ruralhome.org>, under “Counseling” in “Publications.”



the Section 502 and 504 programs. USDA Rural Development staff provided training, as well, to enable local nonprofit or governmental staff to help local people to gather the information needed to submit an application to the agency, and to represent the applicant as the process moved forward.

Some of the resources for developing and maintaining the capacity to work with the RHS/USDA Rural Development programs follow.

- △ Housing Application Packaging Grants (HAPG, Section 509) – The purpose of this grant program is to “reimburse eligible organizations for part or all of the costs of conducting, administering, and coordinating an effective housing application packaging program in colonias and designated counties.” States or state agencies, units of general local government (not currently including tribal governments), and private nonprofit organizations are eligible to receive reimbursement for providing outreach, explaining program alternatives, assisting families to locate adequate housing, and developing loan/grant applications to serve low- and very low-income clients. Packagers attend annual orientation and training sessions and receive a “certificate of training.” The fee paid by USDA RD for a “complete” (as defined by the agency) single-family loan and/or grant application is \$500. The fee for a multifamily application is based on the total development cost of the project. Though few packagers would agree that the fee provided by USDA RD covers all of their costs, it can provide a much needed supplement to tribal nonprofit organizations working to increase RHS/USDA Rural Development assistance on restricted lands.
- △ Technical and Supervisory Assistance Grants (Section 525 TSA) – In past years, application for a Section 525 grant could be made throughout the year, but in 2004 program demand and limited funds led the agency to issue a Notice of Funding Availability. All federal notices are published in the *Federal Register*. Basically, the program provides contracts and grants to public or private nonprofit corporations, agencies, institutions, organizations, Indian tribes, and other associations for homeownership and financial counseling and for the delivery of housing programs. There is no set dollar amount, so the applicant, working with the area USDA RD office staff, prepares an application that provides a budget adequate to fund the work, and includes an estimate of the number of households, including the number of minority households, to be assisted. Demand for the program is high, so it is important to seek the assistance of USDA RD staff to develop a proposal as soon as the need or the idea is identified.
- △ Rural Housing and Economic Development Grants (RHED) – This program is an annual competition administered by HUD that in past years has included “seed” money grants to start nonprofits, capacity building grants to further develop a staff or development program, and development grants for actual housing

improvement. A Notice of Funding Availability is placed in the *Federal Register*, usually in the early spring, outlining the purposes for which HUD will make the grants and the application process. In most years, \$25 million has been appropriated. The program is highly competitive, but many tribes and tribal housing organizations have been successful in the competition, and it is unusual for a federal program to provide grant funds to grow an organization or to supplement a development budget.

- △ Small Tribes Grant – In January 2002, the National American Indian Housing Council (NAIHC) and several partners announced a program to provide \$1 million in grants, generally \$30,000 per recipient, to help small tribes to expand their capacity for accessing funding for housing. “Small” was defined as receiving less than \$400,000 in NAHASDA Indian Housing Block Grant funding. Grants were made, supplemented by up to 18 months of housing development training with the Enterprise Foundation and NAIHC on the use of such programs as the Low Income Housing Tax Credit, mortgage revenue bonds, Affordable Housing Program, Homestart Programs, HOME funds, and state housing trust funds. Though the funding for this work has expired, NAIHC continues to provide technical assistance and training, and as of mid 2004 intends to do a new assessment of its member organizations regarding their technical assistance and training needs.

## REFERENCES

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## **APPENDIX A**

### **GLOSSARY OF TERMS**

*Amortized Mortgage* – A mortgage loan in which the principal as well as the interest is payable in monthly or periodic installments during the term of the loan.

*Appraisal* – A process designed to establish the value of specific property.

*CDFI (Community Development Financial Institution)* – A bank-like lender created to make loans to lower-income persons and sponsors of community development projects. Includes community development banks, community development credit unions, community development loan funds, and micro-loan funds. The federal CDFI Program, administered by the Community Development Financial Institutions Fund within the Department of the Treasury, provides funds to CDFIs that meet criteria specified in the CDFI Fund's regulations.

*Colonia(s)* – Unincorporated subdivisions, mostly rural and mostly located along the U.S.-Mexico border. Colonias are characterized by substandard housing, dirt roads, lack of access to potable drinking water, and inadequate sewage disposal and drainage systems. The Cranston-Gonzalez National Affordable Housing Act of 1990 establishes a stricter definition of colonia that a community must meet in order to qualify for certain kinds of federal assistance and set-asides: an “identifiable community” in Arizona, California, New Mexico, or Texas within 150 miles of the U.S.-Mexico border, lacking decent water and sewage systems and decent housing, and in existence as a colonia before November 28, 1990.

*Congregate Housing* – Residential settings that combine housing and supportive services targeted to frail elders who can live independently.

*Conventional/Private Lending* – Financing provided by private lenders, usually banks.

*CRA (Community Reinvestment Act)* – Adopted in 1977, the Community Reinvestment Act requires federally insured financial institutions to help meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound operation.

*Empowerment Zone (EZ)/ Enterprise Community (EC)* – Federally designated areas or cities that receive funding by combining efforts to create economic opportunity, sustainable community development, community-based partnerships, and a strategic vision for change.

*Federal Register* – Legal periodical published every business day by the National Archive and Records Administration. It provides notices regarding access to a wide range of federal benefits and opportunities for funding.

*Fee Simple Title* – The right of ownership to land without any restrictions.

*Fannie Mae* – Formerly the Federal National Mortgage Association or FNMA, a federal government-sponsored entity that purchases loans in the secondary market.

*Freddie Mac* – Federal Home Loan Mortgage Company, also FHLMC, a federal government sponsored entity.

*FmHA (Farmers Home Administration)* – Predecessor agency to RHS in the U.S. Department of Agriculture.

*HAC (Housing Assistance Council)*

*HUD (federal Department of Housing and Urban Development)*

*HUD 184* – Loan guarantee program for Native Americans administered by the Office of Native American Programs in HUD.

*IHA (Indian Housing Authority)* – A political subdivision of a tribal government that is responsible for housing in Indian Country.

*Individual Trust Land* – Land once owned by a tribe, but which was allotted to an individual member of the tribe; there are restrictions on the use and transferability of the land.

*Inter-Tribal Housing Authority* – An Indian Housing Authority that serves several tribes.

*LIHTC (Low Income Housing Tax Credit)* – A way to obtain financing for an affordable housing project. The LIHTC is a reduction in the dollar amount of federal taxes owed by an individual or corporation, in exchange for their investment in low-income rental housing. The investor provides equity capital for the development of the housing, and in return obtains a dollar-for-dollar reduction in tax liability. The amount of credits available each year is limited, and credits are allocated by state agencies.

*Low Income* – Generally, for federal housing programs, a household income of 80 percent or less of area median by household size. HUD data are used to calculate low-income limits.

*Market Rate Mortgage* – A mortgage at an unsubsidized rate of interest.

*Moderate Income* – For HUD programs, a household income of 120 percent of area median by household size. For RHS programs, a household income of \$5,500 over the low-income threshold.

*Moratorium* – USDA Rural Development has the authority to defer payments for up to 80 days for a borrower who has lost employment or sustained severe property damage and/or medical expenses.

*MOU* (Memorandum of Understanding)

*NOFA* (Notice of Funding Availability) – Public notice by a government agency that funds are available for a program. Includes information about deadlines and application procedures. Federal agencies' NOFAs are published in the *Federal Register*.

*ONAP* (Office of Native American Programs, HUD)

*Promissory Note* – Legal document promising to pay a certain amount under specified conditions. A borrower who uses real property to secure a loan signs a promissory note as well as a mortgage or deed of trust.

*RHS* (Rural Housing Service) – Successor to FmHA, U.S. Department of Agriculture.

*Secondary Market* – Consists of investors, such as Fannie Mae, the Government National Mortgage Association (GNMA or Ginnie Mae), and Freddie Mac, that purchase loans from the originating lender, thereby providing capital to the lender to make more loans.

*Subsidy* – A grant or below-market-rate loan, usually from a governmental entity.

*Title Insurance Policy* – A policy insuring owner or mortgagee against loss by reason of defects in the title to a parcel of real estate, other than those encumbrances, defects, and matters which are specifically excluded by the policy.

*Tribal Trust Land* – Land held in trust by the United States for the use of a specific tribe; there are restrictions on the use and transferability of the land.

*Underwriting* – The process by which a lender assesses the risk of making a specific loan.

*VA* (federal Department of Veterans Affairs)

*Very Low Income* – For federal housing programs, a household income of 50 percent of area median by household size. HUD data are used to calculate very low income limits.

**APPENDIX B**  
**LIST OF USDA RD NATIVE AMERICAN COORDINATORS**

<b><u>State</u></b>	<b><u>Name</u></b>	<b><u>E-MAIL</u></b>	<b><u>Phone #</u></b>
Arizona	Don Irby	don.irby@az.usda.gov	602-280-8758
Arkansas	Susan Staggs	Susan.Staggs@ar.usda.gov	479-646-8300
Alabama	Ricky Dawson	Ricky.Dawson@al.usda.gov	251-937-7350
Alaska		State Director's Office	907-761-7701
California	Janice Waddell	Janice.Waddell@ca.usda.gov	530-792-5810
Colorado	Sue McWilliams	Sue.McWilliams@co.usda.gov	970-565-8416 ext. 127
Del/Maryland		----	----
Florida	Loria Ridley	Loria.Ridley@fl.usda.gov	850-623-2441
Georgia	Carol Whitmire	Carol.Whitmire@ga.usda.gov	706-546-2162
Hawaii	Alvin Okamoto	Alvin.Okamoto@hi.usda.gov	808-933-8314
Idaho	Roni Atkins	Roni.Atkins@id.usda.gov	208-378-5627
Iowa	Dick Drahota	Dick.Drahota@ia.usda.gov	515-284-4447
Illinois	David Baggott	David.Baggott@il.usda.gov	217-398-5412 ext.290
Indiana		----	----
Kansas	Elton Murrow	Elton.Murrow@ks.usda.gov	785-843-4260
Kentucky		----	----
Louisiana	Cathy Beales	Cathy.Beales@la.usda.gov	318-255-2826
Maine	Richard Ireland	Richard.Ireland@me.usda.gov	207-764-4157
Michigan	Selly Melik	Shelly.Melik@mi.usda.gov	231-941-0951 ext.6
Mass./Conn.	Richard Burke	rburke@rurdev.usda.gov	413-253-4319
Minnesota	Pamelia Wiltsey	Pamelia.Wiltsey@mn.usda.gov	218-692-4944
Missouri	Martha Newsom	Martha.Newsom@mo.usda.gov	573-876-0995
Mississippi	Betty Price	Betty.Price@ms.usda.gov	601-965-4316
Montana	Bob Parsley	Bob.Parsley@mt.usda.gov	406-585-2588
Nebraska	Dale Wemhoff	Dale.Wemhoff@ne.usda.gov	402-371-5350
Nevada	Mike Holm	Mike.Holm@nv.usda.gov	775-887-1222 ext.26
New Jersey	Howard Henderson	Howard.Henderson@nj.usda.gov	609-265-3624
New Mexico	Bill Culbertson	bill.culbertson@nm.usda.gov	505-761-4950
New York	David Miller	David.Miller@ny.usda.gov	315-477-6427
North Carolina	Judy Hunt	Judy.Hunt@nc.usda.gov	910-862-3179
North Dakota	Bill Davis	Bill.Davis@nd.usda.gov	701-530-2642
Ohio	William Taylor	William.Taylor@oh.usda.gov	614-255-2397
Oklahoma	David Moore	David.Moore@ok.usda.gov	918-423-7602
Oregon	Bud Fischer	Bud.Fischer@or.usda.gov	503-414-3366
Pennsylvania	Jill Taylor	Jill.Taylor@pagreenbu.fsc.usda.gov	724-482-4800 ext. 125
South Carolina	Cathy Seawright	Cathy.Seawright@sc.usda.gov	803-253-3093
South Dakota			
Tennessee	Dan Beasley	Dan.Beasley@tn.usda.gov	

Texas	Richard Perryman	Richard.Perryman@tx.usda.gov	254-742-4720
Utah	Juanita LaRose	Juanita.LaRose@ut.usda.gov	435-789-1338 ext. 20
Vermont	Michael Bard	Michael.Bard@vt.usda.gov	802-828-6013
New Hampshire		-----	-----
Virginia	Cindy Bomar	Cindy.Bomar@va.usda.gov	434-239-3473 ext. 5
Washington	Karen Bailor	karen.bailor@wa.usda.gov	360-704-7704
West Virginia	Leland Kesner	Leland.Kesner@wv.usda.gov	304-269-8431
Wisconsin	Dave Schwobe	Dave.Schwobe@wi.usda.gov	715-524-8519
Wyoming	Marilyn Komers	Marilyn.Komers@wy.usda.gov	307-856-7524 ext. 4

### **USDA Rural Development Native American Coordinator**

David Saffert

RHS/Mail Stop 0701 (Room 5026)

1400 Independence Ave. S.W.

Washington, D.C. 20250

202/720-0400



**APPENDIX C**  
**USDA/RD INDICATORS OF UNACCEPTABLE CREDIT**

**Exhibit 4-3**  
**Indicators of Unacceptable Credit**

- Little or no positive credit history. The lack of a positive credit history on the credit report may be mitigated if the applicant can document a willingness to pay recurring debts through other acceptable means such as third party verifications or canceled checks. Due to impartiality issues, third party verifications from relatives of household members are not permissible.
- Payments on any installment account where the amount of the delinquency exceeded one installment for more than 30 days within the last 12 months.
- Payments on any revolving account which was delinquent for more than 30 days on two or more occasions within the last 12 months.
- A foreclosure that has been completed within the last 36 months.
- An outstanding Internal Revenue Service (IRS) tax lien or any other outstanding tax liens with no satisfactory arrangement for payment.
- Two or more rent payments paid 30 or more days late within the last 2 years. If the applicant has experienced no other credit problems in the past 2 years, only 1 year of rent history will be evaluated. This requirement may be waived if the program loan will reduce shelter costs significantly and contribute to an improved repayment ability.
- Outstanding collection accounts with a record of irregular payments with no satisfactory arrangements for repayment, or collection accounts that were paid in full within the last 6 months, unless the applicant had been making regular payments previously.
- Non-Agency debts written off within the last 36 months, unless the debt was paid in full at least 12 months ago.
- Agency debts that were debt settled within the past 36 months, or are being considered for debt settlement.
- Delinquency on a federal debt.
- A court-created or court-affirmed obligation or judgment caused by nonpayment that is currently outstanding or has been outstanding within the last 12 months, *except*:
  - ◊ A bankruptcy in which:
    - ◆ Debts were discharged more than 36 months prior to the date of application; or
    - ◆ Where an applicant successfully completed a bankruptcy debt restructuring plan and has demonstrated a willingness to meet obligations when due for the 12 months prior to the date of application.
    - ◆ A judgment satisfied more than 12 months before the date of application.

**An applicant with an outstanding judgment obtained by the United States in a Federal court, other than the United States Tax Court, is *not* eligible for a Section 502 loan. This requirement is statutory and cannot be waived.**

**APPENDIX D**  
**SECTION 502 INTEREST RATES**

**Effective Interest Rates for Section 502 Direct Homeownership Loan Program**

<b>Adjusted Median Income Range</b>	<b>Equivalent Interest Rate *</b>
0%-50%	1.0%
50.01%-55%	2.0%
55.01%-60%	3.0%
60.01%-65%	4.0%
65.01%-70%	5.0%
70.01%-75%	6.0%
75.01%-80%	6.5%
80.01%-90%	7.5%
90.01%-100%	8.5%
100.01%-110%	9.0%
110.01%- greater	9.5%

Source: Rural Housing Service, *Field Office Handbook, HB-1-3550*, Exhibit 6-3 [online], [cited 29 July 2004], available from: <http://rdinit.usda.gov/regs/hblist.html>.

\* or promissory note rate, whichever is less.

**APPENDIX E**  
**REGIONAL SELF-HELP TECHNICAL ASSISTANCE PROVIDERS**

Little Dixie C.A.A.  
502 West Duke  
Hugo, OK 74743  
405-326-6441  
(AR, KS, LA, MO, NE, NM,  
ND, OK, SD, TX)  
<http://www.littledixie.org>

Rural Community Assistance Corporation  
3120 Freeboard Drive, Suite 201  
Sacramento, CA 95691  
916-447-9832  
(AZ, CA, CO, HI, ID, MT, NV,  
OR, VT, WA, WY)  
<http://www.rcac.org>

NCALL, Inc.  
363 Saulsbury Rd.  
Dover, DE 19904  
302-678-9400  
(CT, DE, IL, IN, IA, KY, ME,  
MD, MA, MI, MN, NH, NJ,  
NY, OH, PA, RI, VT, VA, WV, WI)  
<http://www.ncall.org>

Florida Non-Profit Housing, Inc.  
P.O. Box 1987  
Sebring, FL 33871-1987  
813-385-2519  
(AL, FL, GA, MS, NC,  
SC, TN)  
<http://www.fnph.org>

**APPENDIX F**

**MODEL INTERAGENCY LEASE AND LENDING PROCEDURES**

**MODEL TRIBAL LENDING PROCEDURES FOR: LIEN PRIORITY, EVICTION AND  
FORECLOSURE AND LEASING**

**MEMORANDUM OF UNDERSTANDING FOR PARTICIPATION IN FEDERAL  
GOVERNMENT LOAN PROGRAMS**

RESIDENTIAL LEASE OF TRIBAL OWNED LAND

Lease No. \_\_\_\_\_

Contract No. \_\_\_\_\_

THIS Lease is made and entered into by and between \_\_\_\_\_ for and on behalf of \_\_\_\_\_ Tribe of Indians, hereinafter designated as "Lessor," and \_\_\_\_\_, members of the \_\_\_\_\_ Tribe and residing upon the \_\_\_\_\_ Indian Reservation, hereinafter designated as "Lessee."

WITNESSETH

1. SECRETARIAL APPROVAL; FEDERAL AGENCY APPROVAL; DEFINITIONS OF FEDERAL AGENCY, TRIBE, and LENDER. As used in this Lease, the term "Secretary" means the Secretary of the Interior or his or her duly authorized representative. This Lease is subject to the approval of the Secretary pursuant to the Act of August 9, 1955, 69 Stat. 539, as amended, 25 U.S.C. § 415, as implemented by Title 25, Code of Federal Regulations, Part 162. The form of this Lease has been accepted by the Secretary of Housing and Urban Development (HUD) pursuant to 24 C.F.R. § 203.43h(c), which implements Section 248 of the National Housing Act, 12 U.S.C. § 1715z-13, for use in connection with Federal Housing Administration (FHA) insurance of a mortgage on the interest created by this Lease, and pursuant to 24 C.F.R. § 1005.107, which implements Section 184 of the Housing and Community Development Act of 1992 (Pub. L. 102-550) for use in connection with HUD's issuance of a loan guarantee of a mortgage on the interest created by this Lease. The form of this Lease has also been accepted by the Secretary of the United States Department of Agriculture (USDA) for use in connection with the issuance by USDA or its Rural Housing Service (RHS) of a direct or guaranteed loan pursuant to section 502 of the Housing Act of 1949 as amended, 42 U.S.C. § 1472, and accepted by the Secretary of the Veterans Affairs (VA) for use in connection with the issuance by VA of a direct or guaranteed loan pursuant to chapter 37 of Title 38, United States Code, secured by the interest created by this Lease. As used in the context of this Lease, the term "Tribe or Tribal" refers to the respective Tribe who enters into this Lease as the "Lessor". For future reference, "Federal Agency" refers to HUD, VA, and USDA. When used in this Lease, the "lender" is any mortgagee that a Federal Agency has approved or a Federal Agency which makes a direct loan. With respect to mortgages which are insured under Section 248 of the National Housing Act, the lender must be approved by the Federal Housing Administration. The term "lender" also includes any of the lender's successors or assigns of the lender's right, title to, or interest in, the Mortgage and any subsequent noteholder secured by the Mortgage. The assignment of the mortgage or any interest therein does not require the consent of the Tribe. -

2. PREMISES. Lessor hereby Leases to the Lessee all that tract or parcel of land situated on the \_\_\_\_\_ Indian Reservation, County of \_\_\_\_\_, State of \_\_\_\_\_, and described as follows (the Leased Premises):

[description], \_\_\_\_\_ County, \_\_\_\_\_ Indian Reservation, \_\_\_\_\_, approximately \_\_\_\_\_ acres.

3. USE OF PREMISES. The purpose of this Lease is to enable the Lessee to construct, improve, and maintain a dwelling and related structures on the Leased Premises, and otherwise to use said premises as a principal residence. The Lessee agrees not to use any part of the Leased Premises for any unlawful conduct or purposes and will comply with all applicable Federal Laws.

4. TERM. Lessee shall have and hold the Leased Premises for a term of \_\_\_\_\_ years beginning on the effective date of this Lease. This Lease may not be terminated by either or both parties during its term if, and as long as, the Lease and/or any improvements on the premises, or any interest

therein, is mortgaged or otherwise pledged as security for any loan in accordance with the provisions hereof, unless consent in writing to such termination is given by the lender and, if the loan is guaranteed, insured, or made by a Federal Agency, a written consent of that agency is also required. This Lease shall not be subject to any forfeiture or reversion and shall not be otherwise terminable, if such event would adversely affect any interest in the Leased Premises, including improvements thereon, acquired in accordance with the provisions hereof by the holder of any mortgage or other lien, or of any purchaser at a foreclosure sale under such mortgage (or lien) or under any conveyance given in lieu of foreclosure, or of any holder subsequent to such purchase. In the event a Federal Agency acquires a mortgage on the interest created by this Lease by assignment from a lender, the Lessor shall not terminate the Lease without the written consent of the respective Federal Agency, as long as the mortgage is in force.

5. RENT. The improvement of housing for Tribal families is a public purpose of the Lessor. The consideration for this Lease is (1) the obligation of Lessee to further said purpose, (2) the promise hereby given by Lessee to pay the Lessor rent at the rate of \$\_\_\_\_\_per \_\_\_\_\_, (3) the extinguishment, hereby agreed to by Lessee, of any and all use rights heretofore held by Lessee in the Leased Premises, so that Lessee shall hereafter hold rights only by virtue of this Lease, and (4) other good and valuable considerations, the receipt of which is hereby acknowledged by Lessor. Rent may be subject to adjustment pursuant to 25 CFR 162.

6. IMPROVEMENTS. All buildings or other improvements now existing or hereafter constructed on the Leased Premises shall be the leasehold property of the Lessee during the term of this Lease, including any extension or renewal thereof. During the term of this Lease, Lessee shall obtain any necessary governmental permits, approvals or authorization required for the construction and use of all improvements he or she (they) places or cause(s) to be placed on the Leased Premises, and shall comply with all laws applicable to the construction and use of improvements.

7. USE RIGHT. Upon expiration of this Lease, or upon its termination in accordance with the terms hereof, unless such termination is due to default upon the part of Lessee, Lessee or any successors in interest shall be entitled to use rights in the Leased Premises if qualified under the laws of the Tribe. If not so eligible, Lessee, his or her (their) subLessee and any successors in interest shall, upon demand, surrender to Lessor upon expiration or other termination of this Lease complete and peaceable possession of the Leased Premises and all improvements thereon which have not been relocated as permitted under Paragraph 23 of this Lease, which shall be the property of the Tribe.

8. FEDERAL SUPERVISION.

- (a) Nothing contained in this Lease shall operate to delay or prevent a termination of Federal responsibilities with respect to the Leased Premises by the issuance of a fee patent, the lifting of restrictions on alienation, or otherwise during the term of the Lease; such termination, however, shall not serve to abrogate the Lease.
- (b) No member of Congress or any delegate thereto or any Resident Commissioner shall be admitted to any share or part of this Lease or to any benefit that may arise herefrom.

9. QUIET ENJOYMENT. Lessor agrees to defend the title to the Leased Premises and also agrees that Lessee and any successors in interest shall peaceably and quietly hold, enjoy and occupy the Leased Premises for the duration of this Lease without any hindrance, interruption, ejection or molestation by Lessor or by any other persons whomsoever, except if the requirements of any part of this Lease are not kept by the Lessee. Notwithstanding the foregoing, Lessee and his or her (their) assigns is (are) subject to all the laws of the Tribe to the same extent as any other Tribal member or resident.

10. ASSIGNMENT AND SUBLEASE. (a) Except as otherwise provided herein, Lessee shall not assign or sublet this Lease without the prior written consent of the Lessor and sureties (as found in 25 CFR 162 ), and approval of the Secretary of the Interior. If this Lease and/or any improvements on the Leased Premises are mortgaged or pledged as security for a loan, Lessee shall not assign or sublet this Lease without the written approval of the lender and the respective Federal Agency. Lessee may assign the Lease and deliver possession of the Leased Premises, including any improvements thereon, to the lender or its successors, or Federal Agency guaranteeing or insuring the loan, if Lessee default(s) in any mortgage or other loan agreement for which the Lease and/or improvements on the Leased Premises are pledged as security, and, in such event, the lender or its successors in interest may transfer this Lease or possession of the Leased Premises to a successor Lessee; provided, however, that the Lease may only be transferred to another member of the Tribe or tribal entity. Nothing in this Lease shall prevent the Lessee, with the approval of the Secretary of the Interior and the Secretary of HUD (for Section 248 insured loans), from executing and recording a mortgage, declaration of trust and/or other security instrument as may be necessary to obtain financing for the purchase of a dwelling, refinancing of an existing mortgage, construction and/or improvement of a dwelling and related structures, or shall prevent the mortgagee or other lender from foreclosing or instituting other appropriate proceedings under law in the event of default of any mortgage or other loan agreement by the Lessee, or assigns. Except in cases involving loans for home construction or home improvement by a bank, recognized lending institution, or a lending agency of the United States Government, where no such consent or approval of Lessor shall be required, Lessee may not execute a mortgage, declaration of trust or other security instrument pledging their interest in this Lease or any improvements on the Leased Premises without the prior written consent of Lessor and the approval of the Secretary.

Notwithstanding the provisions contained above, the following additional requirements shall be applicable to a Lease which secures a mortgage insured, guaranteed or held by a Federal Agency:

(b) Notwithstanding that the term sublease is used herein, the Lessee shall not sublease the premises if the Lease is the security for a mortgage insured under Section 248. The lessee may assign the lease in accordance with the terms hereunder.

In the event a Federal Agency is the lender or acquires the mortgage secured by this Lease, and subsequently acquires said Lease by foreclosure, or by the assignment of said Lease by Lessee, his or her (their) Lessees or assigns (for which the approval of the Tribe is not required), then:

- (1) The appropriate Federal Agency, (the Agency involved in this transaction) will notify the Tribe of the availability of the Lease for sale, the sales price of the home and other terms of sale.
- (2) The Lease may only be assigned to another tribal member or tribal entity, except that the appropriate Federal Agency may lease the Leased Premises to a non-member under the conditions specified herein. Any such sublease or assignment shall be executed consistent with tribal law and Federal law.
- (3) If a purchaser is found, the Lease will be transferred by the Federal Agency, to the purchaser, with the prior written consent of the appropriate Tribe.
- (4) If a purchaser cannot be found, the appropriate Federal Agency, shall be entitled to sublease the Leased Premises and improvements without the prior written approval of the Tribe. Such sublease shall be to a member of the Tribe, unless a tribal member Lessee cannot be found, in which case the Federal Agency may sub-Lease to any individual. The term of the initial Lease period and any succeeding period shall not exceed one year each. Any purchase of the Lease shall be subject to any sublease by the Federal Agency pursuant to this



subsection.

- (5) No mortgagee (except a Federal Agency as mortgagee or assignee of a mortgagee) may obtain title to the interest created by this Lease without the prior written consent of the Tribe.

In the event that the lender is the entity responsible for acquiring the Lease and the leasehold estate by foreclosure, the lender shall have the rights of the Federal Agency who had insured or guaranteed the foreclosed mortgage under subparagraphs (1) through (5) above, provided this sentence does not apply to loans insured under HUD/FHA's Section 248 program.

11. **OPTION.** Subsequent to Lessee's breach of any covenant or agreement under a mortgage or other security instrument for which the Lease or any improvements on the Leased Premises are pledged as security, and upon the expiration of any applicable cure period, the Lessor shall have an option (the "option" herein) to acquire the Lessee's Leasehold interest, (subject to all valid liens and encumbrances) upon either payment in full of all sums secured by the mortgage or assumption of the loan with the approval of the lender or the applicable Federal Agency as evidenced by the note and mortgage and execution of an assumption agreement acceptable in all respects to the Lender. Such option is subject to the following conditions:

- (a) If the Lessee or any assignee of Lessee fails to cure the default, The lender shall give written notice to the Lessor and any applicable Tribal housing authority of Lessee's or its assignee's failure,
- (b) If the Lessee fails to cure the default, and said notice shall be given before the lender or successor invokes any other remedies provided under the mortgage or by law. Thereafter, the lender may issue an acceleration notice to the Lessee, its Lessees or assigns, under the mortgage or other security instrument, requiring the Lessee, its Lessees or assigns to pay all sums secured by the mortgage or other security instrument. If the Lessee, its Lessees or assigns fail to cure the default in accordance with the terms of the lender's acceleration notice, the lender shall give the Lessor written notice of said failure to cure. The Lessor may exercise its option at any time within thirty (30) days of the date of the lender's written notice to the Tribe of said failure to cure. This option shall be exercised by notice in writing from the Lessor to the Lessee and the lender.
- (c) Notwithstanding the Lessor's option to acquire the Lessee's interest in the Leased Premises, such option shall be subject to any right the Lessee may have under the mortgage or by law to reinstatement after the acceleration, and the right to bring appropriate court action to assert the non-existence of a default or any other defense to acceleration and sale or foreclosure.
- (d) The estate acquired by the Lessor through the exercise of the option shall not merge with any other estate or title held by the Lessor as long as the leasehold interest or any improvements on the Leased Premises, or any interest therein, are mortgaged or otherwise pledged as security for any loan, and the leasehold interest shall remain subject to any valid and subsisting mortgage or other security instrument.

12. **RESERVATIONS:** Lessee shall use the premises exclusively for residential purposes, except as otherwise agreed to by the parties. Any rights not expressly provided are reserved by the Lessor.

**Minerals:** The Lessor reserves all rights, as owned by the Lessor, to all mineral rights, including but not limited to oil, gas, or hydrocarbon substances. The Lessor shall not exercise surface entry in

connection with reserved mineral rights without prior consent of the Lessee and sureties (as found in 25 CFR 162 ).

Timber: The Lessor reserves all rights, as owned by the Lessor to timber and forest products on the premises.

Water: The Lessor reserves all rights, as owned by the Lessor, to water on the premises, except that which is needed for residential purposes.

13. EFFECTIVE DATE. This Lease and all its terms and provisions shall be binding upon the successors, and assigns of the Lessee and any successor in interest to the Lessor, and shall take effect on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, or upon the date of approval by the Secretary, whichever is later.

14. OBLIGATION TO THE UNITED STATES. It is understood and agreed that while the Leased Premises are in trust or restricted status, all of the Lessee's obligations under this Lease, and the obligation of his, hers (theirs) sureties, are to the United States as well as to the owner of the land.

15. ASSENT NOT WAIVER OF FUTURE BREACH OF COVENANTS. No assent, express or implied, to any breach of any of the Lessee's covenants, shall be deemed to be a waiver of any succeeding breach of any covenants.

16. VIOLATIONS OF Lease. It is understood and agreed that violations of this Lease shall be acted upon in accordance with the regulations in 25 C.F.R. Part 162.

17. CARE OF PREMISES. It is understood and agreed that the Lessee is to keep the premises covered by this lease in good repair. Lessee shall not commit or permit to be committed any waste whatever on said premises and shall not remove or tear down any building or other improvements thereto, but shall keep the same in good repair. Lessee shall not destroy or permit to be destroyed any trees, except with the consent of the Lessor and the approval of the Secretary, and shall not permit the premises to become unsightly. The Lessee will be held financially responsible for all unrepaired damages to buildings, fences, improvements or appearance, except for the usual wear and decay.

18. FORCE MAJEURE. Whenever under this instrument a time is stated within which or by which original construction, repairs or re-construction of said improvements shall be completed, and if during such period any cause reasonably beyond the Lessee's power to control occurs, the period of delay so caused shall be added to the period allowed herein for the completion of such work.

19. INSPECTION OF THE PREMISES. The Secretary, lender, applicable Federal Agency, and the Lessor and their authorized representative shall have the rights, at any reasonable times during the term of this lease, and with reasonable notice, to enter upon the leased premises, or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon.

20. INDEMNIFICATION. Neither the Lessor nor the United States, nor their officers, agents, and employees shall be liable for any loss, damage, or injury of any kind whatsoever to the person or property of the Lessee or sublessees or any other person whomsoever, caused by any use of the leased premises, or by any defect in any structure erected thereon, or arising from any accident, fire, or other casualty on said premises or from any other cause whatsoever; and Lessee, as a material part of the consideration for this lease, hereby waives on Lessee's behalf all claims against Lessor and/or the United States and agrees to hold Lessor and/or the United States free and harmless from liability for all claims for any loss, damage, or injury arising from the use for the premises by Lessee, together with all costs and expenses in connection therewith.

21. UTILITIES. Neither the Lessor nor the United States shall have any obligation to provide utilities as of the commencement of this Lease. In the event that the Lessee requires utilities, the installation and maintenance thereof shall be the Lessee's sole obligation, provided that such installation shall be subject to the written consent of the Lessor, which the Lessor will not unreasonably withhold. The Lessee shall pay, as they become due, all bills for electricity and other utilities that are furnished to the leased premises.

22. LATE PAYMENT INTEREST. It is understood and agreed between the parties hereto that, if any installment of rental is not paid within 30 days after becoming due, interest will be assessed at the existing prime rate, plus three (3) percent, times the amount owed for the period during which payments are delinquent. Interest will become due and payable from the date such rental becomes due and will run until said rental is paid. The interest rate formula is Interest = (Prime rate + 3%) times (x) amount due.

23. RIGHT OF REMOVAL. Upon the termination of the lease, the Lessee of a one-unit single family dwelling shall be entitled, within \_\_\_\_ days, to remove the dwelling and related structures from the leased premises and relocate such improvements to an alternative site, not located on the leased premises. Any Lessee who exercises such a right shall be required to pay all costs related to the relocation of the dwelling unit. Lessee shall leave the land in good order and condition. All other improvements shall become the property of the Lessor at the expiration of this lease. This paragraph does not apply to Section 248 insured mortgage loans

24. INSURANCE. The Lessee agrees, so long as this lease is in effect, to keep buildings and improvements on the leased premises insured against loss or damage by fire with extended coverage endorsements in an amount equal to the full insurable value of the buildings and improvements insured. Said policy is to be made payable to the Bureau of Indian Affairs for the benefit of the Lessor. Said policy or policies shall be deposited with the Secretary and Lessee shall pay all premiums and other charges payable in respect to such insurance and shall deposit with the Secretary the receipt for each premium or other charge as paid or satisfactory evidence thereof. Except, during such time that a mortgage is in effect against this Leasehold interest, that said policy is to be made jointly payable to the Lessee and the Lender, and premium payments provided for per specific requirements of the Lender.

25. ADDITIONS. Prior to execution of this Lease, provision (s) number (s) \_\_\_\_\_  
has (have) been added hereto and by reference is (are) made a part hereof.

WITNESS:

\_\_\_\_\_, Lessor

\_\_\_\_\_

WITNESS:

\_\_\_\_\_

\_\_\_\_\_, Lessee

\_\_\_\_\_

APPROVED:

SECRETARY OF THE INTERIOR

\_\_\_\_\_  
BY:

\_\_\_\_\_  
Date

This lease is approved pursuant to the authority delegated by

\_\_\_\_\_

\_\_\_\_\_  
Approving Official

\_\_\_\_\_  
Date

MODEL TRIBAL LENDING PROCEDURES FOR:  
LIEN PRIORITY, EVICTION AND FORECLOSURE  
AND LEASING

## I. OVERVIEW

This document highlights roles and responsibilities of the Indian tribe for the participation in mortgage loan guarantee and insurance programs sponsored by the U. S. Department of Housing and Urban Development (HUD), U. S. Department of Agriculture's Rural Housing Service (RHS) and U. S. Department of Veterans Affairs (VA). The Federal Agencies noted have prepared this document as a guide to aide Indian tribes in obtaining the approval of the Agencies for participation in each of their programs.

- a. **General.** Due to the unique legal status of Indian trust land and restricted land, it has been difficult for Native Americans to achieve homeownership utilizing financing provided by private lending institutions. In general, trust land means land in which the title is held in trust by the United States for the benefit of an Indian or Indian tribe, and it is inalienable. Trust lands also include lands to which the title is held by an Indian tribe subject to a restriction against alienation imposed by the United States. Because of the difficulty in obtaining a security interest in individual plots, conventional mortgage lending practices have not traditionally operated in this forum. This has resulted in a reluctance of financial institutions to offer their mortgage loan products where Indian trust land is involved. This same reluctance has also applied to restricted land where the title is held by an individual Indian or tribe and which can only be alienated or encumbered by the owner with the approval of the Secretary of the Interior.
- b. **Legal and Administrative Framework.** For tribal members to participate in the federal government sponsored mortgage loan programs, the tribe must demonstrate that a legal and administrative framework exists that is sufficient to protect the interests of the borrower, the lender, and the federal agency which will guarantee or insure the mortgage loan. To establish this legal and administrative framework, tribes must have adopted foreclosure, eviction, and priority of lien procedures that will apply to these loans whenever the tribal court has legal jurisdiction.

The legal and administrative framework addresses four key procedures: (1) foreclosures, (2) evictions, (3) priority of lien procedures, and (4) leasing procedures for tribal trust land. Attachment 1 provides model tribal mortgage lending ordinances which may be utilized by a tribe or may serve as a guide. Use of this model will be deemed acceptable for program compliance by all of the federal agencies noted above. If a tribe adopts a legal and administrative framework which differs from these model documents, it will be necessary for the tribe to seek approval, in a separate process, from each of the Federal agencies noted.

- c. **Tribal Commitment to Enforcement.** A tribe with tribal court jurisdiction must also demonstrate its support of one (or more) of these programs by notifying at least one of these federal agencies, that the tribe has enacted the required legal procedures and that it will enforce these procedures. (See Paragraph II.a. below.)

## **II. FORECLOSURE AND EVICTION PROCEDURES**

Foreclosures and evictions will be processed through the legal system having jurisdiction over the mortgage loans. This may include federal, state, local, or tribal courts.

- a. **Enactment of Tribal Procedures.** A tribe may enact foreclosure and eviction procedures via tribal council resolution or any other recognized legislative action. To be considered valid, these procedures must be legally enforceable.
- b. **Required Provisions.** To preserve tribal autonomy in the governing process, the federal agencies noted above will not prescribe a format or specific wording for foreclosure and eviction procedures. However, all foreclosure procedures must enable the lender and/or the Federal agency which has made, insured or guaranteed the mortgage loan, to take possession of the property in the event that three or more complete monthly mortgage installments are due and unpaid, or the Borrower has failed to perform any obligation under the Mortgage. All eviction procedures must allow for expedited removal of the delinquent household residents from occupancy.
- c. **Sample Documents.** A tribe that does not currently have foreclosure and eviction procedures may utilize the model

language which is attached, or may contact other tribes to obtain procedural options.

- d. **Failure to Enforce.** Each of the Federal Agencies noted above has different authority to take action in the case of a Tribe which does not enforce its established eviction and foreclosure requirements. For information on the action to be taken, contact the appropriate Federal Agency directly.

### III. LIEN PROCEDURES

Mortgages guaranteed under the following programs must have a first lien position on the property. Those programs are: HUD Section 184, HUD Section 248, and USDA Section 502 Guaranteed. Under the USDA Section 502 Direct program, the loan may be subordinated under certain circumstances (contact the USDA's Rural Housing representative for further information.) enforcement will be processed through the appropriate federal, state, local or tribal system. The lender responsibility is only to verify that the Tribe has adopted the model procedures and is approved by the Federal Agency guaranteeing or insuring the mortgage.

- a. **Enactment of Tribal Lien Procedures.** To ensure that each direct, guaranteed or insured mortgage holds a first lien position, each tribal government must enact a law that provides either:
  - (1) For the satisfaction of HUD , VA, or USDA direct, guaranteed or insured mortgages before other obligations (except tribal leasehold taxes assessed after the property is mortgaged); or
  - (2) That state law shall determine the priority of liens against the property. If a reservation spans two or more states, the state in which the property is located is the applicable state law.
- b. **Format.** The federal agencies noted above will not prescribe a specific format for adopting lien requirements.
- c. **Failure to Enforce.** If any of the Federal Agencies issuing loans, guarantees or insurance within the jurisdiction of an approved tribes determines that the tribe does not enforce adopted lien enforcement or eviction procedures, that Agency will notify the other Federal Agencies of such non-enforcement.

Each Federal Agency will take appropriate action in accordance with paragraph II.d., above.

- d. **Recordation.** On tribal trust or other federally restricted land, liens shall be recorded by filing with the Land Titles and Records Office at the BIA and may also be recorded with the tribe in accordance with local ordinances/resolutions if appropriate. Section 248 requires recording with the State (if available). On fee simple land, liens shall be filed with the State or County recording system having jurisdiction over the property.

#### IV. LEASING TRIBAL TRUST LAND

To receive a loan guarantee/insurance on tribal trust lands, the borrower must establish a leasehold interest in the land on which the home will be located.

- a. **Leasehold Documents.** Appendix 2 provides a standard lease form that has been approved by the BIA, HUD, USDA and VA for use on tribal trust land. This sample lease form contains certain provisions that are required to be included in leases for trust and restricted land used as collateral for the loan programs administered by these agencies.
- b. **Lease Modifications.** The standard lease form may be modified by the mutual consent of the tribe and the borrower. Modifications to the standard lease form are made by rider and require the approval of BIA and the federal agency which is proposed to make, guarantee, or insure the loan. No lease modification may serve to obstruct the right of any of the Federal Agencies or the lender to evict the borrower or foreclose on or sell the property in the event of default.
- c. **Parties to the Lease.** The lease must be executed by the tribe (Lessor) and borrower (Lessee) and approved by the Secretary of the Interior prior to issuance of a firm commitment/lender approval.
- d. **Leasehold Payments.** The amount of the lease rental is negotiable between the Indian tribe (Lessor) and borrower (Lessee) subject to the approval of the Secretary of the Interior.

(1) The lease rental and provisions for increases in the rent



will be a consideration of the lender in determining the mortgage amount for which the borrower qualifies.

(2) The tribe must notify the lender of lease rental payments and/or taxes. Except for mortgages insured under 248, the lender may require that the lease payments be made through the lender, as is typically done with local property taxes. If the tribe wishes, tribal tax liens resulting from that portion of the unpaid leasehold payments applicable to tribal taxes may be recorded in the state recording system. The tribe may also intervene in any foreclosure proceeding to ask that the taxes be paid.

- e. **Lease Transfers and Assignments.** The tribe must approve all transfers or assignments of the leasehold interest, except at foreclosure and as otherwise provided in the lease.
- f. **Lease Status at Foreclosure.** The Federal Agency which made, insured or guaranteed the mortgage loan, or the lender may assume title to the leasehold interest without tribal approval of such transfer. However, anyone who subsequently purchases or rents the leasehold property must be approved by the tribe except as otherwise provided in the lease.
- g. **Termination.** The lease may not be terminated while the federal loan, guarantee or insurance is in effect without the approval of the applicable Federal Agency. Likewise, in the event of foreclosure, the lease will not be subject to any forfeiture or reversion and will not be otherwise subject to termination.

## V. MORTGAGING ALLOTTED TRUST LANDS

- a. **General.** Unless otherwise approved by the applicable Federal Agency, owners of undivided interests cannot mortgage trust property.
- b. **Mortgages on Allotted Trust Land.** The allottee or owner of the individual trust may choose to mortgage the land and consequently risk permanent loss of the land in the case of default and subsequent foreclosure. Allottees or owners of an individual trust are permitted to mortgage properties with the approval of BIA. If foreclosure occurs on mortgaged allotted trust land, the title to the land is removed from trust status. In general, Deeds of Trust must be approved by the BIA, and should include a 483b

rider. The HUD Section 248 program is not available on allotted trust lands.

**c. Fractionated Ownership.** It is common for allotted trust lands to be owned by several individuals. If a prospective borrower proposes to use trust or restricted land in which he or she owns an interest, he or she must acquire a lease from all of the co-owners (this action may require the individual to pay a rental to the co-owners) and approval of the lease by the Secretary of the Interior.

## **VI. TRIBAL APPLICATION AND APPROVAL**

Before a lender may process a mortgage loan application where a guarantee/insurance is proposed under a program sponsored by either HUD, USDA or VA, or a Federal Agency may process a direct loan application, a tribe with tribal court jurisdiction over that property must provide the applicable Federal Agency with a copy of its foreclosure, eviction and priority of lien ordinances and its lease. If an Agency approves the tribe's ordinances and lease, it will execute a Memorandum of Understanding (MOU) with the tribe (Attachment 3). A copy of this MOU will be furnished to the other agencies. If a tribe's documents do not follow the basic intent and requirements of the model documents which are attached to this guide, the tribe will need to seek approval of HUD, VA and USDA individually, in order to participate in each of their mortgage loan programs.

**a. Notice Content.** Appendix 4 includes a checklist of those items necessary in order to receive Agency approval. To obtain approval, the tribe's submission must provide evidence that it:

- (1)** Will ensure that the Federal Agencies and private lenders have access to tribal lands for the purpose of servicing and evaluating properties securing direct, guaranteed or insured mortgages.
- (2)** Has enacted foreclosure procedures.
- (3)** Has enacted eviction procedures.
- (4)** Understands that if eviction and foreclosure procedures are not enforced, all of the Departments noted may cease

making, guaranteeing or insuring new loans within their area of jurisdiction pursuant to paragraph II.d.

- (5) Has adopted procedures giving the Federal Agency first lien priority (where applicable) or otherwise ensuring that the direct, guaranteed, or insured loan will be satisfied before all other property debts (excepting tribal taxes); or has adopted legislation stating that it will abide by applicable state or local laws with respect to lien priority.

**b. Notification Process:**

- (1) Tribe sends to either HUD, USDA or VA, the items noted in the checklist at Appendix 4.
- (2) It is not necessary for a tribe to obtain approval from the applicable Federal Agency for each new direct, guaranteed or insured loan once a tribe has executed a Memorandum of Understanding (MOU) with that Federal Agency. Any Federal Agency initially approving a tribe will provide copies of the executed MOU to the other Federal Agencies. The tribe's executed MOU will be kept on file by each of the Agencies.
- (3) Upon receipt of a borrower application, lenders may call the appropriate Federal Agency to determine whether a given tribe is ready to participate in the loan program(s). The lender may also ask the borrower to submit a land status form which will provide the lender and Department with confirmation of the land status (tribal trust, allotted trust or fee simple within the tribe's jurisdiction).

### A. Lien Priority

### B. Recording of Mortgage Loan Documents

- \_\_\_\_\_ Tribe )  
 )ss.  
Indian Reservation )

8

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

The Tribal Recording clerk shall maintain the copy in the records of the recording system and shall return the original of the mortgage loan or other document to the person or entity that presented the same for recording.

- (3) The Tribal Recording Clerk shall also maintain a log of each mortgage loan or other document recorded in which there shall be entered:
- (a) The name(s) of the Borrower/Mortgagor of each mortgage loan, identified as such;
  - (b) The name(s) of the Lender/Mortgagee of each mortgage loan, identified as such;
  - (c) The name(s) of the grantor(s), grantee(s) or other designation of each party named in any other documents filed or recorded;
  - (d) The date and time of the receipt;
  - (e) The filing number assigned by the Tribal Recording Clerk; and
  - (f) The name of the Tribal Recording Clerk or designee receiving the mortgage or document.
- (4) The certified copies of the mortgage loan and other documents and the log maintained by the Tribal Recording Clerk shall be made available for public inspection and copying. Rules for copying shall be established and disseminated by the Tribal Recording Clerk.
- (5) All mortgages will be recorded with the BIA in addition to any Tribal recording provisions.

*Commentary: The federal agencies noted above recognize that Indian tribes are required to have mortgages filed with the Bureau of Indian Affairs (BIA). It is optional whether or not the tribe houses its Recording department within a "Tribal Real Estate" program. The tribe is free to place the Recording function in any tribal department it wishes.*

## C . Foreclosure Procedures

- (1) A Borrower/Mortgagor shall be considered to be in default when he or she is thirty (30) days past due on his or her mortgage payment(s) or is in violation of any covenant under the mortgage for more than 30 days to the Lender/Mortgagee (i.e. the 31st day from the payment due date).

- ( 2 ) When a Borrower/Mortgagor is thirty days past due on his or her mortgage and before any foreclosure action or activity is initiated, the Lender/Mortgagee shall complete the following:
- (a) Make a reasonable effort to arrange a face-to-face interview with the Borrower/Mortgagor. This shall include at least one trip to meet with the Borrower/Mortgagor at the mortgaged property.
  - ( b ) Lender/Mortgagee shall document that it has made at least one phone call to the Borrower/Mortgagor (or the nearest phone as designed by the Borrower/Mortgagor, able to receive and relay messages to the Borrower/Mortgagor) for the purpose of trying to arrange a face-to-face interview.
- (3) Lender/Mortgagee may appoint an agent to perform the services of arranging and conducting the face-to-face interview specified in this action.
- (4) When the Borrower/Mortgagor is past due on three installment payments and at least ten (10) days before initiating a foreclosure action in Tribal Court, the Lender shall advise the Borrower/Mortgagor in writing by mail or by posting prominently on the unit, with a copy provided to the Tribe, as follows:
- (a) Advise the Borrower/Mortgagor that information regarding the loan and default/delinquency will be given to credit bureaus.
  - (b) Advise the Borrower/Mortgagor of homeownership counseling opportunities/programs available through the Lender or otherwise.
  - (c) Advise the Borrower/Mortgagor of other available assistance regarding the mortgage/default.
  - (d) In addition to the preceding notification requirements, the Lender/Mortgagee shall complete the following additional notice requirements (i) notify the Borrower/Mortgagor that if the Leasehold Mortgage remains past due on three installment payments, the Lender/Mortgagee may ask the applicable governmental agency to accept assignment of the Leasehold Mortgage if this is an option of the governmental program; (ii) notify the Borrower/Mortgagor of the qualifications for forbearance relief from the Lender/Mortgagee, if any, and that forbearance relief may be available from the government; and (iii) provide the Borrower/Mortgagor with names and addresses of government officials to whom further communications may be addressed, if any.
- (5) If a Borrower/Mortgagor is past due on three or more installment payments and the Lender/Mortgagee has complied with the procedures set forth in the first part of this Section, the Lender/Mortgagee may commence a foreclosure proceeding in the Tribal Court by filing a verified complaint as set forth in Section D. of this Code.

*Commentary: The proceeding Section C sets forth foreclosure procedures designed to meet all of the foreclosure procedure requirements currently established under the mortgage loan programs sponsored by the U.S. Departments of Housing and Urban Development, Agriculture and Veterans Affairs (collectively referred to as Federal Agency). However, under HUD's Section 248 mortgage insurance program, lenders have the option of assigning the mortgage to HUD rather than initiating foreclosure. If the lender exercises its option to assign the mortgage to HUD, it must comply with the requirements of the regulations at 24 CFR part 203.*

#### **D. Foreclosure Complaint and Summons**

- (1) The verified complaint in a mortgage foreclosure proceeding shall contain the following:
  - (a) The name of the Borrower/Mortgagor and each person or entity claiming through the Borrower/Mortgagor subsequent to the recording of the mortgage loan, including each Subordinate Lienholder (except the Tribe with respect to a claim for a tribal leasehold), as a defendant;
  - (b) A description of the property subject to the mortgage loan;
  - (c) A concise statement of the facts concerning the execution of the mortgage loan and in the case of a Leasehold Mortgage the lease; the facts concerning the recording of the mortgage loan or the Leasehold Mortgage; the facts concerning the alleged default(s) of the Borrowers/Mortgagor; and such other facts as may be necessary to constitute a cause of action;
  - (d) True and correct copies of each promissory note, mortgage, deed of trust or other recorded real property security instrument (each a "security instrument") and any other documents relating to the property and if a Leasehold Mortgage, a copy of the lease and any assignment of any of these documents; and
  - (e) Any applicable allegations concerning relevant requirements and conditions prescribed in (i) federal statutes and regulations (ii) tribal codes, ordinances and regulations; and/or (iii) provisions of the promissory note, security instrument and if a Leasehold Mortgage, the lease.
- (2) The complaint shall be verified by the Tribal Court Clerk along with a summons specifying a date and time of appearance for the Defendant(s).

#### **E. Service of Process and Procedures. Any foreclosure complaint must be in writing, and must be delivered to the Borrower/Mortgagor in the following manner:**

- (1) Delivery must be made by an adult person and is effective when it is:
  - (a) Personally delivered to a Borrower/Mortgagor with a copy sent by mail, or
  - (b) Personally delivered to an adult living in the property with a copy sent by mail, or
  - (c) Personally delivered to an adult agent or employee of the Borrower/Mortgagor with a copy sent by mail.

- (2) If the notice cannot be given by means of personal delivery, or the Borrower/Mortgagor cannot be found, the notice may be delivered by means of:
- (a) Certified mail, return receipt requested, at the last known address of the Borrower/Mortgagor, or
  - (b) Securely taping a copy of the notice to the main entry door of the property in such a manner that it is not likely to blow away, and by posting a copy of the notice in some public place near the premises, including a tribal office, public store, or other commonly-frequented place and by sending a copy first class mail, postage prepaid, addressed to the Borrower/Mortgagor at the premises.
- (3) The person giving notice must keep a copy of the notice and proof of service in accordance with this section, by affidavit or other manner recognized by law.

#### F. Cure of Default

Prior to the entry of a judgment of foreclosure, any Borrower/Mortgagor or a Subordinate Lienholder may cure the default(s) under the Mortgage by making a full payment of the delinquency to the Lender/Mortgagee and all reasonable legal and Court costs incurred in foreclosing on the property. Any subordinate Lienholder who has cured a default shall thereafter have included in its lien the amount of all payments made by such Subordinate Lienholder to cure the default(s), plus interest on such amounts at the rate stated in the note for the mortgage. There shall be no right of redemption in any Leasehold Mortgage Foreclosure proceeding.

*Commentary: This Section F. does not allow for a "right of redemption." The "right of redemption" if provided in a Foreclosure Code allows a Borrower/Mortgagor to redeem (purchase) his/her foreclosed property after it has been sold at a foreclosure sale. Most state foreclosure laws have very strict time limits on how long a Borrower/Mortgagor has to redeem his/her property after a foreclosure sale, when the right to redeem will be allowed, and notice requirements that must be given the Borrower/Mortgagor following the sale of his/her foreclosed property. Because the right of redemption can be very specialized the drafters of this model Code will leave to the discretion of the tribe whether or not to incorporate a "right of redemption" and under what terms. If a "right of redemption" is included, it will be necessary for the tribe to seek approval in a separate process from each of the Federal Agencies noted.*

#### G. Judgment and Remedy

This matter shall be heard and decided by the Tribal Court in a prompt and reasonable time period not to exceed sixty (60) days from the date of service of the Complaint on the Borrower/Mortgagor. If the alleged default has not been cured at the time of trial and the Tribal Court finds for the Lender/Mortgagee, the Tribal Court shall enter judgment:

- (1) Foreclosing the interest of the Borrower/Mortgagor and each other defendant, including Subordinate Lienholder, in the mortgaged property and



- (2) Granting title to the property to the Lender/Mortgagee or the Lender's Designated Assignee; in the case of a Leasehold Mortgage, the Lease and the Leasehold Estate will be assigned to the Lender/Mortgagee or the Lender's Designated Assignee, subject to the following provisions
- (a) The lender shall give the Tribe the right of first refusal on any acceptable offer to purchase the Lease and the Lessee's leasehold interest in the property described in the lease which is subsequently obtained by the Lender or Lender's Designated Assignee.
  - (b) The Lender or Lender's Designated Assignee may only transfer, sell or assign the Lease and Lessee's leasehold interest in the property described in the Lease to a Tribal member, the Tribe, or the Tribal Housing Authority;
  - (c) The mortgagee has the right to convey the leasehold interest to the Secretary of HUD without providing the right of first refusal to the Tribe for Section 248.

#### H. Foreclosure Evictions

Foreclosure evictions shall be handled according to the general eviction process set forth below.

- (1) Jurisdiction. The provisions of this section H. shall apply to all persons and property subject to the governing authority of the Tribe as established by the Tribal Constitution, Tribal Code, or applicable federal law.
- (2) Unlawful Detainer. A Lessee, Sublessee, or other occupant of a Leasehold Estate subject to a Leasehold Mortgage shall be guilty of unlawful detainer if such person shall continue in occupancy of such Leasehold Estate without the requirement of any notice by the Lessor, after such person's Leasehold Estate has been foreclosed in a Leasehold Mortgage foreclosure proceeding in the Tribal Court;
- (3) Complaint and Summons. The lender or Federal Agency (which made, guaranteed or insured the mortgage loan) as appropriate, shall commence an action for unlawful detainer by filing with the Tribal Court, in writing, the following documents:
  - (a) A complaint, signed by the lender or Federal Agency, or an agent or attorney on their behalf:
    - (i) Citing facts alleging jurisdiction of the Tribal Court;
    - (ii) Naming as defendants the mortgagors and any other record owner (including Sublessees and subordinate lienholders), of which the complainant has record notice (except the Tribe with respect to a claim for a Tribal tax on the Leasehold Estate subject to the Leasehold Mortgage);

- (iii) Describing the Leasehold Estate subject to the Leasehold Mortgage;
  - (iv) Stating the facts concerning (1) the execution of the lease and the Leasehold Mortgage; (2) the recording of the Leasehold Mortgage; and (3) the facts upon which he or she seeks to recover;
  - (v) Stating any claim for damages or compensation due from the persons to be evicted; and
  - (vi) Otherwise satisfying the requirements of the Tribal Court.
- (b) A copy of the summons, issued in accordance with established Tribal Court rules and procedures, requiring the defendants to file a response to the complaint by the date specified in the summons. The deadline specified in the summons for filing a response shall be no less than 6 nor more than 30 days from the date of service of the summons and complaint. The summons shall notify the defendants that judgment will be taken against them in accordance with the terms of the complaint unless they file a response with the court by the date specified in the summons.

(4) Service of Summons and Complaint. A copy of the summons and complaint shall be served upon the defendants in the manner provided by the Tribal Court rules for service of process in civil matters. In the absence of such Tribal Court rules, the summons and complaint shall be served by one of the following two methods.

(5) Procedures for Service of Notice. Notices required or authorized in the immediately preceding section shall be given in writing either by:

- (a) delivering a copy personally to the Borrower/ Mortgagor or to any other occupant under color of law, or to any adult residing on the Leasehold Estate and, if applicable, to any Sublessee; or
- (b) posting said notice in a conspicuous place near the entrance to said Leasehold Estate, and sending an additional copy to the Lessee or to any other occupant under color of law, and, if applicable, to the Sublessee, by certified mail, return receipt requested, properly addressed, postage paid. Proof of service may be made by affidavit of any adult person stating the he has complied with the requirements of one of the above methods of service.

(6) Power of the Tribal Court. The Tribal Court shall enter an Order of Repossession if:

- (a) Notice of suit is given by service of summons and complaint in accordance with the procedures provided herein; and
- (b) The Tribal Court shall find during pre-trial proceedings or at trial that the Lessee, Sublessee, or other occupant under color of law of the Leasehold Estate subject to the Leasehold Mortgage is guilty of an act of unlawful detainer.

Upon issuance of an Order of Repossession, the Tribal Court shall have the authority to enter a judgment against the defendants for the following, as appropriate: (1) back rent, unpaid utilities, and any charges due the Tribe, Tribal Housing Authority, other public Housing Authority, or Sublessor under any sublease or other written agreement (except for a Leasehold Mortgage); (2) any and all amounts secured by the Leasehold Mortgage that are due the lender (or Federal Agency); and (3) damages to the property caused by the defendants, other than ordinary wear and tear. The Tribal Court shall have the authority to award to the prevailing party its costs and reasonable attorney's fees in bringing suit.

(7) Enforcement. Upon issuance of an Order of Repossession by the Tribal Court, Tribal law enforcement officers shall help plaintiffs enforce same by evicting the defendants and their property from the unlawfully occupied Leasehold Estate. In all cases involving the lender or Federal Agency, the Order of Repossession shall be enforced no later than 45 days after a pre-trial proceeding or trial in which the Tribal Court finds against defendants, subject to Paragraph H7 below, and provided, that no party exercised the right to cure a default or right of first refusal as described in Paragraphs F and G above.

(8) Continuances in Cases Involving the Lender or Federal Agency (which originally made, insured or guaranteed) the mortgage loan. Except by agreement of all parties, there shall be no continuances in cases involving the lender or Federal Agency that will interfere with the requirement that the Order of Repossession be enforced not later than 45 days after a pre-trial proceeding or trial in which the Tribal Court finds against defendants, subject to the sound discretion of the Court.

#### I. No Merger of Estates

There shall be no merger of estates by reason of the execution of a Lease or a Leasehold Mortgage or the assignment or assumption of the same, including an assignment adjudged by the Tribal Court, or by operation of law, except as such merger may arise upon satisfaction of the Leasehold Mortgage.

#### J. Certified Mailing to Tribe

In any foreclosure proceedings on a Leasehold Mortgage where the Tribe is not named as a defendant, a copy of the summons and complaint shall be mailed to the Tribe by certified mail, return receipt requested, within five (5) days after the issuance of the summons. If the lessor is not the tribe, this notice will also be mailed to the lessor at the same time the notice is mailed to the tribe. If the location of the lessor cannot be ascertained after reasonable inquiry, a copy of the summons and complaint shall be mailed to the lessor in care of the Superintendent of the applicable agency of the Bureau of Indian Affairs.

K. Intervention

The Tribe or any Lessor may petition the Tribal Court to intervene in any Lease or Leasehold Mortgage foreclosure proceeding under this Code. Neither the filing of a petition for intervention by the Tribe, nor the granting of such petition by the Tribal Court shall operate as a waiver of the sovereign immunity of the Tribe, except as may be expressly authorized by the Tribe.

L. Appeals

Appeals under this Code shall be handled in accordance with the general tribal appellate provisions.

CERTIFICATION

The foregoing \_\_\_\_\_ (name of Tribe) Leasehold Mortgaging Code was enacted by the Tribal Council of the \_\_\_\_\_ Tribe on the \_\_\_\_ day of \_\_\_\_\_, 2000, by a vote of \_\_\_\_ for, \_\_\_\_ opposed, and \_\_\_\_ abstaining, at a duly called meeting at which a quorum of the Tribal Council was present.

\_\_\_\_\_  
Tribal President

ATTEST:

\_\_\_\_\_  
Tribal Secretary

## CERTIFICATION

\_\_\_\_\_ Tribe     )  
                              ) ss.  
                              )

I certify that this is a true and correct copy of a document received for recording this date.

Given under my hand and seal this \_\_\_\_ day of \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**Checklist for Tribal Approval for Participation in Mortgage Loan Programs Sponsored by the U.S. Departments of Housing and Urban Development, Agriculture and Veterans Affairs.**

1. Evidence that the tribe has enacted legally binding and effective foreclosure procedures and will enforce those procedures upon notice of default from a lender and/or Agency noted above.
2. Evidence that the tribe has enacted legally binding and effective eviction procedures and will enforce those procedures upon notice of default from a lender and/or an Agency noted above.
3. Evidence that the tribe has adopted procedures ensuring that the Federally guaranteed or insured loan will always have first lien priority (if applicable) and will be satisfied before all other property debts (excepting tribal taxes) OR has adopted legislation requiring the tribe to follow state or local priority of lien procedures.
4. A copy of the tribe's lease for use on residential land.
5. Submission of an affirmation signed by the tribe stating that the tribe understands the importance of maintaining and enforcing these procedures.
6. Submission of an affirmation signed by the tribe stating that the tribe agrees that it will permit HUD, USDA and VA and/or the lender or their agents to access mortgaged properties for the purpose of evaluating and servicing loan-related items.

# MEMORANDUM OF UNDERSTANDING

BETWEEN

THE \_\_\_\_\_NATION

AND

**{fill in the name of the reviewing/approving Agency}**

Whereas, the Secretaries of Housing and Urban Development (HUD), Veterans Affairs (VA) and Agriculture (USDA) are authorized to make, insure and/or guarantee loans to American Indian borrowers for the purchase of one-to-four family residences located on certain Indian lands (as defined in each Federal Agency's authorizing statute), and

Whereas the Federal Agencies require, as a condition of making, insuring or guaranteeing these mortgages, that the tribal organization which has jurisdiction over the borrower enter into a Memorandum of Understanding with the Departments with respect to such loans, and

Whereas, the signature on this Memorandum of Understanding of any one of the Secretaries for the Department of HUD, VA, or USDA, is deemed to be acceptable to each of the other Departments per the Memorandum of Understanding between those Federal Agencies dated \_\_\_\_\_.

Now therefore, in consideration of the premises and other good and valuable consideration, the parties hereto do agree and establish as follows:

## 1. DEFINITIONS

American Indian or Native American shall refer to the borrower/mortgagor or Lessee as defined within each Agency's authorizing statute. Depending upon the authorizing statute, this may mean a member of a federally recognized tribe (Native American, Indian, Alaska Native individual or family), the tribe, a Tribally Designated Housing Entity (TDHE) or Indian Housing Authority (IHA).

Borrower shall mean a federally recognized Tribe, Tribally Designated Housing Entity (TDHE), Indian Housing Authorities (IHA) or any American Indian, Native American(s), Indian or Alaska Native who has executed a Mortgage as defined in this document, or any heir(s) successor(s), executor(s), administrator(s) or assign(s) of the Tribe, TDHE, IHA or such American Indian, Native American(s), Indian or Alaska Native as may be eligible to participate in a federally sponsored loan program as defined in each Federal Agency's authorizing statute. Eviction the legal process by

which lessees in violation of their lease are removed from occupancy of a given residence.

Federal Agency shall refer to the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Veterans Affairs (VA) and the U.S. Department of Agriculture (USDA).

Federally sponsored loan program refers to the loan programs, sponsored by HUD, VA and USDA whose purpose is to provide homeownership opportunities to Native Americans, American Indians or Alaska Natives on certain Indian lands as defined within each of those Federal Agency's authorizing statutes.

Leasehold interest is the name given to the interest conveyed by the tribe to the borrower under the lease. It consists of the right to the quiet enjoyment of the leased premises for the term of the lease, subject to the requirements of the lease.

Lender shall refer to any institution that the specific Federal Agency has approved to originate or service Mortgages made, insured or guaranteed under its programs. The term "lender" also includes any of the lender's successors or assigns of the lender's right, title to, or interest in, the Mortgage, including any subsequent noteholder and mortgagee and, without the consent from the tribe, any secondary mortgage market investor. In some cases, the lender may be the appropriate Federal Agency which is sponsoring a direct loan program.

Mortgage shall mean a mortgage loan made to an eligible borrower for the purchase or refinance of the borrower's real property interest (which may be a leasehold interest) in the trust land, restricted land or fee simple land, as applicable, and made in accordance with a Federally sponsored loan program and complying with the terms and conditions of the lender's mortgage program. The mortgage loan shall be either a first lien or a second lien, in accordance with the Federally sponsored loan program requirements.

Secretary shall mean the Secretary of the U. S. Department of Housing and Urban Development (HUD) or the Secretary of the Department of Veterans Affairs (VA) or the Secretary of the U.S. Department of Agriculture (USDA).

Tribe shall refer to any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975. For the purpose of this specific Memorandum of Understanding, Tribe refers to the \_\_\_\_\_



Indian Nation, a federally recognized tribe, of the \_\_\_\_\_ Indian Reservation as defined in the Tribal constitution, ordinance or other enabling document.

## 2. AGREEMENT

(a) That the Department of HUD, VA and/or USDA, will make, insure and/or guarantee mortgages available to qualified American Indian borrowers for the purchase, construction or rehabilitation of homes on Indian lands or refinances of such mortgages to the extent funds are available and subject to such terms and conditions as may be established by the Secretary of the applicable Federal Agency.

(b) That the \_\_\_\_\_ Tribe has established standards and procedures that apply to the conveyance of a leasehold interest in real property by an American Indian borrower/mortgagor to a lender, Federal Agency or their assignee as security for the loan, including procedures for foreclosing the interest, eviction and procedures for resale of the lot or the dwelling (or both) purchased, constructed, rehabilitated or refinanced using the proceeds of the loan. It is agreed that for the purpose of foreclosure and eviction actions, the court of jurisdiction is ( ☐ ) the State of \_\_\_\_\_, or ( ☐ ) the Tribal court , or ( ☐ ) the Federal Court.

(c ) That each American Indian who is under the jurisdiction of the Indian tribe and to whom a lender and/or Federal Agency makes direct, insures or guarantees a loan, holds, possesses or will obtain a leasehold or other acceptable interest in a lot that is located on Indian land and will purchase, construct, rehabilitate or refinance a dwelling on that lot with the proceeds of the loan.

(d) That each such American Indian will convey the above described interest to the lender and its assignees as specified in the borrower/mortgagor's loan documents, by an appropriate instrument, as security for the loan made pursuant to that Federal Agency's authorizing statute.

(e) That the tribe and each borrower/mortgagor who obtains a loan from a lender or Federal Agency under this agreement will permit the lender and/or the Federal Agency, its agents and employees to enter upon the land of the tribe and the borrower/mortgagor for the purpose of carrying out such actions as the lender and/or Secretary determines are necessary to evaluate the advisability of the proposed uses of the proceeds of the loan and to service the mortgage according to the applicable Agency's requirements.

(f) With respect to any leasehold estate financed by a loan, the tribe, as lessor, agrees that it shall not attempt to cancel, modify, amend, terminate, surrender or forfeit such a leasehold estate without the prior written consent by the Lender and the Secretary of the Federal Agency that has made direct, insured or guaranteed the loan, as long as such a loan remains outstanding. With regard to any loan submitted to HUD, VA or

(g) The tribe will to the maximum extent possible, assist the lender and the Federal Agency in its efforts to manage this program in a prudent and cost-effective manner. This will include assisting the lender or Federal Agency in finding qualified substitute purchasers if the initial borrower/mortgagor is unable to fulfill his or her obligations under the law. This may include carrying out evictions, assuring that mortgages and other legal instruments can be properly recorded and otherwise assuring that the program is operated in a responsible and prudent manner.

\_\_\_\_\_ DATE \_\_\_\_\_  
{fill in name of the reviewing/approving Agency)

Does the above named Tribe have constitutional authority to sign this Memorandum of Understanding without approval of the US Department of the Interior's Bureau of Indian Affairs?

If no, below is the approval of the Bureau of Indian Affairs.

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**APPENDIX G**  
**USDA RURAL DEVELOPMENT LIST OF UNDERSERVED COUNTIES**

Housing in Underserved Counties  
100 Eligible Counties

FIPS	STATE	COUNTY	% Substd Housing	% Poverty Pop	Combined Percentage	Rank
01105	Alabama	Perry County	35%	10%	45%	58
01131	Alabama	Wilcox County	40%	11%	51%	52
02050	Alaska	Bethel Census Area	20%	60%	80%	30
02070	Alaska	Dillingham Census Area	21%	32%	53%	46
02270	Alaska	Wade Hampton Census Area	26%	72%	98%	13
02290	Alaska	Yukon-Koyukuk Census Area	24%	60%	83%	27
04001	Arizona	Apache County	38%	44%	82%	29
04005	Arizona	Coconino County	20%	24%	45%	59
04017	Arizona	Navajo County	29%	25%	55%	45
05101	Arkansas	Newton County	20%	13%	33%	89
06003	California	Alpine County	20%	10%	30%	99
06019	California	Fresno County	22%	23%	44%	61
06031	California	Kings County	21%	19%	40%	68
08023	Colorado	Costilla County	27%	12%	39%	72
08109	Colorado	Saguache County	22%	10%	32%	93
12027	Florida	DeSoto County	23%	12%	34%	84
12049	Florida	Hardee County	23%	16%	39%	70
12051	Florida	Hendry County	23%	16%	40%	69
13043	Georgia	Candler County	26%	10%	36%	81
13141	Georgia	Hancock County	30%	10%	39%	71
22075	Louisiana	Plaquemines Parish	23%	10%	32%	94
28009	Mississippi	Benton County	23%	10%	33%	88
28021	Mississippi	Claiborne County	32%	10%	42%	64
28055	Mississippi	Issaquena County	33%	15%	48%	56
28123	Mississippi	Scott County	21%	10%	31%	97
30003	Montana	Big Horn County	29%	16%	45%	60
30035	Montana	Glacier County	27%	11%	38%	75
31173	Nebraska	Thurston County	25%	13%	38%	73
35006	New Mexico	Cibola County	25%	15%	40%	67
35033	New Mexico	Mora County	25%	12%	37%	77
35035	New Mexico	Otero County	23%	10%	33%	91
35043	New Mexico	Sandoval County	28%	23%	50%	53
38079	North Dakota	Rolette County	31%	10%	41%	65
38085	North Dakota	Sioux County	37%	19%	56%	43
46007	South Dakota	Bennett County	38%	15%	53%	47
46017	South Dakota	Buffalo County	58%	20%	78%	34
46031	South Dakota	Corson County	39%	19%	58%	41
46041	South Dakota	Dewey County	33%	15%	48%	55
46071	South Dakota	Jackson County	36%	17%	53%	48
46095	South Dakota	Mellette County	35%	14%	49%	54
46113	South Dakota	Shannon County	52%	48%	100%	10
46121	South Dakota	Todd County	47%	23%	71%	38
48013	Texas	Atascosa County	20%	12%	32%	92
48025	Texas	Bee County	24%	10%	34%	86
48047	Texas	Brooks County	40%	15%	55%	44
48107	Texas	Crosby County	28%	11%	38%	76
48115	Texas	Dawson County	20%	12%	31%	95
48117	Texas	Deaf Smith County	20%	13%	34%	87
48127	Texas	Dimmit County	33%	18%	51%	50
48131	Texas	Duval County	27%	12%	38%	74

Housing in Underserved Counties  
100 Eligible Counties

FIPS	STATE	COUNTY	% Substandard Housing	% Poverty Population	Combined Score	Rank
48163	Texas	Frio County	29%	15%	44%	62
48165	Texas	Gaines County	22%	13%	34%	85
48191	Texas	Hall County	26%	11%	37%	79
48229	Texas	Hudspeth County	35%	16%	51%	49
48247	Texas	Jim Hogg County	26%	11%	37%	78
48249	Texas	Jim Wells County	24%	11%	35%	82
48271	Texas	Kinney County	24%	11%	35%	83
48273	Texas	Kleberg County	20%	10%	29%	100
48283	Texas	La Salle County	30%	17%	47%	57
48305	Texas	Lynn County	22%	11%	33%	90
48311	Texas	McMullen County	20%	11%	31%	96
48371	Texas	Pecos County	20%	10%	30%	98
48377	Texas	Presidio County	36%	15%	51%	51
48389	Texas	Reeves County	29%	12%	41%	66
48479	Texas	Webb County	49%	54%	103%	9
48505	Texas	Zapata County	36%	21%	57%	42
53077	Washington	Yakima County	20%	17%	37%	80
60020	American Samoa	Manu'a District	63%	70%	133%	3
60040	American Samoa	Swains Island	50%	133%	183%	1
60050	American Samoa	Western District	62%	72%	134%	2
69100	Northern Marianas	Rota Municipality	29%	46%	76%	37
69120	Northern Marianas	Tinian Municipality	35%	55%	90%	22
72001	Puerto Rico	Adjuntas Municipio	65%	33%	98%	14
72007	Puerto Rico	Aguas Buenas Municipio	58%	38%	95%	17
72009	Puerto Rico	Aibonito Municipio	51%	26%	77%	36
72013	Puerto Rico	Arecibo Municipio	57%	30%	87%	24
72031	Puerto Rico	Carolina Municipio	54%	11%	65%	40
72035	Puerto Rico	Cayey Municipio	61%	20%	82%	28
72043	Puerto Rico	Coamo Municipio	56%	23%	79%	31
72045	Puerto Rico	Comerio Municipio	55%	36%	91%	20
72049	Puerto Rico	Culebra Municipio	39%	30%	69%	39
72055	Puerto Rico	Gußnica Municipio	62%	36%	98%	12
72059	Puerto Rico	Guayanilla Municipio	68%	29%	96%	16
72073	Puerto Rico	Jayuya Municipio	63%	29%	92%	19
72079	Puerto Rico	Lajas Municipio	55%	23%	77%	35
72081	Puerto Rico	Lares Municipio	73%	32%	105%	7
72083	Puerto Rico	Las Marfas Municipio	68%	31%	99%	11
72091	Puerto Rico	Manatf Municipio	54%	25%	79%	32
72093	Puerto Rico	Maricao Municipio	67%	37%	104%	8
72107	Puerto Rico	Orocovis Municipio	75%	35%	110%	6
72109	Puerto Rico	Patillas Municipio	61%	36%	97%	15
72113	Puerto Rico	Ponce Municipio	62%	28%	90%	21
72115	Puerto Rico	Quebradillas Municipio	85%	34%	119%	4
72123	Puerto Rico	Salinas Municipio	57%	22%	79%	33
72131	Puerto Rico	San Sebasti�n Municipio	61%	33%	94%	18
72133	Puerto Rico	Santa Isabel Municipio	57%	27%	85%	26
72141	Puerto Rico	Utua Municipio	63%	27%	89%	23
72147	Puerto Rico	Vieques Municipio	64%	22%	87%	25
72149	Puerto Rico	Villalba Municipio	73%	40%	113%	5
78030	Virgin Islands	St. Thomas Island	27%	16%	43%	63

FARMERS HOME ADMINISTRATION  
RURAL HOUSING TARGETING SET ASIDE (RHTSA)  
FISCAL YEAR 1994

FHA Instruction 1940-L  
Exhibit C, Attachment 1

STATE	VERY LOW-INCOME 502 LOANS FY 1994 SET ASIDE	LOW-INCOME 502 LOANS FY 1994 SET ASIDE	TOTAL 502 LOANS FY 1994 SET ASIDE	504 GRANTS FY 1994 SET ASIDE	504 LOANS FY 1994 SET ASIDE	515 LOANS FY 1994 SET ASIDE
ALABAMA	2,400,000	3,600,000	6,000,000	75,000	120,000	1,368,000
ALASKA	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
ARIZONA	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
ARKANSAS	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
GEORGIA	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
KENTUCKY	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
MISSISSIPPI	3,200,000	4,800,000	8,000,000	100,000	150,000	1,368,000
NEW MEXICO	2,400,000	3,600,000	6,000,000	75,000	120,000	1,368,000
NORTH DAKOTA	1,600,000	2,400,000	4,000,000	50,000	80,000	1,368,000
PUERTO RICO	3,200,000	4,800,000	8,000,000	100,000	150,000	7,475,000
SOUTH DAKOTA	3,200,000	4,800,000	8,000,000	100,000	150,000	1,368,000
TEXAS	3,200,000	4,800,000	8,000,000	100,000	150,000	1,764,000
UTAH	800,000	1,200,000	2,000,000	25,000	40,000	1,368,000
WISCONSIN	800,000	1,200,000	2,000,000	25,000	40,000	1,368,000
STATE TOTAL	28,800,000	43,200,000	72,000,000	900,000	1,400,000	25,655,000
RESERVE	7,200,000	10,800,000	18,000,000	350,000	350,000	1,350,000
NATIONAL TOTAL	36,000,000	54,000,000	90,000,000	1,250,000	1,750,000	27,005,000

MINIMUM STATE FUNDING LEVELS ARE ESTABLISHED IN SECTIONS 502, 504 AND 515, BASED UPON NATIONAL AVERAGES, AS FOLLOWS:

- SECTION 502 - THE LESSOR OF \$2,000,000 PER COUNTY OR \$8,000,000 PER STATE
- SECTION 504 LOANS - THE LESSOR OF \$40,000 PER COUNTY OR \$150,000 PER STATE
- SECTION 504 GRANTS - THE LESSOR OF \$25,000 PER COUNTY OR \$100,000 PER STATE
- SECTION 515 - SUFFICIENT FUNDS TO OBLIGATE APPROXIMATELY 36 UNITS AT \$38,000 PER UNIT

SECTION 514 FUNDS OF \$815,000 AND SECTION 524 FUNDS OF \$30,000, ARE AVAILABLE ON A FIRST-COME, FIRST-SERVED BASIS.

800 UNITS OF NEW CONSTRUCTION RENTAL ASSISTANCE (RA) ARE AVAILABLE FOR SECTION 515 REQUESTS.

THE RHTSA RESERVE WILL BE AVAILABLE ON AN AS NEEDED BASIS FOR SINGLE FAMILY HOUSING PROGRAMS. FOR MULTIPLE FAMILY HOUSING, THE RESERVE WILL BE AVAILABLE ONLY FOR PATCH-OUTS UNTIL APRIL 1, 1994.

POOLING OF UNUSED RHTSA FUNDS AND RA IS TENTATIVELY SCHEDULED FOR JULY 1, 1994, AND MAY BE CHANGED ADMINISTRATIVELY, BASED UPON FUND USAGE.

ALL UNUSED RHTSA FUNDS AND RA ARE SUBJECT TO YEAR-END POOLING, TENTATIVELY SCHEDULED FOR AUGUST 15, 1994.

100 COUNTIES ELIGIBLE IN FISCAL YEAR 1994 FOR RURAL HOUSING TARGETING SET ASIDE (RHTSA) FUNDS IMMEDIATELY AND AT POOLING

STATE	COUNTY NAME	STATE	COUNTY NAME
ALABAMA	CHOCTAW	PUERTO RICO	LOIZA
ALABAMA	PERRY	PUERTO RICO	LUQUILLO
ALABAMA	WILCOX	PUERTO RICO	MANATI
ALASKA	BETHAL CENSUS AREA	PUERTO RICO	MARICAO
ALASKA	WADE HAMPTON CENSUS AR	PUERTO RICO	MAYAGUEZ
ARIZONA	APACHE S	PUERTO RICO	MOCA
ARIZONA	NAVALJO,S	PUERTO RICO	RAQUABO
ARKANSAS	LEE	PUERTO RICO	BARANJITO
ARKANSAS	NEWTON	PUERTO RICO	OROCOVIS
GEORGIA	HANCOCK	PUERTO RICO	PATILLAS
GEORGIA	TALIAFERRO	PUERTO RICO	PENUELAS
KENTUCKY	BREATHITT	PUERTO RICO	PONCE
KENTUCKY	ELLIOTT	PUERTO RICO	RINCON
MISSISSIPPI	BOLIVAR	PUERTO RICO	SABANA GRANDE
MISSISSIPPI	COAHOMA	PUERTO RICO	SALINAS
MISSISSIPPI	ISSAQUENA	PUERTO RICO	SAN JUAN
MISSISSIPPI	SHARKEY	PUERTO RICO	SAN SEBASTIAN
NEW MEXICO	MCKINLEY	PUERTO RICO	SANTA ISABEL
NEW MEXICO	MORA	PUERTO RICO	TOA ALTA
NEW MEXICO	SAN JUAN	PUERTO RICO	TOA BAJA
NORTH DAKOTA	ROLEYTE	PUERTO RICO	TRUJILLO ALTO
NORTH DAKOTA	SIOUX	PUERTO RICO	UTUADO
PUERTO RICO	AGUAS BUENAS	PUERTO RICO	VEGA ALTA
PUERTO RICO	AIBONITO	PUERTO RICO	VEGA BAJA
PUERTO RICO	AMASCO	PUERTO RICO	VIEQUES
PUERTO RICO	AQUADILLA	PUERTO RICO	VILLALBA
PUERTO RICO	ARROYO	PUERTO RICO	YARINCA
PUERTO RICO	BARRANCUITAS	SOUTH DAKOTA	BENNETT
PUERTO RICO	CABO ROJO	SOUTH DAKOTA	CORSON
PUERTO RICO	CAGUAS	SOUTH DAKOTA	DEWEY
PUERTO RICO	CAROLINA	SOUTH DAKOTA	JACKSON
PUERTO RICO	CAYEY	SOUTH DAKOTA	MELLETT E
PUERTO RICO	CIALES	SOUTH DAKOTA	SHANNON, PT
PUERTO RICO	CIDRA	SOUTH DAKOTA	TOOD
PUERTO RICO	COMO	SOUTH DAKOTA	ZIEBACH
PUERTO RICO	COMERTO	TEXAS	DUVAL
PUERTO RICO	CULEBRA	TEXAS	EDWARDS
PUERTO RICO	DORADO	TEXAS	FRID
PUERTO RICO	FLORIDA	TEXAS	HUDSPETH
PUERTO RICO	GUANICA	TEXAS	JIM WELLS
PUERTO RICO	GUAYANILLA	TEXAS	KARNES
PUERTO RICO	GUAYNABO	TEXAS	LASALLE
PUERTO RICO	GURABO	TEXAS	MAVERICK
PUERTO RICO	ISABELA	TEXAS	PRESIDIO
PUERTO RICO	JUANA DIAZ	TEXAS	SAN PATRICIO
PUERTO RICO	JUNCOS	TEXAS	UVALDE
PUERTO RICO	LAJAS	TEXAS	WEBB
PUERTO RICO	LARES	TEXAS	ZAVALA
PUERTO RICO	LAS MARIAS	UTAH	SAN JUAN
PUERTO RICO	LAS PIEDRAS	WISCONSIN	MENOMINEE

50 COUNTIES ELIGIBLE IN FISCAL YEAR 1994 FOR RURAL HOUSING TARGETING SET ASIDE (RHTSA) POOLED FUNDS ONLY

STATE	COUNTY NAME
ALABAMA	CLARK
ALABAMA	DALLAS
ALASKA	DILLINGHAM CENSUS AR
ALASKA	NOME CENSUS AREA
ALASKA	YUKON-KOYUKUK
ARIZONA	COCONINO,PT
ARIZONA	LA PAZ
ARKANSAS	ST FRANCIS
ARKANSAS	SEARCY
GEORGIA	CLAY
GEORGIA	DOOLY
GEORGIA	MARION
GEORGIA	TALBOT
GEORGIA	WEBSTER
IDaho	MADISON
KENTUCKY	CASEY
KENTUCKY	KNOTT
KENTUCKY	KNOX
KENTUCKY	LAWRENCE
KENTUCKY	PERRY
LOUISIANA	PLAQUEMINES
LOUISIANA	RED RIVER
LOUISIANA	ST MARTIN
LOUISIANA	ST MARY
LOUISIANA	TERREBONNE
MISSISSIPPI	GREENE
MISSISSIPPI	LEFLORE
MISSISSIPPI	PANOLA
NEW MEXICO	CATRON
NEW MEXICO	CHAVES
NORTH CAROLINA	WARREN
NORTH CAROLINA	HALEFAX
NORTH DAKOTA	BENSON
PUERTO RICO	CEIBA
PUERTO RICO	HORNIGUEROS
PUERTO RICO	QUERRADILLAS
TEXAS	COCHRAN
TEXAS	CONRO
TEXAS	DAWSON
TEXAS	ECTOR
TEXAS	GAINES
TEXAS	KINNEY
TEXAS	KLEBERG
TEXAS	PECOS
TEXAS	REEVES
TEXAS	TERRY
TEXAS	VAL VERDE
VIRGINIA	LEE
VIRGINIA	NORTHAMPTON
VIRGIN ISLANDS	ST THOMAS



## **APPENDIX H USEFUL CONTACTS**

**AMERIND** Risk Management Corporation  
6201 Uptown Blvd.  
Suite 100  
Albuquerque, NM 87110  
505-837-2290  
<http://www.amerind-corp.org>

**CDFI Fund**  
601 13<sup>th</sup> Street, N.W.  
Suite 200 South  
Washington, DC 20005  
202-622-8662 or 800-877-3378, ext. 29042  
<http://www.cdfifund.gov>

**Fannie Mae**  
3900 Wisconsin Ave., N.W.  
Washington, DC 20016-2892  
202-752-7000  
<http://www.fanniemae.com>

**First Nations Development Institute**  
The Stores Building  
11917 Main Street  
Fredericksburg, VA 22408  
540-371-5615  
<http://www.firstnations.org>

**Freddie Mac**  
8200 Jones Branch Drive  
McLean, VA 22102-3110  
703-903-2000  
<http://www.freddiemac.com>

**The Enterprise Foundation**  
10227 Wincopin Circle  
Suite 500  
Columbia, MD 21044  
800-624-4298  
<http://www.enterprisefoundation.org>

**Housing Assistance Council**  
1025 Vermont Avenue, NW  
Suite 606  
Washington, D.C. 20005  
202-842-8600  
<http://www.ruralhome.org>

**National American Indian Housing Council**  
900 Second Street, N.E.  
Suite 220  
Washington, DC 20002  
202-789-1754 or 800-284-9165  
<http://www.naihc.net>

**Office of Native American Programs**  
Department of Housing and Urban  
Development  
1999 Broadway  
Suite 3390  
Denver, CO 80202  
303-675-1600  
<http://www.hud.gov>  
<http://www.codetalk.fed.us>

**Department of Veterans Affairs**  
115 Van Gordon Street  
Lakewood, CO 80228  
303-914-5626  
The VA website does not include  
information on its Native American trust  
land program.

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Center  
Jonesboro, Ark.

No single agency or program alone has sufficient funds to address Native American housing needs. Previously underused resources must be explored and understood to complement and supplement the opportunities provided by the Native American Housing Assistance and Self-Determination Act (NAHASDA). The housing programs administered by the U.S. Department of Agriculture's Rural Housing Service (RHS) broaden the tools available to meet these needs. This guide is intended to improve access to RHS programs and to demonstrate the connection between the RHS programs, NAHASDA, and the Federal Home Loan Banks' Affordable Housing Program, among other resources.

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