

**§ 1000.154 How is the recipient to keep criminal conviction information confidential?**

(a) The recipient will keep all the criminal conviction record information it receives from the official law enforcement agencies listed in §1000.150 in files separate from all other housing records.

(b) These criminal conviction records will be kept under lock and key and be under the custody and control of the recipient's housing executive director/lead official and/or his designee for such records.

(c) These criminal conviction records may only be accessed with the written permission of the Indian tribe's or TDHE's housing executive director/lead official and/or his designee and are only to be used for the purposes stated in section 208 of NAHASDA and these regulations.

**§ 1000.156 Is affordable housing developed, acquired, or assisted under the IHBG program subject to limitations on cost or design standards?**

Yes. Affordable housing must be of moderate design. For these purposes, moderate design is defined as housing that is of a size and with amenities consistent with unassisted housing offered for sale in the Indian tribe's general geographic area to buyers who are at or below the area median income. The local determination of moderate design applies to all housing assisted under an affordable housing activity, including development activities (*e.g.*, acquisition, new construction, reconstruction, moderate or substantial rehabilitation of affordable housing and homebuyer assistance) and model activities. Acquisition includes assistance to a family to buy housing. Units with the same number of bedrooms must be comparable with respect to size, cost and amenities.

[66 FR 49790, Sept. 28, 2001]

**§ 1000.158 How will a NAHASDA grant recipient know that the housing assisted under the IHBG program meets the requirements of § 1000.156?**

(a) A recipient must use one of the methods specified in paragraph (b) or (c) of this section to determine if an as-

sisted housing project meets the moderate design requirements of §1000.156. For purposes of this requirement, a project is one or more housing units, of comparable size, cost, amenities and design, developed with assistance provided by the Act.

(b) The recipient may adopt written standards for its affordable housing programs that reflect the requirement specified in §1000.156. The standards must describe the type of housing, explain the basis for the standards, and use similar housing in the Indian tribe's general geographic area. For each affordable housing project, the recipient must maintain documentation substantiating compliance with the adopted housing standards. The standards and documentation substantiating compliance for each activity must be available for review by the general public and, upon request, by HUD. Prior to awarding a contract for the construction of housing or beginning construction using its own workforce, the recipient must complete a comparison of the cost of developing or acquiring/rehabilitating the affordable housing with the limits provided by the TDC discussed in paragraph (c) of this section and may not, without prior HUD approval, exceed by more than 10 percent the TDC maximum cost for the project. In developing standards under this paragraph, the recipient must establish, maintain, and follow policies that determine a local definition of moderate design which considers:

- (1) Gross area;
- (2) Total cost to provide the housing;
- (3) Environmental concerns and mitigations;
- (4) Climate;
- (5) Comparable housing in geographical area;
- (6) Local codes, ordinances and standards;
- (7) Cultural relevance in design;
- (8) Design and construction features that are reasonable, and necessary to provide decent, safe, sanitary and affordable housing; and
- (9) Design and construction features that are accessible to persons with a variety of disabilities.