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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR 5, 1000, 1003, 1005, 1006 and 1007

[Docket No. FR-5861-F-03]

RIN 2506-AC40

Equal Access to Housing in HUD's Native American and Native Hawaiian Programs—Regardless of Sexual Orientation or Gender Identity

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: As the Nation's housing agency, HUD has the unique charge to promote the Federal goal of providing decent housing and a suitable living environment for all. In February 2012, HUD issued a final rule requiring HUD programs to make eligibility determinations for individuals seeking admission to HUD-assisted or -insured housing without regard to sexual orientation, gender identity, or marital status. The 2012 rule did not, however, cover HUD's Native American and Native Hawaiian programs. Through this final rule, HUD revises its Native American and Native Hawaiian program regulations to ensure all eligible individuals and families, regardless of sexual orientation, gender identity, or marital status, have access to these programs. This final rule seeks to provide consistency across HUD programs and restates the Department's commitment that eligibility for admission and continued occupancy in HUD-assisted and -insured housing is not based on sexual orientation, gender identity, or marital status.

DATES: Effective: December 19, 2016.

FOR FURTHER INFORMATION CONTACT:

Heidi J. Frechette, Deputy Assistant Secretary, Office of Native American Housing Programs, Office of Public and Indian Housing, 451 7th Street SW.,

Room 4126, Washington, DC 20410–4000; telephone number 202–402–6321 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background—Tribal Consultation and the May 9, 2016, Proposed Rule

On February 3, 2012, at 77 FR 5662, HUD issued a final rule entitled “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity,” which required that HUD-assisted and -insured housing be made available in accordance with program eligibility requirements and without regard to sexual orientation, gender identity, or marital status, but excluded HUD's Native American and Native Hawaiian programs. HUD committed in the 2012 rule's preamble to engage in tribal consultation before applying these same requirements to its Native American and Native Hawaiian programs. HUD engaged in tribal consultation, in the form of a “Dear Tribal Leader Letter,” before proceeding with this rulemaking.

On May 9, 2016, HUD published a proposed rule, at 81 FR 28037, to amend its Native American and Native Hawaiian program regulations to require that access be provided without regard to actual or perceived sexual orientation, gender identity, or marital status in housing assisted or insured under these programs. The proposed rule sought to add the equal access provisions in 24 CFR 5.105(a)(2) and adopt the definitions of “sexual orientation” and “gender identity” provided in § 5.100 to the Native American and Native Hawaiian programs. Specifically, the proposed rule sought to amend regulations for the following: Native American Housing Activities, at 24 CFR part 1000; Community Development Block Grants for Indian Tribes and Alaska Native Villages, at 24 CFR part 1003; the Section 184 Indian Home Loan Guarantee Program, at 24 CFR part 1005; the Native Hawaiian Housing Block Grant Program, at 24 CFR part 1006; and Section 184A Loan Guarantees For Native Hawaiian Housing, at 24 CFR part 1007. HUD also proposed to make conforming amendments to § 5.105(a)(2) to make explicit that the requirements

in § 5.105(a)(2) apply to housing with loans guaranteed or insured under one of HUD's Native American or Native Hawaiian housing programs, and not solely to loans insured by the Federal Housing Administration (FHA). A detailed description of the proposed amendments can be found in the preamble to the proposed rule available at <https://www.gpo.gov/fdsys/granule/FR-2016-05-09/2016-10753>.

II. Final Rule

This final rule follows publication of the May 9, 2016, proposed rule and takes into consideration the public comments received. The public comment period closed on July 8, 2016, and HUD received 13 distinct comments relating to the proposed rule. HUD received public comments from individuals, tribal nations, housing authorities, nonprofit social service providers, and lesbian, gay, bisexual and transgender (LGBT) advocacy organizations. Section III of this preamble responds to the comments received on the proposed rule. HUD has decided to adopt the proposed rule and makes a minor change to § 5.105(a)(2) to clarify that all loans insured by HUD are subject to the equal access provisions, not only loans insured by FHA. This final rule ensures that eligibility determinations for housing-assisted or -insured under HUD's Native American or Native Hawaiian housing programs are made without regard to actual or perceived sexual orientation, gender identity, or marital status.

HUD notes that in adopting this final rule with the cross-references to § 5.105(a)(2), the changes to § 5.105(a) that were adopted in HUD's final rule entitled “Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs” (the CPD Equal Access Rule), at 81 FR 64763, will apply to HUD's Native American or Native Hawaiian housing programs. Those changes include amended definitions of “gender identity” and “sexual orientation” and the removal of the prohibition of inquiries provision that was previously at § 5.105(a)(2)(ii). The amended “gender identity” definition states that gender identity “means the gender with which a person identifies, regardless of the sex assigned to that person at birth and regardless of the person's perceived gender identity. Perceived gender

identity means the gender with which a person is perceived to identify based on that person's appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth or identified in documents." The amended "sexual orientation" definition states that sexual orientation "means one's emotional or physical attraction to the same and/or opposite sex (e.g., homosexuality, heterosexuality, or bisexuality)." See 81 FR 64763 for further information.

III. Public Comments Submitted on Proposed Rule and HUD's Responses

HUD received 13 distinct comments relating to the proposed rule. Most commenters were very supportive and appreciative of HUD's efforts to ensure access in HUD's Native American and Native Hawaiian programs for LGBT individuals. Although the majority of commenters supported the rule as important to protect the rights of LGBT individuals, some expressed different opinions on the way the rule could be improved to ensure that vulnerable populations are protected. Many of the commenters stated that the rule's language needed to be clarified to ensure greater protections for the LGBT population. Commenters provided their overall views regarding the rule, as well as specific comments on HUD's regulatory text. All comments can be viewed at <https://www.regulations.gov/>.¹

HUD appreciates all of the comments offered in response to HUD's proposed rule.

Comment: Applying this rule to Native American and Native Hawaiian communities promotes consistent policies throughout all of HUD's programs. Commenters stated that it is important to ensure consistency where there is overlap between HUD's Native American and Native Hawaiian programs and other HUD programs, which are already subject to the requirements of the Equal Access Rule. Many commenters wrote that the rule is a strong step in the direction of alleviating discrimination against LGBT persons in Native American and Native Hawaiian populations and promoting the Federal goal of providing decent housing and a suitable living environment for all.

HUD Response: As the Nation's housing agency, it is important that HUD maintain consistent policies across its programs, inclusive of Native

American and Native Hawaiian programs. HUD issued guidance to assist LGBT individuals and families facing housing discrimination. (See http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination). In addition to the guidance, HUD initiated Equal Access rule rulemaking to make clear that HUD's rental housing and homeownership programs are open to all eligible persons regardless of sexual orientation, gender identity, or marital status. This rule furthers HUD's goal of equal treatment for all individuals who are eligible for HUD-assisted or -insured housing.

Comment: The rule is aligned with traditional Native tribal beliefs. Commenters stated that Native nations have not historically discriminated against those who are LGBT. Commenters stated that Native nations believe in acceptance of all persons, no matter their differences, and that traditional practices teach them that no one is to be excluded or homeless because of their sexual orientation. Another commenter stated that promulgating the rule demonstrates respect for the values of the Native American and Native Hawaiian communities and American society as a whole. A commenter provided sources that demonstrate that Native American tribes "respected" and "highly revered" LGBT people historically and that Native Hawaiians likely accepted LGBT individuals prior to colonization by Western and Christian influences. Commenters described their own and others' experiences with Native cultures and how inclusion of all, including the LGBT community, was not in violation of Native values.

HUD Response: HUD appreciates the comments stating that the Equal Access rule, as applied to Native American and Native Hawaiian HUD-assisted or -insured housing, is consistent with Native tribal beliefs.

Comment: Social stigma against LGBT individuals is not uncommon and has caused disparities in housing access for LGBT Native members. Commenters cited statistics that indicated access to safe housing for members of the LGBT communities may be hard to find—citing that between 20 and 40 percent of youth experiencing homelessness identify as LGBT, questioning, intersex, or two spirit; and 26 percent of LGBT youth were forced from their home upon revealing their sexual identity to their parents. Commenters also noted that it is difficult to fully assess the impact of housing discrimination in the LGBT community because of a lack of

nationwide data collection. Commenters cited general statistics outside of Native communities from a 2001 Kaiser Family Foundation study that shows that 34 percent of LGB people reported having experienced, or knowing someone who had experienced, housing discrimination on the basis of their sexual orientation. Further, commenters cited a 2006 Michigan housing study showing that 27 percent of same-sex test couples inquiring about renting or buying housing in Michigan encountered discrimination on the basis of their sexual orientation.

HUD Response: The exclusion of an individual or family from HUD housing due to that individual's sexual orientation or gender identity is inconsistent with HUD's mission to ensure decent housing and a suitable living environment for all. The housing discrimination, harassment, and homelessness that LGBT persons face in the United States is part of what precipitated HUD's rulemaking in this area. Accordingly, it is incumbent on HUD to ensure that the regulations governing its Native American and Native Hawaiian housing programs provide the same protections for LGBT persons as HUD's other programs.

Comment: Research reveals that the transgender community is even more vulnerable to housing discrimination. Commenters cited the National Transgender Discrimination Survey, which found that 47 percent of American Indians and American Natives reported having been denied a home or apartment because they were transgender or gender nonconforming. The survey also found that 19 percent of transgender respondents reported being refused a home or apartment due to their sexual orientation and 11 percent of transgender respondents reported being evicted because of their gender identity or expression. The commenters further said that one in five respondents (19 percent) have experienced homelessness as a result of discrimination or mistreatment because of their gender identity or expression, and that discrimination was particularly pronounced for transgender people of color.

HUD Response: HUD is aware of the significant challenges that transgender persons face in Native American and Native Hawaiian communities when attempting to access housing and shelter. HUD understands that housing discrimination and equal access are critical issues for transgender and gender nonconforming individuals, as they are for everyone, and HUD's rulemaking in this area is in direct response. HUD believes that by

¹ Please note, www.regulations.gov assigns numbers to the comments starting with 0002. The number 0001 is reserved for the **Federal Register** publication (the November 20, 2015, proposed rule).

requiring equal access for LGBT individuals, including gender nonconforming persons, in this regulation, HUD will be better able to address concerns of access to HUD-assisted and -insured housing in its Native American and Hawaiian Native programs.

Comment: The current definition of gender identity under § 5.100, providing that gender identity means “actual or perceived gender-related characteristics” is unclear. Commenters stated that this definition could cause difficulty in enforcement of the proposed rule and that HUD should specify how it intends to determine “the gender with which a person identifies,” in order to prevent misinterpretation by agency employees. One commenter stated the rule’s language needs to be unequivocally clear and that the difference between “actual” and “perceived” characteristics is ambiguous. The commenter stated that the definition of gender identity must be clear, so that programs are able to refrain from discriminatory practices when making placement decisions and not be in violation of the Equal Access Rule. Many commenters supported the adoption of the revised definitions of gender identity and perceived gender identity set forth in the CPD Equal Access Rule and use of the definitions in all applications of HUD’s Equal Access Rules.

A commenter stated that the current “gender identity” language under § 5.100 states that gender identity refers to “actual or perceived gender-related characteristics,” and proposed a change to the language to state that gender identity is “the gender with which a person identifies, regardless of the sex assigned to that person at birth or perceived gender identity.”

HUD Response: HUD appreciates the suggested revisions to the definition of “gender identity” offered by the commenters, and HUD agrees that a consistent definition across its programs makes sense. Therefore, as noted above, HUD will apply the amended definition of “gender identity” as provided in the CPD Equal Access Rule to HUD’s Native American and Native Hawaiian programs.

Comment: HUD should expressly reinforce the broad definition of “family” that was included in the final version of the Equal Access Rule adopted in 2012. Commenters stated that the provision in the Equal Access Rule of 2012 that an eligible family, including an individual, may not be excluded from housing programs because of actual or perceived sexual orientation, gender identity, or marital

status was one of the core advancements of that critically important rule, and it should apply equally to the extension of the rule to HUD’s Native American and Native Hawaiian programs. Commenters noted that despite the Supreme Court’s affirmation of marriage equality nationwide, key challenges for two spirit and LGBT families remain, including impediments to two spirit and LGBT people creating legal relationships with their children, which makes the application of a broad and inclusive definition of “family” essential. Commenters stated that the final rule should be updated to make the definition of “family” in HUD’s Native American and Native Hawaiian programs consistent with the definition of family currently provided in § 5.403, including clarifying that the definition applies “regardless of actual or perceived sexual orientation, gender identity, or marital status.”

HUD Response: Certain regulations governing the Native American and Native Hawaiian housing programs covered by this rule already include a definition of the term “family.” The regulatory definitions are derived directly from corresponding statutory definitions of the term “family.” For instance, section 4(6) of the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 *et seq.*) provides a definition of family. The definition in the implementing program regulation at § 1000.10 mirrors that statutory definition. Although the Native American and Native Hawaiian housing programs’ statutory and regulatory definitions of family vary from the definition of family in § 5.403, the substantive rights and protections in § 5.105(a)(2) apply without regard to actual or perceived sexual orientation, gender identity, or marital status. Therefore, HUD does not believe it is necessary to amend the definition of family in the regulations governing these programs in order to provide these substantive rights and protections.

Comment: This rule encroaches upon sovereignty and self-determination of Indian tribes. A commenter stated that the final rule encroaches upon the sovereignty and self-determination of Indian tribes, which the Federal Government has committed to uphold, which is in violation of Executive Order 13175. The commenter stated that the final rule is adverse to Indian tribes’ ability to self-govern their own internal affairs, including the governance of domestic relations. The same commenter also stated that some tribes require cohabiting couples to be married, other tribes consider it a

criminal offense for cohabiting couples not to be married, other tribes do not have a preference, and that due to differing beliefs tribes should have the right to govern domestic relations and not be forced to adopt the Equal Access in Native American and Native Hawaiian final rule.

HUD Response: HUD’s rule does not violate of Executive Order 13175 entitled “Consultation with Indian Tribal Governments.” HUD’s rule only pertains to the administration of HUD’s housing programs and does not regulate domestic relations and the recognition of marriage. The rule simply establishes program requirements that ensure that Native American and Native Hawaiian families receiving assistance under these programs are afforded the same protections as all other families receiving assistance under HUD’s other programs. A tribe that participates in HUD’s programs, and a lender that chooses to become an approved lender under HUD’s loan guarantee programs, must comply with all program requirements established by HUD. HUD reaffirms its commitment to ensure the furtherance of tribal sovereignty and self-determination, and HUD emphasizes that this rule ensures that Native American families are afforded equal access to its Native American housing programs.

Comment: HUD must follow Executive Order 13175. Some commenters stated that HUD did not follow the requirements of Executive Order 13175, which requires that agencies consult and coordinate with Indian tribes in the development of policies that impact Indian communities, when implementing this proposed rule. Commenters stated that HUD’s attempt to engage tribes regarding the proposed rule via comments, in response to **Federal Register** notices, and letters does not translate to a collaborative effort between HUD and tribal communities, nor do HUD’s actions exemplify a good faith effort to consult with tribes. One commenter stated HUD should have engaged in more meaningful government-to-government consultations with tribal entities that commented on HUD’s January 2015 letter about their concerns. The same commenter wrote that HUD does not know how to engage in meaningful consultation within Native communities, citing that HUD’s January 2015 letter was addressed to tribal leaders, while HUD’s May 2016 letter was addressed to Native American & Native Hawaiian Leaders. In contrast, other commenters stated that HUD’s consultation was fully adequate and reached the necessary standard level of

“consultation” under Executive Order 13175.

HUD Response: HUD’s tribal consultation policy (81 FR 40893) is to consult with Indian tribes early in the rulemaking process on matters that have tribal implications. HUD uses a wide variety of methods to conduct tribal consultation with Indian tribes, including sending letters to tribal leaders requesting feedback on proposed policies. Accordingly, on January 28, 2015, HUD sent letters to tribal leaders informing them that HUD was considering whether to revise the regulations governing HUD’s Native American housing programs to provide Native American families participating in these programs with the same equal access protections as families receiving assistance under HUD’s other programs. HUD requested the opinions of tribal leaders in order to inform its decision to proceed with the rulemaking. HUD received two comments and considered these comments before proceeding with this rulemaking. The same day that HUD published the proposed rule in the **Federal Register**, May 9, 2016, HUD sent a second letter to inform tribal leaders of the rule’s publication and strongly encouraged tribal leaders to provide feedback through the public comment period. HUD believes that the process it has undertaken meets the requirements of Executive Order 13175.

Comment: *HUD must use negotiated rulemaking to make regulatory changes.* A commenter stated that HUD is incorrect in asserting that the agency is not required to undergo negotiated rulemaking under section 106(b)(2)(A) of NAHASDA (25 U.S.C. 4166(b)(2)(A)) to implement this final rule. Specifically, the commenter stated that HUD’s regulations at § 1000.12 provide that other nondiscrimination requirements do not apply to actions under NAHASDA by federally recognized tribes and their tribally designated housing entities (TDHEs) and that HUD should follow the same course that it pursued in the past, when dealing with issues of nondiscrimination, by initiating negotiated rulemaking to consider whether § 5.105(a)(2)(i) should be applicable to federally recognized tribes and their TDHEs. The commenter also wrote that this provision will impact how other NAHASDA statutory requirements are impacted and how the rights of participants are protected.

HUD Response: As HUD stated in the proposed rule, the requirement to undertake negotiated rulemaking pertains to regulations that are required to implement NAHASDA statutory requirements. See 25 U.S.C.

4116(b)(2)(A). This rule pertains to HUD’s general cross-cutting nondiscrimination requirements that apply across HUD and does not pertain to regulations that are required to implement NAHASDA statutory requirements. Therefore, HUD asserts that such requirements are not subject to negotiated rulemaking under NAHASDA. The commenter cited § 1000.12 as supporting the reason why nondiscrimination requirements should be implemented through negotiated rulemaking. However, the requirements at § 1000.12 either mirror the nondiscrimination requirements in section 201 of NAHASDA, or restate the applicability of Federal nondiscrimination statutes that apply on their face to programs authorized under NAHASDA. HUD finds the reference to the manner in which § 1000.12 was issued to be unpersuasive here.

IV. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule does not impose any new costs, or modify existing costs, applicable to HUD grantees. Rather, the purpose of this final rule is to ensure equal access to HUD’s Native American and Native Hawaiian programs, regardless of sexual orientation or gender identity. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This final rule sets forth nondiscrimination standards. Accordingly, under 24 CFR 50.19(c)(3), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either: (i) Imposes substantial direct compliance costs on State and local governments and is not required by statute or (ii) preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the

Executive order. This final rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This final rule would not impose any Federal mandates on any State, local, or tribal governments or on the private sector within the meaning of the UMRA.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 1000

Aged, Community development block grants, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 1003

Alaska, Community development block grants, Grant programs—housing and community development, Grant programs—Indians, Indians, Reporting and recordkeeping requirements.

24 CFR Part 1005

Indians, Loan programs—Indians, Reporting and recordkeeping requirements.

24 CFR Part 1006

Community development block grants, Grant programs—housing and community development, Grant programs—Indians, Hawaiian Natives, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 1007

Hawaiian Natives, Loan programs—housing and community development,

Loan programs—Indians, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, HUD amends 24 CFR parts 5, 1000, 1003, 1005, 1006, and 1007, as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

- 1. The authority citation for part 5 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437f, 1437n, 3535(d), Sec. 327, Pub. L. 109-115, 119 Stat. 2936, and Sec. 607, Pub. L. 109-162, 119 Stat. 3051.

- 2. In § 5.105, revise paragraph (a)(2) to read as follows:

§ 5.105 Other Federal requirements.

* * * *

(a) *

(2) *Equal access to HUD-assisted or -insured housing.* A determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by HUD shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.

* * * *

PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

- 3. The authority citation for part 1000 continues to read as follows:

Authority: 25 U.S.C. 4101 *et seq.*; 42 U.S.C. 3535(d).

- 4. In § 1000.12, add paragraph (e) to read as follows:

§ 1000.12 What nondiscrimination requirements are applicable?

* * * *

(e) The equal access to HUD-assisted or -insured housing requirements in 24 CFR 5.105(a)(2).

PART 1003—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKA NATIVE VILLAGES

- 5. The authority citation for part 1003 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301 *et seq.*

- 6. In § 1003.601, add paragraph (c) to read as follows:

§ 1003.601 Nondiscrimination.

* * * *

(c) A grantee shall comply with the equal access to HUD-assisted or -insured housing requirements in 24 CFR 5.105(a)(2).

PART 1005—LOAN GUARANTEES FOR INDIAN HOUSING

- 7. The authority citation for part 1005 continues to read as follows:

Authority: 12 U.S.C. 1715z–13a; 15 U.S.C. 1639c; 42 U.S.C. 3535(d).

- 8. Add § 1005.115 to read as follows:

§ 1005.115 Equal Access.

The equal access to HUD-assisted or -insured housing requirements in 24 CFR 5.105(a)(2) apply to this part.

PART 1006—NATIVE HAWAIIAN HOUSING BLOCK GRANT PROGRAM

- 9. The authority citation for part 1006 continues to read as follows:

Authority: 25 U.S.C. 4221 *et seq.*; 42 U.S.C. 3535(d).

- 10. In § 1006.355, revise the introductory paragraph and add paragraph (d) to read as follows:

§ 1006.355 Nondiscrimination requirements.

Program eligibility under the Act and this part may be restricted to Native Hawaiians. Subject to the preceding sentence, no person may be discriminated against on the basis of race, color, national origin, religion, sex, familial status, or disability, or excluded from program eligibility because of actual or perceived sexual orientation, gender identity, or marital status. The following nondiscrimination requirements are applicable to the use of NHHBG funds:

* * * *

(d) The equal access to HUD-assisted or -insured housing requirements in 24 CFR 5.105(a)(2).

PART 1007—SECTION 184A LOAN GUARANTEES FOR NATIVE HAWAIIAN HOUSING

- 11. The authority citation for part 1007 continues to read as follows:

Authority: 12 U.S.C. 1715z–13b; 15 U.S.C. 1639c; 42 U.S.C. 3535(d).

- 12. Amend § 1007.45 by revising the section heading, redesignating the undesignated paragraph as paragraph (a), and adding paragraph (b) to read as follows:

§ 1007.45 Nondiscrimination.

* * * *

(b) The equal access to HUD-assisted or -insured housing requirements in 24 CFR 5.105(a)(2) apply to this part.

Dated: November 4, 2016.

Lourdes Castro Ramirez,

Principal Deputy Assistant Secretary for Public and Indian Housing.

Nani A. Coloretti,

Deputy Secretary.

[FR Doc. 2016-27196 Filed 11-16-16; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9788]

RIN 1545-BM84

Liabilities Recognized as Recourse Partnership Liabilities Under Section 752; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final and temporary regulations (TD 9788) that were published in the *Federal Register* on Wednesday, October 5, 2016 (81 FR 69282). The final and temporary regulations provide rules concerning how liabilities are allocated for purposes of section 707 of the Internal Revenue Code and when certain obligations are recognized for purposes of determining whether a liability is a recourse partnership liability under section 752.

DATES: This correction is effective November 17, 2016 and is applicable on and after January 3, 2017.

FOR FURTHER INFORMATION CONTACT: Caroline E. Hay or Deane M. Burke (202) 317-5279 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations (TD 9788) that are the subject of this correction are under sections 707 and 752 of the Internal Revenue Code.

Need for Correction

As published, the final and temporary regulations (TD 9788) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments: