

Par. (12)(C)(i)(II). Pub. L. 105-276, §595(e)(2), substituted "705" for "107".

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as a note under section 4101 of this title.

#### § 4104. Waiver of matching funds requirements in Indian housing programs

##### (a) Authorization of waiver

For any housing program that provides assistance through any Indian housing authority, the Secretary of Housing and Urban Development may provide assistance under such program in any fiscal year notwithstanding any other provision of law that requires the Indian housing authority to provide amounts to match or supplement the amounts provided under such program, if the Indian housing authority has not received amounts for such fiscal year under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.].

##### (b) Extent of waiver

The authority under subsection (a) to provide assistance notwithstanding requirements regarding matching or supplemental amounts shall be effective only to the extent provided by the Secretary, which shall not extend beyond the fiscal year in which the waiver is made or beyond the receipt of any amounts by an Indian housing authority under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.].

##### (c) Definition of housing program

For purposes of this section, the term "housing program" means a program under the administration of the Secretary of Housing and Urban Development or the Secretary of Agriculture (through the Administrator of the Farmers Home Administration) that provides assistance in the form of contracts, grants, loans, cooperative agreements, or any other form of assistance (including the insurance or guarantee of a loan, mortgage, or pool of mortgages) for housing.

(Pub. L. 101-625, title IX, §959, Nov. 28, 1990, 104 Stat. 4423.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in subsecs. (a) and (b), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Act is classified principally to chapter 69 (§5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

##### CODIFICATION

Section was enacted as part of the Cranston-Gonzalez National Affordable Housing Act, and not as part of the Native American Housing Assistance and Self-Determination Act of 1996 which comprises this chapter.

Section was formerly classified to section 1437ff of Title 42, The Public Health and Welfare.

#### SUBCHAPTER I—BLOCK GRANTS AND GRANT REQUIREMENTS

#### § 4111. Block grants

##### (a) Authority

###### (1) In general

For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this chapter) make grants under this section on behalf of Indian tribes—

(A) to carry out affordable housing activities under part A of subchapter II; and

(B) to carry out self-determined housing activities for tribal communities programs under part B of that subchapter.

###### (2) Provision of amounts

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) Plan requirement

###### (1) In general

The Secretary may make a grant under this chapter on behalf of an Indian tribe for a fiscal year only if—

(A) the Indian tribe has submitted to the Secretary an Indian housing plan for such fiscal year under section 4112 of this title; and

(B) the plan has been determined under section 4113 of this title to comply with the requirements of section 4112 of this title.

###### (2) Waiver

The Secretary may waive the applicability of the requirements under paragraph (1), in whole or in part, for a period of not more than 90 days, if the Secretary determines that an Indian tribe has not complied with, or is unable to comply with, those requirements due to exigent circumstances beyond the control of the Indian tribe.

##### (c) Local cooperation agreement

Notwithstanding any other provision of this chapter, grant amounts provided under this chapter on behalf of an Indian tribe may not be used for rental or lease-purchase homeownership units that are owned by the recipient for the tribe unless the governing body of the locality within which the property subject to the development activities to be assisted with the grant amounts is or will be situated has entered into an agreement with the recipient for the tribe providing for local cooperation required by the Secretary pursuant to this chapter. The Secretary may waive the requirements of this subsection and subsection (d) if the recipient has made a good faith effort to fulfill the requirements of this subsection and subsection (d) and agrees to make payments in lieu of taxes to the appropriate taxing authority in an amount consistent with the requirements of subsection (d)(2) until such time as the matter of making such payments has been resolved in accordance with subsection (d).

##### (d) Exemption from taxation

Notwithstanding any other provision of this chapter, grant amounts provided under this

chapter on behalf of an Indian tribe may not be used for affordable housing activities under this chapter for rental or lease-purchase dwelling units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or with amounts provided under this chapter that are owned by the recipient for the tribe unless—

(1) such dwelling units (which, in the case of units in a multi-unit project, shall be exclusive of any portions of the project not developed under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] or with amounts provided under this chapter) are exempt from all real and personal property taxes levied or imposed by any State, tribe, city, county, or other political subdivision; and

(2) the recipient for the tribe makes annual payments of user fees to compensate such governments for the costs of providing governmental services, including police and fire protection, roads, water and sewerage systems, utilities systems and related facilities, or payments in lieu of taxes to such taxing authority, in an amount equal to the greater of \$150 per dwelling unit or 10 percent of the difference between the shelter rent and the utility cost, or such lesser amount as—

(A) is prescribed by State, tribal, or local law;

(B) is agreed to by the local governing body in the agreement under subsection (c); or

(C) the recipient and the local governing body agree that such user fees or payments in lieu of taxes shall not be made.

**(e) Effect of failure to exempt from taxation**

Notwithstanding subsection (d), a grant recipient that does not comply with the requirements under such subsection may receive a block grant under this chapter, but only if the tribe, State, city, county, or other political subdivision in which the affordable housing development is located contributes, in the form of cash or tax remission, the amount by which the taxes paid with respect to the development exceed the amounts prescribed in subsection (d)(2).

**(f) Amount**

Except as otherwise provided under this chapter, 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 4151 of this title 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 4151 of this title for each such Indian tribe.

**(g) Use for affordable housing activities under plan**

Except as provided in subsection (h) of this section and part B of subchapter II, amounts provided under a grant under this section may be used only for affordable housing activities under subchapter II that are consistent with an Indian housing plan approved under section 4113 of this title.

**(h) Administrative and planning expenses**

The Secretary shall, by regulation, authorize each recipient to use a percentage of any grant amounts received under this chapter for comprehensive housing and community development planning activities and for any reasonable administrative and planning expenses of the recipient relating to carrying out this chapter 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 chapter and expenses of preparing an Indian housing plan under section 4112 of this title.

**(i) Public-private partnerships**

Each recipient shall make all reasonable efforts, consistent with the purposes of this chapter, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing the approved Indian housing plan.

**(j) Federal supply sources**

For purposes of section 501 of title 40, on election by the applicable Indian tribe—

(1) each Indian tribe or tribally designated housing entity shall be considered to be an Executive agency in carrying out any program, service, or other activity under this chapter; and

(2) each Indian tribe or tribally designated housing entity and each employee of the Indian tribe or tribally designated housing entity shall have access to sources of supply on the same basis as employees of an Executive agency.

**(k) Tribal preference in employment and contracting**

Notwithstanding any other provision of law, with respect to any grant (or portion of a grant) made on behalf of an Indian tribe under this chapter that is intended to benefit 1 Indian tribe, the tribal employment and contract preference laws (including regulations and tribal ordinances) adopted by the Indian tribe that receives the benefit shall apply with respect to the administration of the grant (or portion of a grant).

(Pub. L. 104-330, title I, §101, Oct. 26, 1996, 110 Stat. 4022; Pub. L. 105-276, title V, §595(e)(3), (4), Oct. 21, 1998, 112 Stat. 2656, 2657; Pub. L. 106-568, title X, §1003(a), Dec. 27, 2000, 114 Stat. 2925; Pub. L. 106-569, title V, §503(a), Dec. 27, 2000, 114 Stat. 2961; Pub. L. 107-292, §4, Nov. 13, 2002, 116 Stat. 2054; Pub. L. 110-411, title I, §101, Oct. 14, 2008, 122 Stat. 4320.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (d), is act Sept. 1, 1937, ch. 896, as revised gen-

erally by Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-411, §101(1), designated first sentence as par. (1) and inserted heading, substituted “tribes—” for “tribes to carry out affordable housing activities.”, added subpars. (A) and (B), and designated second sentence as par. (2) and inserted heading.

Subsec. (g). Pub. L. 110-411, §101(2), inserted “of this section and part B of subchapter II” after “subsection (h)”.

Subsecs. (j), (k). Pub. L. 110-411, §101(3), added subsecs. (j) and (k).

2002—Subsec. (h). Pub. L. 107-292 inserted “and planning” after “Administrative” in heading and “for comprehensive housing and community development planning activities and” after “received under this chapter” in text.

2000—Subsec. (b)(2). Pub. L. 106-568, §1003(a)(1), and Pub. L. 106-569, §503(a)(1), amended par. (2) identically, substituting “for a period of not more than 90 days, if the Secretary determines that an Indian tribe has not complied with, or is unable to comply with, those requirements due to exigent circumstances beyond the control of the Indian tribe.” for “if the Secretary finds that an Indian tribe has not complied or cannot comply with such requirements due to circumstances beyond the control of the tribe.”

Subsec. (c). Pub. L. 106-568, §1003(a)(2), and Pub. L. 106-569, §503(a)(2), amended subsec. (c) identically, inserting at end “The Secretary may waive the requirements of this subsection and subsection (d) if the recipient has made a good faith effort to fulfill the requirements of this subsection and subsection (d) and agrees to make payments in lieu of taxes to the appropriate taxing authority in an amount consistent with the requirements of subsection (d)(2) until such time as the matter of making such payments has been resolved in accordance with subsection (d).”

1998—Subsec. (c). Pub. L. 105-276, §595(e)(3), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The Secretary may not make any grant under this chapter on behalf of an Indian tribe unless the governing body of the locality within which any affordable housing to be assisted with the grant amounts will be situated has entered into an agreement with the recipient for the tribe providing for local cooperation required by the Secretary pursuant to this chapter.”

Subsec. (d). Pub. L. 105-276, §595(e)(4)(A), added subsec. (d) heading, introductory provisions, and par. (1), and struck out former subsec. (d) heading, introductory provisions, and par. (1). Text read as follows: “A grant recipient for an Indian tribe may receive a block grant under this chapter only if—

“(1) the affordable housing assisted with grant amounts received by the recipient (exclusive of any portions not assisted with amounts provided under this chapter) is exempt from all real and personal property taxes levied or imposed by any State, tribe, city, county, or other political subdivision; and”.

Subsec. (d)(2). Pub. L. 105-276, §595(e)(4)(B), inserted “for the tribe” after “the recipient” in introductory provisions.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as a note under section 4101 of this title.

### § 4112. Indian housing plans

#### (a) Plan submission

The Secretary shall provide—

(1)(A) for an Indian tribe to submit to the Secretary, by not later than 75 days before the beginning of each tribal program year, a 1-year housing plan for the Indian tribe; or

(B) for the tribally designated housing entity for the tribe to submit the plan as provided in subsection (c) for the tribe; and

(2) for the review of such plans.

#### (b) 1-year plan requirement

##### (1) In general

A housing plan of an Indian tribe under this section shall—

(A) be in such form as the Secretary may prescribe; and

(B) contain the information described in paragraph (2).

##### (2) Required information

A housing plan shall include the following information with respect to the tribal program year for which assistance under this chapter is made available:

##### (A) Description of planned activities

A statement of planned activities, including—

(i) the types of household to receive assistance;

(ii) the types and levels of assistance to be provided;

(iii) the number of units planned to be produced;

(iv)(I) a description of any housing to be demolished or disposed of;

(II) a timetable for the demolition or disposition; and

(III) any other information required by the Secretary with respect to the demolition or disposition;

(v) a description of the manner in which the recipient will protect and maintain the viability of housing owned and operated by the recipient that was developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); and

(vi) outcomes anticipated to be achieved by the recipient.

##### (B) Statement of needs

A statement of the housing needs of the low-income Indian families residing in the jurisdiction of the Indian tribe, and the means by which those needs will be addressed during the applicable period, including—

(i) a description of the estimated housing needs and the need for assistance for the low-income Indian families in the jurisdiction, including a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance; and

(ii) a description of the estimated housing needs for all Indian families in the jurisdiction.

##### (C) Financial resources

An operating budget for the recipient, in such form as the Secretary may prescribe, that includes—