



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY
WASHINGTON, D.C. 20410-0001

MEMORANDUM FOR: Susan Gaffney, Inspector General, G

FROM: Secretary *Henry Cisneros* Henry G. Cisneros, Secretary, S

SUBJECT: Indian Housing Program Administration

It has been brought to my attention that there have been allegations of various improprieties in the use of HUD funds by Tribal Governments and/or Indian Housing Authorities.

Additional concerns have been raised that our program monitoring may have been, in certain instances, inadequate in identifying or resolving potential problems. I believe your office may have already received some referrals from our Office of Native American Programs (ONAP), but I am requesting your thorough review of these allegations and your recommendations for corrective actions, should any abuses be found.

It is our responsibility to serve the housing needs of the American people, and we will continue to do so with no tolerance for abuse of taxpayer funds.

I have also asked Kevin E. Marchman, Acting Assistant Secretary for Public and Indian Housing, to review this situation and take appropriate steps to rectify any substantiated improprieties.

Generally, we have received favorable reports regarding the management of our Indian Housing and Community Development Program. Also, substantial overall progress has been noted, especially over the past few years, in improving the quality of life on reservations.

Let there be no doubt, however, that I am committed in this instance, as others, to a policy of zero tolerance toward the abuse of federal programs and wish to take any needed corrective actions.

cc: Kevin E. Marchman, Acting Assistant
Secretary for PIH

Brooke

Lazio → would allow PHAs to set @ own discretion

[Indian Housing Auths - may set lower - but closer relationships w/ tribes] → consensus that 30% to hi

Native Am Hsg

Lazio funding directly to Hsg Auths

HUD: directly to tribes

today, tribes admin CDBG, HOME

Hsg Auth's admin hsg progs

both bills create

2 block grants:

1 - CDBG

2 - Aff. Bl. grant

- ideally, tribes would use ^{good} hsg auths when more approp.

Reno tribes upset ^{w/ process:} b/c HUD's bill only got to them a couple weeks ago; HUD decided to pull + work off Lazio's bill

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

LRM NO: 4226

FILE NO: 2224

4/25/96

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): 31

TO: Legislative Liaison Officer - See Distribution below:

FROM: Janet FORSGREN *Janet Forsgren* (for) Assistant Director for Legislative Reference

OMB CONTACT: Anna BRIATICO 395-7887 Legislative Assistant's Line: 395-7362
C=US, A=TELAMAIL, P=GOV+EOP, O=OMB, OU1=LRD, S=BRIATICO, G=ANNA, I=M
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SUBJECT: OMB Request for Views RE: HR3219, Native American Housing Assistance and
Self-Determination Act of 1996

DEADLINE: 5 p.m. Tuesday, April 30, 1996

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before
advising on its relationship to the program of the President.

**Please advise us if this item will affect direct spending or receipts for purposes of the
"Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: The attached bill, H.R. 3219, may be considered on the House floor as an amendment to H.R.
2406 during the week of May 6th. In anticipation of developing a Statement of Administration
Policy (SAP) on H.R. 2406 that may need to reflect this amendment, please review H.R. 3219
and advise us of any issues that you believe should be raised in the SAP regarding H.R. 3219
provisions. Thanks.

AGENCIES:

19-Council on Environmental Quality - Elisabeth Blaug - 2023955750
32-ENERGY - Bob Rabben - 2025866718
39-Federal Emergency Management Agency - John P. Carey - 2026464105
52-HHS - Sondra S. Wallace - 2026907760
54-HUD - Edward J. Murphy, Jr. - 2027081793
59-INTERIOR - Jane Lyder - 2022086706
61-JUSTICE - Andrew Fois - 2025142141
62-LABOR - Robert A. Shapiro - 2022198201
76-National Economic Council - Sonyia Matthews - 2024562174
89-Office of National Drug Control Policy - John Carnevale - 2023956736
118-TREASURY - Richard S. Carro - 2026221146

EOP:

B.Litan/K.Kizer
A.Rhinesmith
S.Redburn
M.Tran
J.Jordan
I.James
R.Kodl
B.Damus
J.Lackey
OMB LA
A.Stigile
K.Burke
R.Moran
J.Minarik
J.Breul
J.Wholey
E.Seidman
M.Mazur
P.Carey
M.Brostrom
T.Kane
Elena Kagan
Janet Forsgren

LRM NO: 4226
FILE NO: 2224

If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

Please include the LRM number shown above, and the subject shown below.

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

_____ Concur
 _____ No Objection
 _____ No Comment
 _____ See proposed edits on pages _____
 _____ Other: _____
 _____ FAX RETURN of _____ pages, attached to this response sheet

104th CONGRESS
2d Session

H. R. 3219

To provide Federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 29, 1996

Mr. Lazio of New York (for himself, Mr. Bereuter, Mr. Hayworth, and Mr. Johnson of South Dakota) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To provide Federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the ``Native American Housing Assistance and Self-Determination Act of 1996''.

(b) Table of Contents.--The table of contents for this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Congressional findings.
- Sec. 3. Administration through Office of Native American Programs.
- Sec. 4. Definitions.

TITLE I--BLOCK GRANTS AND GRANT REQUIREMENTS

- Sec. 101. Block grants.
- Sec. 102. Local housing management plans.
- Sec. 103. Review of plans.
- Sec. 104. Treatment of program income and labor standards.
- Sec. 105. Environmental review.
- Sec. 106. Regulations.
- Sec. 107. Effective date.
- Sec. 108. Authorization of appropriations.

TITLE II--AFFORDABLE HOUSING ACTIVITIES

- Sec. 201. National objectives and occupancy by Indian families.
- Sec. 202. Eligible affordable housing activities.
- Sec. 203. Required affordable housing activities.

- Sec. 204. Types of investments.
- Sec. 205. Low-income requirement and income targeting.
- Sec. 206. Certification of compliance with subsidy layering requirements.
- Sec. 207. Lease requirements and tenant selection.
- Sec. 208. Repayment.

TITLE III--ALLOCATION OF GRANT AMOUNTS

- Sec. 301. Annual allocation.
- Sec. 302. Allocation formula.

TITLE IV--COMPLIANCE, AUDITS, AND REPORTS

- Sec. 401. Remedies for noncompliance.
- Sec. 402. Replacement of recipient.
- Sec. 403. Monitoring of compliance.
- Sec. 404. Performance reports.
- Sec. 405. Review and audit by Secretary.
- Sec. 406. GAO audits.
- Sec. 407. Reports to Congress.

TITLE V--TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS

- Sec. 501. Termination of Indian public housing assistance under United States Housing Act of 1937.
- Sec. 502. Termination of new commitments for rental assistance.
- Sec. 503. Termination of youthbuild program assistance.
- Sec. 504. Termination of HOME program assistance.
- Sec. 505. Termination of housing assistance for the homeless.
- Sec. 506. Savings provision.
- Sec. 507. Effective date.

TITLE VI--LOAN GUARANTEES FOR AFFORDABLE HOUSING ACTIVITIES

- Sec. 601. Authority and requirements.
- Sec. 602. Security and repayment.
- Sec. 603. Interest.
- Sec. 604. Treasury borrowing.
- Sec. 605. Training and information.
- Sec. 606. Limitations on amount of guarantees.
- Sec. 607. Effective date.

TITLE VII--OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

- Sec. 701. Loan guarantees for Indian housing.
- Sec. 702. 40-year leasehold interest in trust or restricted lands for housing purposes.
- Sec. 703. National American Indian Housing Council.
- Sec. 704. Effective date.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress hereby finds that--

(1) the Federal Government has a responsibility to promote the general welfare of the Nation--

(A) by using Federal resources to aid families and individuals seeking affordable homes that are safe, clean, and healthy and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control;

(B) by working to ensure a thriving national economy and a strong private housing market; and

(C) by developing effective partnerships among the Federal Government, State and local governments, and private entities that allow government to accept

responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day-to-day activities;

(2) there exists a unique relationship between the Government of the United States and the governments of Indian tribes and a unique Federal responsibility to Indian people;

(3) clause 3 of section 8 of article I of the Constitution of the United States provides that ``The Congress shall have Power . . . To regulate Commerce . . . with the Indian tribes'' and pursuant to this and other constitutional authority, the Congress has plenary power over Indian affairs;

(4) the Congress, through treaties, statutes, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and for working with tribes and their members to improve their socio-economic status so that they are able to take greater responsibility for their own economic condition;

(5) providing affordable and healthy homes is an essential element in the Federal Government's role in helping tribes and their members to achieve a socio-economic status comparable to their non-Indian neighbors;

(6) the need for affordable and healthy homes on Indian reservations, in Indian communities, and in Native Alaskan villages is acute and the Federal Government should work not only to provide housing assistance, but also, to the extent practicable, to assist in the development of private housing finance mechanisms on Indian lands to achieve the goals of economic self-sufficiency and self-determination for tribes and their members; and

(7) Federal assistance to meet these responsibilities should be provided in a manner that recognizes the right of tribal self-governance by making such assistance available directly to the tribes or tribally designated entities.

SEC. 3. ADMINISTRATION THROUGH OFFICE OF NATIVE AMERICAN PROGRAMS.

The Secretary of Housing and Urban Development shall carry out this Act through the Office of Native American Programs of the Department of Housing and Urban Development.

SEC. 4. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) Affordable housing.--The term ``affordable housing'' means housing that complies with the requirements for affordable housing under title II. The term includes permanent housing for homeless persons who are persons with disabilities, transitional housing, and single room occupancy housing.

(2) Families and persons.--

(A) Single persons.--The term ``families'' includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, and (v) any other single persons.

(B) Families.--The term ``families'' includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-

elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.

(C) Absence of children.--The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size for purposes of this Act.

(D) Elderly person.--The term "elderly person" means a person who is at least 62 years of age.

(E) Person with disabilities.--The term "person with disabilities" means a person who--

(i) has a disability as defined in section 223 of the Social Security Act,

(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(F) Displaced person.--The term "displaced person" means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(G) Near-elderly person.--The term "near-elderly person" means a person who is at least 50 years of age but below the age of 62.

(3) Grant beneficiary.--The term "grant beneficiary" means the Indian tribe or tribes on behalf of which a grant is made under this Act to a recipient.

(4) Indian.--The term "Indian" means any person who is a member of an Indian tribe.

(5) Indian area.--The term "Indian area" means the area within which a tribally designated housing entity is authorized to provide assistance under this Act for affordable housing.

(6) Indian tribe.--The term "Indian tribe" means--

(A) any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994; and

(B) any tribe, band, nation, pueblo, village, or community that--

(i) has been recognized as an Indian tribe by any State; and

(ii) for which an Indian housing authority is eligible, on the date of the enactment of this Act, to enter into a contract with the Secretary pursuant to the United States Housing Act of 1937.

(7) Local housing management plan.--The term "local

housing management plan'' means a plan under section 102.

(8) Low-income family.--The term ``low-income family'' means a family whose income does not exceed 80 percent of the median income for the area, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the authority's findings that such variations are necessary because of unusually high or low family incomes.

(9) Median income.--The term ``median income'' means, with respect to an area, the greater of--

(A) the median income for such area; or

(B) the median income for the United States.

(10) Recipient.--The term ``recipient'' means the entity for an Indian tribe that is authorized to receive grant amounts under this Act on behalf of the tribe, which may only be the tribe or the tribally designated housing entity for the tribe.

(11) Tribally designated housing entity.--The terms ``tribally designated housing entity'' and ``housing entity'' mean--

(A) an entity other than the tribal government that--

(i) is authorized to receive grant amounts and provide assistance under this Act for affordable housing for Indians; and

(ii) is established--

(I) by exercise of the power of self-government of an Indian tribe independent of State law; or

(II) by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska; and

(B) any Indian housing authority that--

(i) was established for purposes of the United States Housing Act of 1937 before the date of the enactment of this Act and meets the requirements under the United States Housing Act of 1937; and

(ii) is not an Indian tribe for purposes of this Act.

A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity. Nothing in this Act may be construed to affect the existence, or the ability to operate, of any Indian housing authority established before the date of the enactment of this Act by a State-recognized tribe, band, nation, pueblo, village, or community of Indian or Alaska Natives that is not an Indian tribe for purposes of this Act.

(12) Secretary.--The term ``Secretary'' means the Secretary of Housing and Urban Development, except as otherwise specified in this Act.

TITLE I--BLOCK GRANTS AND GRANT REQUIREMENTS

SEC. 101. BLOCK GRANTS.

(a) Authority.--For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this Act) make grants under this section on behalf of Indian tribes to carry out affordable housing activities. Under such a grant on behalf of an Indian tribe, the Secretary shall provide the grant amounts for the tribe directly to

the recipient for the tribe.

(b) Condition of Grant.--The Secretary may make a grant under this Act on behalf of an Indian tribe for a fiscal year only if--

(1) the Indian tribe has submitted to the Secretary a local housing management plan for such fiscal year under section 102; and

(2) the plan has been determined under section 103 to comply with the requirements of section 102.

(c) Amount.--Except as otherwise provided under title II, the amount of a grant under this section to a recipient for a fiscal year shall be--

(1) in the case of a recipient whose grant beneficiary is a single Indian tribe, the amount of the allocation under section 301 for the Indian tribe; and

(2) in the case of a recipient whose grant beneficiary is more than 1 Indian tribe, the sum of the amounts of the allocations under section 301 for each such Indian tribe.

(d) Use for Affordable Housing Activities.--Except as provided in subsection (f), amounts provided under a grant under this section may be used only for affordable housing activities under title II.

(e) Effectuation of LHMP.--Except as provided in subsection (f), amounts provided under a grant under this section may be used only for affordable housing activities that are consistent with the approved local housing management plan under section 103 for the grant beneficiary on whose behalf the grant is made.

(f) Administrative Expenses.--

(1) In general.--The Secretary shall, by regulation, authorize each recipient to use a percentage of any grant amounts received under this Act for any administrative and planning expenses of the recipient relating to carrying out this Act and activities assisted with such amounts, which may include costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this Act and expenses of preparing a local housing management plan under section 102.

(2) Contents of regulations.--The regulations referred to in paragraph (1) shall provide that--

(A) the Secretary shall, for each recipient, establish a percentage referred to in paragraph (1) based on the specific circumstances of the recipient and the tribes served by the recipient; and

(B) the Secretary may review the percentage for a recipient upon the written request of the recipient specifying the need for such review or the initiative of the Secretary and, pursuant to such review, may revise the percentage established for the recipient.

(3) Development of regulations under negotiated rulemaking procedure.--Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, the regulations required under this subsection shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code. The Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations, which shall include representatives of Indian tribes.

(g) Public-Private Partnerships.--Each recipient shall make all reasonable efforts, consistent with the purposes of this Act, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing the approved local housing management plan for the tribe that is the grant beneficiary.

SEC. 102. LOCAL HOUSING MANAGEMENT PLANS.

(a) In General.--

(1) Submission.--The Secretary shall provide for an Indian tribe to submit to the Secretary, for each fiscal year, a local housing management plan under this section for the tribe (or for the tribally designated housing entity for a tribe to submit the plan under subsection (e) for the tribe) and for the review of such plans.

(2) Locally driven national objectives.--A local housing management plan shall describe--

(A) the mission of the tribe with respect to affordable housing or, in the case of a recipient that is a tribally designated housing entity, the mission of the housing entity;

(B) the goals, objectives, and policies of the recipient to meet the housing needs of low-income families in the jurisdiction of the housing entity, which shall be designed to achieve the national objectives under section 201(a); and

(C) how the locally established mission and policies of the recipient are designed to achieve, and are consistent with, the national objectives under section 201(a).

(b) Contents.--A local housing management plan under this section for an Indian tribe shall contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available:

(1) Financial resources.--An operating budget for the recipient for the tribe that includes--

(A) identification and a description of the financial resources reasonably available to the recipient to carry out the purposes of this Act, including an explanation of how amounts made available will leverage such additional resources and identification of any tribal or publicly owned land or property that may be utilized to carry out the purposes of this Act; and

(B) the uses to which such resources will be committed, including eligible and required affordable housing activities under title II to be assisted and administrative expenses.

(2) Affordable housing.--For the jurisdiction within which the recipient is authorized to use assistance under this Act--

(A) a description of the estimated housing needs and the need for assistance for very low-income and moderate-income families, specifying such needs for different types of tenure and for different categories of residents, such as low-income and moderate-income families, elderly persons, persons with disabilities, single persons, large families, families who are participating in an organized program to achieve economic independence and self-sufficiency, persons with acquired immunodeficiency syndrome, and other categories of persons that the Secretary determines to be appropriate;

(B) a description of the nature and extent of homelessness, including an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, and a description of the recipient's strategy for (i) helping low-income families avoid becoming homeless, (ii) addressing the emergency shelter and transitional housing needs of

homeless persons (including a brief inventory of available facilities and services that meet such needs, and (iii) helping homeless persons make the transition to permanent housing and independent living;

(C) a description of the significant characteristics of the housing market, indicating how such characteristics will influence the use of amounts made available under this Act for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units;

(D) an explanation of whether the cost of housing or the incentives to develop, maintain, or improve affordable housing are affected by public policies (including policies of the recipient, tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment) and a description of the strategy to remove or ameliorate negative effects, if any, of such policies;

(E) an explanation of the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the recipient will carry out housing activities under the local housing management plan, assessing the strengths and gaps in the delivery system and describing what the recipient will do to overcome any such gaps;

(F) a description of how the plan will address the housing needs identified pursuant to subparagraphs (A) and (B), describing the reasons for allocation priorities, and identify any obstacles to addressing underserved needs;

(G) a description of the means of cooperation and coordination between the recipient and any State or units of general local government in the development, submission, and implementation of their housing plans;

(H) a description of the standards and procedures under which the recipient will monitor activities assisted under this Act and ensure long-term compliance with the provisions of this Act;

(I) a certification that the recipient comply with title II of the Civil Rights Act of 1968 in carrying out this Act, to the extent that such title is applicable;

(J) a statement of the number of families for whom the recipient will provide affordable housing using grant amounts provided under this Act; and

(K) taking into consideration only factors over which the recipient has control, a description of the goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually) and, in consultation with other appropriate public and private agencies, a statement of how the goals, programs, and policies for producing and preserving affordable housing will be coordinated with other programs and services for which the recipient is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and

(3) Indian housing developed under united states housing act of 1937.--A plan describing how the recipient for the tribe will comply with the requirements under section 203 relating to

low-income housing owned or operated by the housing entity that was developed pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, which shall include--

(A) an estimate of the market rent value of any such housing owned or operated by the housing entity;

(B) a statement of the policies of the recipient governing eligibility, admissions, and occupancy of families with respect to dwelling units in such housing;

(C) a statement of the policies of the recipient governing rents charged for dwelling units in such housing, including--

(i) the methods by which such rents are determined; and

(ii) an analysis of how such methods affect--

(I) the ability of the recipient to provide affordable housing for low-income families having a broad range of incomes;

(II) the affordability of housing for families having incomes that do not exceed 30 percent of the median family income for the area; and

(III) the availability of other financial resources to the recipient for use for such housing;

(D) a statement of the standards and policies of the recipient governing maintenance and management of such housing, and management of the recipient with respect to administration of such housing, including--

(i) housing quality standards;

(ii) routine and preventative maintenance policies;

(iii) emergency and disaster plans;

(iv) rent collection and security policies;

(v) priorities and improvements for management of the housing; and

(vi) priorities and improvements for management of the recipient, including improvement of electronic information systems to facilitate managerial capacity and efficiency;

(E) a plan describing--

(i) the capital improvements necessary to ensure long-term physical and social viability of such housing; and

(ii) the priorities of the recipient for capital improvements of such housing based on analysis of available financial resources, consultation with residents, and health and safety considerations;

(F) a description of any such housing to be demolished or disposed of, a timetable for such demolition or disposition, and any information required under law with respect to such demolition or disposition;

(G) a description of any homeownership programs of the recipient to be carried out with respect to such housing and the requirements and assistance available under such programs;

(H) a description of how the recipient will

coordinate with tribal and State welfare agencies to ensure that residents of such housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency; and

(I) a description of the requirements established by the recipient that promote the safety of residents of such housing, facilitate the housing entity undertaking crime prevention measures (such as community policing, where appropriate), allow resident input and involvement, and allow for creative methods to increase resident safety by coordinating crime prevention efforts between the recipient and tribal or local law enforcement officials.

(4) Indian housing loan guarantees.--A description of the manner in which and extent to which loan guarantees under section 184 of the Housing and Community Development Act of 1992 and title VI of this Act will be used to help in meeting the needs for affordable housing in the jurisdiction of the recipient for the tribe.

(5) Distribution of assistance.--A description of--

(A) the geographical distribution (within the jurisdiction of the recipient for the tribe) of the use of grant amounts and how such geographical distribution is consistent with the geographical distribution of housing need (within such jurisdiction); and

(B) the distribution of the use of such assistance for various categories of housing and how use for such various categories is consistent with the priorities of housing need (within the jurisdiction of the recipient).

(c) 5-Year Plan.--Each local housing management plan under this section for an Indian tribe shall contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

(1) Locally driven national objectives.--The information described in subsection (a)(2).

(2) Capital improvement overview.--If the recipient will provide capital improvements for housing described in subsection (b)(3) during such period, an overview of such improvements, the rationale for such improvements, and an analysis of how such improvements will enable the recipient to meet its goals, objectives, and mission.

(d) Participation of Tribally Designated Housing Entity.--A plan under this section for an Indian tribe may be prepared and submitted on behalf of the tribe by the tribally designated housing entity for the tribe, but only if such plan contains a certification by the recognized tribal government of the grant beneficiary that such tribe has had an opportunity to review the plan and has authorized the submission of the plan by the housing entity.

(e) Coordination of Plans.--A plan under this section may cover more than 1 Indian tribe, but only if the certification requirements under subsection (d) are complied with by each such grant beneficiary covered.

(f) Plans for Small Tribes.--

(1) Separate requirements.--The Secretary shall establish requirements for submission of plans under this section and the information to be included in such plans applicable to small Indian tribes and small tribally designated housing entities. Such requirements shall waive any requirements under this section that the Secretary determines are burdensome or unnecessary for such tribes and housing entities.

(2) Small tribes.--The Secretary shall define small Indian tribes and small tribally designated housing entities based on

the number of dwelling units assisted under this title by the tribe or housing entity or owned or operated pursuant to a contract under the United States Housing Act of 1937 between the Secretary and the Indian housing authority for the tribe.

(g) Negotiated Rulemaking.--The requirements relating to the contents of plans under this section shall be established by regulation. Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, any proposed regulation relating to the required contents of plans under this section shall be issued pursuant to a negotiated rulemaking procedure under subchapter III of chapter 5 of such title. The Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations, which shall include representatives of Indian tribes.

SEC. 103. REVIEW OF PLANS.

(a) Review and Notice.--

(1) Review.--The Secretary shall conduct a limited review of each local housing management plan submitted to the Secretary to ensure that the plan complies with the requirements of section 102. The Secretary shall have the discretion to review a plan only to the extent that the Secretary considers review is necessary.

(2) Notice.--The Secretary shall notify each Indian tribe for which a plan is submitted and any tribally designated housing entity for the tribe whether the plan complies with such requirements not later than 45 days after receiving the plan. If the Secretary does not notify the Indian tribe, as required under this subsection and subsection (b), the plan shall be considered, for purposes of this Act, to have been determined to comply with the requirements under section 102 and the tribe shall be considered to have been notified of compliance upon the expiration of such 45-day period.

(b) Notice of Reasons for Determination of Noncompliance.--If the Secretary determines that a plan, as submitted, does not comply with the requirements under section 102, the Secretary shall specify in the notice under subsection (a) the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 102.

(c) Standards for Determination of Noncompliance.--The Secretary may determine that a plan does not comply with the requirements under section 102 only if--

(1) the plan is not consistent with the national objectives under section 201(a);

(2) the plan is incomplete in significant matters required under such section;

(3) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan; or

(4) the Secretary determines that the plan violates the purposes of this Act because it fails to provide affordable housing that will be viable on a long-term basis at a reasonable cost.

(d) Treatment of Existing Plans.--Notwithstanding any other provision of this Act, a plan shall be considered to have been submitted for an Indian tribe if the appropriate Indian housing authority has submitted to the Secretary a comprehensive plan under section 14(e) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act) or under the comprehensive improvement assistance program under such section 14, and the Secretary has approved such plan, before January 1, 1997. The Secretary shall provide specific procedures and requirements for such tribes to amend such plans by submitting only such additional

information as is necessary to comply with the requirements of section 102.

(e) Actions to Change Plan.--An Indian tribe for which a plan under section 102 has been submitted may change actions or policies described in the plan before submission and review of the plan for the next fiscal year only if the tribe (or tribally designated housing entity authorized under section 102(d))--

(1) in the case of costly or nonroutine changes, submits to the Secretary an amendment to the plan under subsection (f) which is reviewed in accordance with such subsection; or

(2) in the case of inexpensive or routine changes, describes such changes in such local housing management plan for the next fiscal year.

(f) Amendments to Plan.--

(1) In general.--During the annual or 5-year period covered by the plan for an Indian tribe, the tribe (or tribally designated housing entity for the tribe authorized under section 102(e)) may submit to the Secretary any amendments to the plan.

(2) Review.--The Secretary shall conduct a limited review of each proposed amendment submitted under this subsection to determine whether the plan, as amended by the amendment, complies with the requirements of section 102 and notify the tribe for which the amendment is submitted whether the plan, as amended, complies with such requirements not later than 30 days after receiving the amendment. If the Secretary determines that a plan, as amended, does not comply with the requirements under section 102, such notice shall indicate the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 102. If the Secretary does not notify the Indian tribe as required under this paragraph, the plan, as amended, shall be considered, for purposes of this section, to comply with the requirements under section 102.

(3) Standards for determination of noncompliance.--The Secretary may determine that a plan, as amended by a proposed amendment, does not comply with the requirements under section 102 only if--

(A) the plan, as amended, would be subject to a determination of noncompliance in accordance with the provisions of subsection (c); or

(B) the Secretary determines that--

(i) the proposed amendment is plainly inconsistent with the activities specified in the plan; or

(ii) there is evidence that challenges, in a substantial manner, any information contained in the amendment; or

(C) the Secretary determines that the plan, as amended, violates the purposes of this Act because it fails to provide affordable housing that will be viable on a long-term basis at a reasonable cost.

(4) Amendments to extend time of performance.--

Notwithstanding any other provision of this subsection, the Secretary may not determine that any amendment to the plan for an Indian tribe that extends the time for performance of activities assisted with amounts provided under this Act fails to comply with the requirements under section 102 if the Secretary has not provided the amount of assistance set forth in the plan or has not provided the assistance in a timely manner.

SEC. 104. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

(a) Program Income.--

(1) Authority to retain.--Notwithstanding any other provision of law, a recipient may retain any program income that is realized from any grant amounts under this Act if--

(A) such income was realized after the initial disbursement of the grant amounts received by the recipient; and

(B) the recipient has agreed that it will utilize the program income for affordable housing activities in accordance with the provisions of this Act.

(2) Prohibition of reduction of grant.--The Secretary may not reduce the grant amount for any Indian tribe based solely on (1) whether the recipient for the tribe retains program income under paragraph (1), or (2) the amount of any such program income retained.

(3) Exclusion of amounts.--The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the recipient.

(b) Treatment of Labor Standards.--The use of amounts provided under this Act to finance (in whole or in part) a contract for construction or rehabilitation work shall not cause such contract to be subject to the requirements of the Act of March 3, 1931 (40 U.S.C. 276a-276a-5; commonly known as the Davis-Bacon Act) or to any other provision of law requiring payment of wages in accordance with such Act.

SEC. 105. ENVIRONMENTAL REVIEW.

(a) In General.--In order to ensure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this Act, and to ensure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of amounts for particular projects to recipients of assistance under this Act who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. The regulations shall provide--

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

(2) in the discretion of the Secretary, to facilitate training for the performance of such reviews; and

(3) for the suspension or termination of the assumption of responsibilities under this section.

The Secretary's duty under the preceding sentence shall not be construed to limit or reduce any responsibility assumed by a recipient of grant amounts with respect to any particular release of funds.

(b) Procedure.--The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, at least 15 days prior to such approval and prior to any commitment of funds to such projects the recipient of grant amounts has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy

Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(c) Certification.--A certification under the procedures authorized by this section shall--

- (1) be in a form acceptable to the Secretary,
- (2) be executed by the chief executive officer or other officer of the recipient of assistance under this Act qualified under regulations of the Secretary,
- (3) specify that the recipient has fully carried out its responsibilities as described under subsection (a), and
- (4) specify that the certifying officer (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to subsection (a), and (B) is authorized and consents on behalf of the recipient of assistance and such officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the certifying officer's responsibilities as such an official.

SEC. 106. REGULATIONS.

Except as otherwise specifically provided in this Act, the Secretary shall issue any requirements and regulations necessary to carry out this Act as follows:

(1) Interim requirements.--Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by notice issued in the Federal Register, establish any requirements necessary to carry out this Act in the manner provided in section 107(b), which shall be effective only for fiscal year 1997. The notice shall invite public comments regarding such interim requirements and final regulations to carry out this Act and shall include general notice of proposed rulemaking (for purposes of section 553(b) of title 5, United States Code) of the final regulations under paragraph (2).

(2) Final regulations.--The Secretary shall issue any final regulations necessary to carry out this Act not later than September 1, 1997, and such regulations shall take effect not later than the effective date under section 107(a). The regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

SEC. 107. EFFECTIVE DATE.

(a) In General.--Except as provided in subsection (b) and as otherwise specifically provided in this Act, this Act shall take effect on October 1, 1997.

(b) Interim Applicability.--For fiscal year 1997, this Act shall apply to any Indian tribe that requests the Secretary to apply this Act to such tribe, subject to the provisions of this subsection, but only if the Secretary determines that the tribe has the capacity to carry out the responsibilities under this Act during such fiscal year. For fiscal year 1997, this Act shall apply to any such tribe subject to the following limitations:

- (1) Use of assistance amounts as block grant.--Amounts shall not be made available pursuant to this Act for grants under this Act for such fiscal year, but any amounts made

available for the tribe under the United States Housing Act of 1937, title II or subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act, or section 2 of the HUD Demonstration Act of 1993 shall be considered grant amounts under this Act and shall be used subject to the provisions of this Act relating to such grant amounts.

(2) Local housing management plan.--Notwithstanding section 103 of this Act, a local housing management plan shall be considered to have been submitted for the tribe for fiscal year 1997 for purposes of this Act only if--

(A) the appropriate Indian housing authority has submitted to the Secretary a comprehensive plan under section 14(e) of the United States Housing Act of 1937 or under the comprehensive improvement assistance program under such section 14;

(B) the Secretary has approved such plan before January 1, 1996; and

(C) the tribe complies with specific procedures and requirements for amending such plan as the Secretary may establish to carry out this subsection.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for grants under title I \$650,000,000, for each of fiscal years 1998, 1999, 2000, and 2001.

TITLE II--AFFORDABLE HOUSING ACTIVITIES

SEC. 201. NATIONAL OBJECTIVES AND OCCUPANCY BY INDIAN FAMILIES.

(a) Primary Objective.--The national objectives of this Act are--

(1) to assist and promote affordable housing activities to develop, maintain, and operate safe, clean, and healthy affordable housing on Indian reservations and in other Indian areas for occupancy by low-income Indian families;

(2) to ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members;

(3) to coordinate activities to provide housing for Indian tribes and their members with Federal, State, and local activities to further economic and community development for Indian tribes and their members;

(4) to plan for and integrate infrastructure resources for Indian tribes with housing development for tribes; and

(5) to promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

(b) Occupancy by Indian Families.--The local housing management plan for an Indian tribe may require preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this Act on behalf of such tribe, to be given (to the extent practicable) to Indian families who are members of such tribe. In any case in which the applicable local housing management plan for an Indian tribe provides for preference under this subsection, the recipient for the tribe shall ensure that housing activities that are assisted with grant amounts under this Act for such tribe are subject to such preference.

SEC. 202. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

Affordable housing activities under this title are activities, in accordance with the requirements of this title, to develop or to

support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing, through the following activities:

(1) Indian housing assistance.--The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

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

(3) Housing services.--The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, energy auditing, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section.

(4) Housing management services.--The provision of management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and management of affordable housing projects.

(5) Crime prevention and safety activities.--The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

(6) Model activities.--Housing activities under model programs that are designed to carry out the purposes of this Act and are approved by the Secretary as appropriate for such purpose.

SEC. 203. REQUIRED AFFORDABLE HOUSING ACTIVITIES.

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

(b) Demolition and Disposition.--This Act may not be construed to prevent any recipient (or entity funded by a recipient) from demolishing or disposing of Indian housing referred to in such subsection. Any provision of Federal law applicable to the demolition or disposition of public housing assisted under the United States Housing Act of 1937 (or any successor Act providing financial assistance for the operation of public housing) shall apply to the demolition or disposition of Indian housing referred to in subsection (a).

SEC. 204. TYPES OF INVESTMENTS.

(a) In General.--Subject to section 203 and the local housing management plan for an Indian tribe, the recipient for such tribe shall have--

(1) the discretion to use grant amounts for affordable housing activities through equity investments, interest-bearing

loans or advances, noninterest-bearing loans or advances, interest subsidies, leveraging of private investments under subsection (b), or any other form of assistance that the Secretary has determined to be consistent with the purposes of this Act; and

(2) the right to establish the terms of assistance.

(b) Leveraging Private Investment.--A recipient may leverage private investments in affordable housing activities by pledging existing or future grant amounts to assure the repayment of notes and other obligations of the recipient issued for purposes of carrying out affordable housing activities.

SEC. 205. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

Housing shall qualify as affordable housing for purposes of this Act only if--

(1) each dwelling unit in the housing--

(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of their initial occupancy of such unit; and

(B) in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and

(2) each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (A) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (B) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

SEC. 206. CERTIFICATION OF COMPLIANCE WITH SUBSIDY LAYERING REQUIREMENTS.

With respect to housing assisted with grant amounts provided under this Act, the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be considered to be satisfied upon certification by the recipient of the assistance to the Secretary that the combination of Federal assistance provided to any housing project is not any more than is necessary to provide affordable housing.

SEC. 207. LEASE REQUIREMENTS AND TENANT SELECTION.

(a) Leases.--In renting dwelling units in affordable housing assisted with grant amounts provided under this Act, the owner or manager of the housing shall utilize leases that--

(1) do not contain unreasonable terms and conditions;

(2) require the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards;

(3) require the owner or manager to give adequate written notice of termination of the lease, which shall not be less than--

(A) the period provided under the applicable law of

the jurisdiction or 14 days, whichever is less, in the case of nonpayment of rent;

(B) a reasonable period of time, but not to exceed 14 days, when the health or safety of other residents or employees of the owner or manager is threatened; and

(C) the period of time provided under the applicable law of the jurisdiction, in any other case;

(4) require that the owner or manager may not terminate the tenancy except for violation of the terms or conditions of the lease, violation of applicable Federal, tribal, State, or local law, or for other good cause; and

(5) provide that the owner or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the resident's household, or any guest or other person under the resident's control, that--

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the owner or manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity).

(b) Tenant Selection.--The owner or manager of affordable rental housing assisted under with grant amounts provided under this Act shall adopt and utilize written tenant selection policies and criteria that--

(1) are consistent with the purpose of providing housing for low-income families;

(2) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease; and

(3) provide for (A) the selection of tenants from a written waiting list in accordance with the policies and goals set forth in the local housing management plan for the tribe that is the grant beneficiary of such grant amounts, and (B) the prompt notification in writing of any rejected applicant of the grounds for any rejection.

SEC. 208. REPAYMENT.

If a recipient uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing the housing does not comply with the requirement under section 205(a)(2), the Secretary shall reduce future grant payments on behalf of the grant beneficiary by an amount equal to the grant amounts used for such housing (under the authority under section 401(a)(2)) or require repayment to the Secretary of an amount equal to such grant amounts.

TITLE III--ALLOCATION OF GRANT AMOUNTS

SEC. 301. ANNUAL ALLOCATION.

For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this Act for the fiscal year, in accordance with the formula established pursuant to section 302, among Indian tribes that comply with the requirements under this Act for a grant under this Act.

SEC. 302. ALLOCATION FORMULA.

(a) Requirements.--The Secretary shall, by regulation under subsection (b), establish a formula to provide for allocating amounts

available for a fiscal year for block grants under this Act among Indian tribes. The formula shall be based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities, including the following factors:

(1) The number of low-income housing dwelling units owned or operated at the time pursuant to a contract between an Indian housing authority for the tribe and the Secretary.

(2) The extent of poverty and economic distress within Indian areas of the tribe.

(3) Other objectively measurable conditions as the Secretary may specify.

(b) Development Under Negotiated Rulemaking Procedure.--

Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, the regulations required under subsection (a) of this section shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code, not later than the expiration of the 12-month period beginning on the date of the enactment of this Act. The Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations, which shall include representatives of Indian tribes.

TITLE IV--COMPLIANCE, AUDITS, AND REPORTS

SEC. 401. REMEDIES FOR NONCOMPLIANCE.

(a) Actions by Secretary Affecting Grant Amounts.--Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this Act has failed to comply substantially with any provision of this Act, the Secretary shall--

(1) terminate payments under this Act to the recipient;

(2) reduce payments under this Act to the recipient by an amount equal to the amount of such payments which were not expended in accordance with this Act;

(3) limit the availability of payments under this Act to programs, projects, or activities not affected by such failure to comply; or

(4) in the case of noncompliance described in section 402(b), provide a replacement tribally designated housing entity for the recipient, under section 402.

If the Secretary takes an action under paragraph (1), (2), or (3), the Secretary shall continue such action until the Secretary determines that the failure to comply has ceased.

(b) Noncompliance Because of Technical Incapacity.--If the Secretary makes a finding under subsection (a), but determines that the failure to comply substantially with the provisions of this Act--

(1) is not a pattern or practice of activities constituting willful noncompliance, and

(2) is a result of the limited capability or capacity of the recipient,

the Secretary may provide technical assistance for the recipient (directly or indirectly) that is designed to increase the capability and capacity of the recipient to administer assistance provided under this Act in compliance with the requirements under this Act.

(c) Referral for Civil Action.--

(1) Authority.--In lieu of, or in addition to, any action authorized by subsection (a), the Secretary may, if the Secretary has reason to believe that a recipient has failed to comply substantially with any provision of this Act, refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) Civil action.--Upon such a referral, the Attorney

General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this Act which was not expended in accordance with it, or for mandatory or injunctive relief.

(d) Review.--

(1) In general.--Any recipient who receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act may, within 60 days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

(2) Procedure.--The Secretary shall file in the court record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(3) Disposition.--The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify the Secretary's findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and the Secretary shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file the Secretary's recommendation, if any, for the modification or setting aside of the Secretary's original action.

(4) Finality.--Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United State Code.

SEC. 402. REPLACEMENT OF RECIPIENT.

(a) Authority.--As a condition of the Secretary making a grant under this Act on behalf of an Indian tribe, the tribe shall agree that, notwithstanding any other provision of law, the Secretary may, only in the circumstances set forth in subsection (b), require that a replacement tribally designated housing entity serve as the recipient for the tribe, in accordance with subsection (c).

(b) Conditions of Removal.--The Secretary may require such replacement tribally designated housing entity for a tribe only upon a determination by the Secretary on the record after opportunity for a hearing that the recipient for the tribe has engaged in a pattern or practice of activities that constitutes substantial or willful noncompliance with the requirements under this Act.

(c) Choice and Term of Replacement.--If the Secretary requires that a replacement tribally designated housing entity serve as the recipient for a tribe (or tribes)--

(1) the replacement entity shall be an entity mutually agreed upon by the Secretary and the tribe (or tribes) for

which the recipient was authorized to act, except that if no such entity is agreed upon before the expiration of the 60-day period beginning upon the date that the Secretary makes the determination under subsection (b), the Secretary shall act as the replacement entity until agreement is reached upon a replacement entity; and

(2) the replacement entity (or the Secretary, as provided in paragraph (1)) shall act as the tribally designated housing entity for the tribe (or tribes) for a period that expires upon--

(A) a date certain, which shall be specified by the Secretary upon making the determination under subsection (b); or

(B) the occurrence of specific conditions, which conditions shall be specified in written notice provided by the Secretary to the tribe upon making the determination under subsection (b).

SEC. 403. MONITORING OF COMPLIANCE.

(a) Enforceable Agreements.--Each recipient, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this Act. Such measures shall provide for (1) enforcement of the provisions of this Act by the grant beneficiary or by recipients and other intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) Periodic Monitoring.--Not less frequently than annually, each recipient shall review the activities conducted and housing assisted under this Act to assess compliance with the requirements of this Act. Such review shall include on-site inspection of housing to determine compliance with applicable requirements. The results of each review shall be included in the performance report of the recipient submitted to the Secretary under section 404 and made available to the public.

SEC. 404. PERFORMANCE REPORTS.

(a) Requirement.--For each fiscal year, each recipient shall--

(1) review the progress it has made during such fiscal year in carrying out the local housing management plan (or plans) for the Indian tribes for which it administers grant amounts; and

(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

(b) Content.--Each report under this section for a fiscal year shall--

(1) describe the use of grant amounts provided to the recipient for such fiscal year;

(2) assess the relationship of such use to the goals identified in the local housing management plan of the grant beneficiary;

(3) indicate the recipient's programmatic accomplishments; and

(4) describe how the recipient would change its programs as a result of its experiences.

(c) Submission.--The Secretary shall establish dates for submission of reports under this section, and review such reports and make such recommendations as the Secretary considers appropriate to carry out the purposes of this Act.

(d) Public Availability.--A recipient preparing a report under this section shall make the report publicly available to the citizens in the recipient's jurisdiction in sufficient time to permit such citizens to comment on such report prior to its submission to the Secretary, and in such manner and at such times as the recipient may determine. The

report shall include a summary of any comments received by the grant beneficiary or recipient from citizens in its jurisdiction regarding its program.

SEC. 405. REVIEW AND AUDIT BY SECRETARY.

(a) Annual Review.--The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine--

(1) whether the recipient has carried out its eligible activities in a timely manner, has carried out its eligible activities and certifications in accordance with the requirements and the primary objectives of this Act and with other applicable laws, and has a continuing capacity to carry out those activities in a timely manner;

(2) whether the recipient has complied with the local housing management plan of the grant beneficiary; and

(3) whether the performance reports under section 404 of the recipient are accurate.

Reviews under this section shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development.

(b) Report by Secretary.--The Secretary shall submit a written report to the Congress regarding each review under subsection (a). The Secretary shall give a recipient not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the recipient, the Secretary may revise the report and shall make the recipient's comments and the report, with any revisions, readily available to the public not later than 30 days after receipt of the recipient's comments.

(c) Effect of Reviews.--The Secretary may make appropriate adjustments in the amount of the annual grants under this Act in accordance with the Secretary's findings pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the Secretary's reviews and audits under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided on behalf of an Indian tribe.

SEC. 406. GAO AUDITS.

To the extent that the financial transactions of Indian tribes and recipients of grant amounts under this Act relate to amounts provided under this Act, such transactions may be audited by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such tribes and recipients pertaining to such financial transactions and necessary to facilitate the audit.

SEC. 407. REPORTS TO CONGRESS.

(a) In General.--Not later than 90 days after the conclusion of each fiscal year in which assistance under this Act is made available, the Secretary shall submit to the Congress a report that contains--

(1) a description of the progress made in accomplishing the objectives of this Act; and

(2) a summary of the use of such funds during the preceding fiscal year.

(b) Related Reports.--The Secretary may require recipients of grant amounts under this Act to submit to the Secretary such reports and

other information as may be necessary in order for the Secretary to make the report required by subsection (a).

TITLE V--TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS

SEC. 501. TERMINATION OF INDIAN PUBLIC HOUSING ASSISTANCE UNDER UNITED STATES HOUSING ACT OF 1937.

(a) In General.--After September 30, 1997, financial assistance may not be provided under the United States Housing Act of 1937 or pursuant to any commitment entered into under such Act, for Indian housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority, unless such assistance is provided from amounts made available for fiscal year 1997 and pursuant to a commitment entered into before September 30, 1997.

(b) Termination of Restrictions on Use of Indian Housing.--Except as provided in section 203(b) of this Act, any housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall not be subject to any provision of such Act or any annual contributions contract or other agreement pursuant to such Act, but shall be considered and maintained as affordable housing for purposes of this Act.

SEC. 502. TERMINATION OF NEW COMMITMENTS FOR RENTAL ASSISTANCE.

After September 30, 1997, financial assistance for rental housing assistance under the United States Housing Act of 1937 may not be provided to any Indian housing authority or tribally designated housing entity, unless such assistance is provided pursuant to a contract for such assistance entered into by the Secretary and the Indian housing authority before such date.

SEC. 503. TERMINATION OF YOUTHBUILD PROGRAM ASSISTANCE.

(a) In General.--Subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.) is amended--

- (1) by redesignating section 460 as section 461; and
- (2) by inserting after section 459 the following new section:

SEC. 460. INELIGIBILITY OF INDIAN TRIBES.

Indian tribes, Indian housing authorities, and other agencies primarily serving Indians or Indian areas shall not be eligible applicants for amounts made available for assistance under this subtitle for fiscal year 1997 and fiscal years thereafter.''

(b) Effective Date and Applicability.--The amendments under subsection (a) shall be made on October 1, 1997, and shall apply with respect to amounts made available for assistance under subtitle D of title II of the Cranston-Gonzalez National Affordable Housing Act for fiscal year 1998 and fiscal years thereafter.

SEC. 504. TERMINATION OF HOME PROGRAM ASSISTANCE.

(a) In General.--Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended--

- (1) in section 217(a)--

(A) in paragraph (1), by striking ``reserving amounts under paragraph (2) for Indian tribes and after''; and

(B) by striking paragraph (2); and

(2) in section 288--

(A) in subsection (a), by striking ``Indian tribes,'';

(B) in subsection (b), by striking ``Indian tribe,''; and

(C) in subsection (c)(4), by striking ``Indian tribe,''.

(b) Effective Date and Applicability.--The amendments under subsection (a) shall be made on October 1, 1997, and shall apply with respect to amounts made available for assistance under title II of the Cranston-Gonzalez National Affordable Housing Act for fiscal year 1998 and fiscal years thereafter.

SEC. 505. TERMINATION OF HOUSING ASSISTANCE FOR THE HOMELESS.

(a) McKinney Act Programs.--Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended--

(1) in section 411, by striking paragraph (10);

(2) in section 412, by striking ``and for Indian tribes,'';

(3) in section 413--

(A) in subsection (a)--

(i) by striking ``and to Indian tribes,''; and

(ii) by striking ``or for Indian tribes'' each place it appears;

(B) in subsection (c), by striking ``or Indian tribe,''; and

(C) in subsection (d)(3)--

(i) by striking ``or Indian tribe'' each place it appears; and

(ii) by striking ``or other Indian tribes,'';

(4) in section 414(a)--

(A) by striking ``or Indian tribe'' each place it appears; and

(B) by striking ``local government,''' each place it appears and inserting ``or local government'';

(5) in section 415(c)(4), by striking ``Indian tribes,'';

(6) in section 416(b), by striking ``Indian tribe,'';

(7) in section 422--

(A) in by striking ``Indian tribe,''; and

(B) by striking paragraph (3);

(8) in section 441--

(A) by striking subsection (g);

(B) in subsection (h), by striking ``or Indian housing authority''; and

(C) in subsection (j)(1), by striking ``Indian housing authority'';

(9) in section 462--

(A) in paragraph (2), by striking ``Indian tribe,''; and

(B) by striking paragraph (4); and

(10) in section 491(e), by striking ``Indian tribes (as such term is defined in section 102(a) of the Housing and Community Development Act of 1974),''.

(b) Innovative Homeless Demonstration.--Section 2(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 11301 note) is amended--

(1) in paragraph (3), by striking ``unit of general local government', and ``Indian tribe'' and inserting ``and unit of general local government''; and

(2) in paragraph (4), by striking ``unit of general local government (including units in rural areas), or Indian tribe''

and inserting ``or unit of general local government''.

(c) Effective Date and Applicability.--The amendments under subsections (a) and (b) shall be made on October 1, 1997, and shall apply with respect to amounts made available for assistance under title IV of the Stewart B. McKinney Homeless Assistance Act and section 2 of the HUD Demonstration Act of 1993, respectively, for fiscal year 1998 and fiscal years thereafter.

SEC. 506. SAVINGS PROVISION.

Except as provided in sections 501 and 502, this Act may not be construed to affect the validity of any right, duty, or obligation of the United States or other person arising under or pursuant to any commitment or agreement lawfully entered into before October 1, 1997, under the United States Housing Act of 1937, subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, title II of the Cranston-Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act, or section 2 of the HUD Demonstration Act of 1993.

SEC. 507. EFFECTIVE DATE.

Sections 501, 502, and 506 shall take effect on the date of the enactment of this Act.

TITLE VI--LOAN GUARANTEES FOR AFFORDABLE HOUSING ACTIVITIES

SEC. 601. AUTHORITY AND REQUIREMENTS.

(a) Authority.--To such extent or in such amounts as provided in appropriation Acts, the Secretary may, subject to the limitations of this title and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities, for the purposes of financing affordable housing activities described in section 202.

(b) Lack of Financing Elsewhere.--A guarantee under this title may be used to assist an Indian tribe or housing entity in obtaining financing only if the Indian tribe or housing entity has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee.

(c) Terms of Loans.--Notes or other obligations guaranteed pursuant to this title shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this title on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.

(d) Limitation on Outstanding Guarantees.--No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the issuer's total outstanding notes or obligations guaranteed under this title (excluding any amount defeased under the contract entered into under section 602(a)(1)) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to title III.

(e) Prohibition of Purchase by FFB.--Notes or other obligations guaranteed under this title may not be purchased by the Federal Financing Bank.

(f) Prohibition of Guarantee Fees.--No fee or charge may be imposed by the Secretary or any other Federal agency on or with respect to a guarantee made by the Secretary under this title.

SEC. 602. SECURITY AND REPAYMENT.

(a) Requirements on Issuer.--To assure the repayment of notes or other obligations and charges incurred under this title and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or housing entity issuing such notes or obligations to--

(1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this title;

(2) pledge any grant for which the issuer may become eligible under this Act; and

(3) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Act or dispositions proceeds from the sale of land or rehabilitated property.

(b) Repayment From Grant Amounts.--Notwithstanding any other provision of this Act--

(1) the Secretary may apply grants pledged pursuant to subsection (a)(2) to any repayments due the United States as a result of such guarantees; and

(2) grants allocated under this Act for an Indian tribe or housing entity (including program income derived therefrom) may be used to pay principal and interest due (including such servicing, underwriting, and other costs as may be specified in regulations issued by the Secretary) on notes or other obligations guaranteed pursuant to this title.

(c) Full Faith and Credit.--The full faith and credit of the United States is pledged to the payment of all guarantees made under this title. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

SEC. 603. INTEREST.

(a) Tax Treatment.--The interest paid on any obligation issued by an Indian tribe or housing entity and guaranteed pursuant to this title shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(b) Grants.--The Secretary may make, and contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of an Indian tribe or housing entity issuing notes or other obligations guaranteed under this title, to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this title in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

SEC. 604. TREASURY BORROWING.

The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out the obligations of the Secretary under

guarantees authorized by this title. The obligations issued under this section shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this section, and for such purposes may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which such securities may be issued under such chapter are extended to include the purchases of the Secretary's obligations hereunder.

SEC. 605. TRAINING AND INFORMATION.

The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this title.

SEC. 606. LIMITATIONS ON AMOUNT OF GUARANTEES.

(a) Aggregate Fiscal Year Limitation.--Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this title, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this title with an aggregate principal amount of \$400,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

(b) Authorization of Appropriations for Credit Subsidy.--There is authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees under this title, \$40,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

(c) Aggregate Outstanding Limitation.--The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to this title shall not at any time exceed \$2,000,000,000 or such higher amount as may be authorized to be appropriated for this title for any fiscal year.

(d) Fiscal Year Limitations on Tribes.--The Secretary shall monitor the use of guarantees under this title by Indian tribes. If the Secretary finds that 50 percent of the aggregate guarantee authority under subsection (c) has been committed, the Secretary may--

- (1) impose limitations on the amount of guarantees any one Indian tribe may receive in any fiscal year of \$50,000,000; or
- (2) request the enactment of legislation increasing the aggregate limitation on guarantees under this title.

SEC. 607. EFFECTIVE DATE.

This title shall take effect upon the enactment of this Act.

TITLE VII--OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

SEC. 701. LOAN GUARANTEES FOR INDIAN HOUSING.

(a) Limitation on Outstanding Aggregate Principal Amount.--Section 184(i)(5)(C) of the Housing and Community Development Act of 1992 (12 U.S.C. 1515z-13a(i)(5)(C)) is amended by striking ``1993'' and all that follows through ``such year'' and inserting ``1997, 1998, 1999, 2000, and 2001 with an aggregate outstanding principal amount not exceeding \$400,000,000 for each such fiscal year''.

(b) Authorization of Appropriations for Guarantee Fund.--Section 184(i)(7) of the Housing and Community Development Act of 1992 is amended by striking ``such sums'' and all that follows through ``1994'' and inserting ``\$30,000,000 for each of fiscal years 1997, 1998, 1999,

2000, and 2001''.

(c) Availability of Amounts.--

(1) Requirement of appropriations.--Section 184(i)(5) of the Housing and Community Development Act of 1992 is amended by striking subparagraph (A) and inserting the following new subparagraph:

``(A) Requirement of appropriations.--The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent or in such amounts as are or have been provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.''.

(2) Costs.--Section 184(i)(5)(B) of the Housing and Community Development Act of 1992 is amended by adding at the end the following new sentence: ``Any amounts appropriated pursuant to this subparagraph shall remain available until expended.''.

(d) LHMP Requirement.--Section 184(b)(2) of the Housing and Community Development Act of 1992 is amended by inserting before the period at the end the following: ``that is under the jurisdiction of an Indian tribe for which a local housing management plan has been submitted and approved pursuant to sections 102 and 103 of the Native American Housing Assistance and Self-Determination Act of 1996 that provides for the use of loan guarantees under this section to provide affordable homeownership housing in such areas''.

SEC. 702. 40-YEAR LEASEHOLD INTEREST IN TRUST OR RESTRICTED LANDS FOR HOUSING PURPOSES.

(a) Authority to Lease.--Notwithstanding any other provision of law, any restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for residential purposes.

(b) Term.--Each lease pursuant to subsection (a) shall be for a term not exceeding 40 years.

(c) Renewal.--A lease pursuant to subsection (a) may, with the consent of both parties to the lease, include provisions authorizing renewal of the lease for one additional term not exceeding 40 years.

(d) Other Conditions.--Each lease pursuant to subsection (a) and each renewal of such a lease shall be made under such terms and regulations as may be prescribed by the Secretary of the Interior.

(e) Rule of Construction.--This section may not be construed to repeal, limit, or affect any authority to lease any restricted Indian lands that--

(1) is conferred by or pursuant to any other provision of law; or

(2) provides for leases for any period exceeding 40 years.

SEC. 703. NATIONAL AMERICAN INDIAN HOUSING COUNCIL.

There is authorized to be appropriated for assistance for the National American Indian Housing Council for providing training and technical assistance to Indian housing authorities \$2,000,000, for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

SEC. 704. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect upon the enactment of this Act.

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