

**SUMMARY OF
STATUTORY REQUIREMENTS FOR
NAHASDA ALLOCATION FORMULA**

**25 U.S.C. § 4152
P.L. 104-330, Sec. 302 (as amended)**

I. FACTORS FOR DETERMINATION [Sec. 302(b)]

The formula shall be based on factors that reflect (a) the need of the Indian tribes and (b) the Indian areas of the tribes for assistance for affordable housing activities, including the following factors:

- the number of low-income housing dwelling units owned or operated at the time pursuant to a contract between an IHA and the Secretary (1937 Act housing units) (Sec. 502(a), as amended, provides in relevant part "any housing that is the subject of a contract for tenant-based assistance between the Secretary and the Indian housing authority that is terminated under this section shall, for the following fiscal year and each fiscal year thereafter, be considered a dwelling unit [for purposes of the formula]"),
- the extent of poverty and economic distress
- the number of Indian families within Indian areas of the tribe
- other objectively measurable conditions as may be specified by HUD and the Tribes

II. OTHER FACTORS FOR CONSIDERATION [Sec. 302(c)]

- the relative administrative capacities of the recipient
- other challenges faced by the recipient, including, but not limited to (a) geographic distribution within the Indian area and (b) technical capacity
- the extent to which termination of assistance under previous programs will affect funding available to State recognized tribes

III. ADDITIONAL REQUIREMENTS [Sec. 302(d)]

- tribes with more than 250 1937 Act units shall not receive a grant in an amount less than their 1996 totals for operation and modernization under the 1937 Act (or the proportional ratio thereof if total NAHASDA funding falls below 1996 levels)
- tribes with less than 250 1937 Act units shall not receive a grant in an amount less than the average (as determined for the five-year period between 1992-1997) of their totals for operation and modernization under the 1937 Act (or the proportional ratio of their 1996 operation and modernization funding if total NAHASDA funding falls below 1996 levels)

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Sec. 302. ALLOCATION FORMULA. [25 U.S.C. 4152]

(a) **ESTABLISHMENT**--The Secretary shall, by regulations issued not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, in the manner provided under section 106, establish a formula to provide for allocating amounts available for a fiscal year for block grants under this Act among Indian tribes in accordance with the requirements of this section.

(b) **FACTORS FOR DETERMINATION OF NEED**--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 and the number of Indian families within Indian areas of the tribe.
- (3) Other objectively measurable conditions as the Secretary and the Indian tribes may specify.

(c) **OTHER FACTORS FOR CONSIDERATION**--In establishing the formula, the Secretary shall consider--

- (1) the relative administrative capacities and other challenges faced by the recipient, including, but not limited to geographic distribution within the Indian area and technical capacity; and
- (2) the extent to which terminations of assistance under title V will affect funding available to State recognized tribes.

(d) **FUNDING FOR PUBLIC HOUSING OPERATION AND MODERNIZATION**--

(1) **FULL FUNDING**--

(A) **IN GENERAL**--Except with respect to an Indian tribe described in subparagraph (B), the formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is equal to or greater than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public 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, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the total amount of such operating and modernization assistance provided for fiscal year 1996 for such tribe. *FN 24*

(B) **CERTAIN INDIAN TRIBES**--With respect to fiscal year 2001 and each fiscal year thereafter, for any Indian tribe with an Indian housing authority that owns or operates fewer than 250 public housing units, the formula shall provide that if the amount provided for a fiscal year in which the total amount made available for assistance under this Act is equal to or greater than the amount made available for

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fiscal year 1996 for assistance for the operation and modernization of the public housing referred to in subparagraph (A), then the amount provided to that Indian tribe as modernization assistance shall be equal to the average annual amount of funds provided to the Indian tribe (other than funds provided as emergency assistance) under the assistance program under section 14 of the United States Housing Act of 1937 (42 U.S.C. 14371) for the period beginning with fiscal year 1992 and ending with fiscal year 1997. *FN 25*

(2) **PARTIAL FUNDING**--The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is less than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public 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, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the amount that bears the same ratio to the total amount available for assistance under this Act for such fiscal year that the amount of operating and modernization assistance provided for the tribe for fiscal year 1996 bears to the total amount made available for fiscal year 1996 for assistance for the operation and modernization of such public housing.

(d) **EFFECTIVE DATE**--This section shall take effect on the date of the enactment of this Act.

FN 24—2000 Amendment—Public Law 106-568 amended subsection (d)(1)(A) to designate existing provisions as subparagraph (A), add a heading thereto, and as so designated, substitute "Except with respect to an Indian tribe described in subparagraph (B), the formula" for "The formula".

FN 25—2000 Amendment—Public Law 106-258 added subsection (d)(1)(B).
