Indian tribes and appropriate Federal agencies to implement this paragraph.

(6) For purposes of this definition, the term “physical, mental or emotional impairment” includes, but is not limited to:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
(ii) Any mental or psychological condition, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
(iii) The term “physical, mental, or emotional impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, and emotional illness.

§ 1000.12 What nondiscrimination requirements are applicable?

(a) The requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and HUD’s implementing regulations in 24 CFR part 146.
(b) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD’s regulations at 24 CFR part 8 apply.
(c) The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968; 25 U.S.C. 1301–1303), applies to Federally recognized Indian tribes that exercise powers of self-government.
(d) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) apply to Indian tribes that are not covered by the Indian Civil Rights Act. However, the Title VI and Title VIII requirements do not apply to actions by Indian tribes under section 201(b) of NAHASDA.

§ 1000.14 What relocation and real property acquisition policies are applicable?

The following relocation and real property acquisition policies are applicable to programs developed or operated under NAHASDA:

(a) Real Property acquisition requirements. The acquisition of real property for an assisted activity is subject to 49 CFR part 24, subpart B. Whenever the recipient does not have the authority to acquire the real property through condemnation, it shall:
(i) Before discussing the purchase price, inform the owner:
(ii) Of the amount it believes to be the fair market value of the property. Such amount shall be based upon one or more appraisals prepared by a qualified appraiser. However, this provision does not prevent the recipient from accepting a donation or purchasing the real property at less than its fair market value.
(iii) That it will be unable to acquire the property if negotiations fail to result in an amicable agreement.

(2) Request HUD approval of the proposed acquisition price before executing a firm commitment to purchase the property if the proposed acquisition payment exceeds the fair market value. The recipient shall include with its request a copy of the appraisal(s) and a justification for the proposed acquisition payment. HUD will promptly review the proposal and inform the recipient of its approval or disapproval.

(b) Minimize displacement. Consistent with the other goals and objectives of this part, recipients shall assure that they have taken all reasonable steps to minimize the displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(c) Temporary relocation. The following policies cover residential tenants and homebuyers who will not be required to move permanently but who must relocate temporarily for the project. Such residential tenants and homebuyers shall be provided:
(i) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing
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and any increase in monthly housing costs (e.g., rent/utility costs).

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;
(ii) The location of the suitable, decent, safe and sanitary dwelling to be made available for the temporary period;
(iii) The terms and conditions under which the tenant may occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the repairs; and
(iv) The provisions of paragraph (c)(1) of this section.

(d) Relocation assistance for displaced persons. A displaced person (defined in paragraph (g) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24.

(e) Appeals to the recipient. A person who disagrees with the recipient’s determination concerning whether the person qualifies as a “displaced person,” or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the recipient.

(f) Responsibility of recipient. (1) The recipient shall certify that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The recipient shall ensure such compliance notwithstanding any third party’s contractual obligation to the recipient to comply with the provisions in this section.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. However, such assistance may also be paid for with funds available to the recipient from any other source.

(3) The recipient shall maintain records in sufficient detail to demonstrate compliance with this section.

(g) Definition of displaced person. (1) For purposes of this section, the term “displaced person” means any person (household, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently, as a direct result of rehabilitation, demolition, or acquisition for a project assisted under this part. The term “displaced person” includes, but is not limited to:

(i) A tenant-occupant of a dwelling unit who moves from the building/complex permanently after the submission to HUD of an IHP that is later approved.

(ii) Any person, including a person who moves before the date described in paragraph (g)(1)(i) of this section, that the recipient determines was displaced as a direct result of acquisition, rehabilitation, or demolition for the assisted project.

(iii) A tenant-occupant of a dwelling unit who moves from the building/complex permanently after the execution of the agreement between the recipient and HUD, if the move occurs before the tenant is provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(A) The tenant-occupant’s monthly rent and estimated average monthly utility costs before the agreement; or
(B) 30 percent of gross household income.

(iv) A tenant-occupant of a dwelling who is required to relocate temporarily, but does not return to the building/complex, if either:

(A) The tenant-occupant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied unit, any increased housing costs and incidental expenses; or
(B) Other conditions of the temporary relocation are not reasonable.

(v) A tenant-occupant of a dwelling who moves from the building/complex after he or she has been required to move to another dwelling unit in the
§ 1000.16 What labor standards are applicable?

(a) Davis-Bacon wage rates. (1) As described in section 104(b) of NAHASDA, contracts and agreements for assistance, sale or lease under NAHASDA must require prevailing wage rates determined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 276a-276a-5) to be paid to laborers and mechanics employed in the development of affordable housing.

(b) HUD-determined wage rates. Section 104(b) also mandates that contracts and agreements for assistance, sale or lease under NAHASDA require that prevailing wages determined or adopted (subsequent to a determination under applicable state, tribal or local law) by HUD shall be paid to maintenance laborers and mechanics employed in the operation, and to architects, technical engineers, draftsmen and technicians employed in the development, of affordable housing.

(c) Contract Work Hours and Safety Standards Act. Contracts in excess of $100,000 to which Davis-Bacon or HUD-determined wage rates apply are subject by law to the overtime provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327).

(d) Volunteers. The requirements in 24 CFR part 70 concerning exemptions for the use of volunteers on projects subject to Davis-Bacon and HUD-determined wage rates are applicable.

(e) Other laws and issuances. Recipients, contractors, subcontractors, and other participants must comply with regulations issued under the labor standards provisions cited in this section, other applicable Federal laws and regulations pertaining to labor standards, and HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs).

§ 1000.18 What environmental review requirements apply?

The environmental effects of each activity carried out with assistance under this part must be evaluated in accordance with the provisions of the National Environmental Policy Act of