



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000

ASSISTANT SECRETARY FOR  
PUBLIC AND INDIAN HOUSING

Dear Tribal Leader:

The purpose of this letter is to inform you of an important legal decision that may affect your current, future, and possibly past Indian Housing Block Grants (IHBG) awarded under the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996, as amended. On May 25, 2006, Judge Richard P. Matsch, Senior District Judge for the United States District Court for the District of Colorado, decided the case entitled *Fort Peck Housing Authority v. United States Department of Housing and Urban Development* (Civil Action No. 05-cv-00018-RPM-CBS).

In the Judgment and Order, Judge Matsch found that 24 CFR 1000.318 of the IHBG regulation is invalid, and, as a result of its invalidity, all Mutual Help and Turnkey III dwelling units owned by plaintiff Fort Peck Housing Authority (FPHA) pursuant to an Annual Contributions Contract (ACC) as of September 30, 1997, must be included in the formula for determining FPHA's allocation of the annual congressional appropriation for the IHBG program. HUD is further ordered to take all such administrative actions necessary to implement this ruling.

Section 1000.318 outlines when Formula Current Assisted Stock (FCAS) cease to be counted, or expire from the inventory used for the formula. FCAS includes all low rent, Mutual Help and Turnkey III housing units under management as of September 30, 1997, plus 1937 Act units in the development pipeline when they become owned or operated by the recipient and are under management. In addition, FCAS includes Section 8 units when the current contract expires and the Indian tribe continues to manage the assistance in a manner similar to the Section 8 program. By declaring this regulatory provision invalid, the FCAS unit-count for low rent, Mutual Help, and Turnkey III units would remain at the level indicated on the ACC as of the effective date of NAHASDA. The implications of this are potentially far-reaching, and this ongoing litigation may result in a significant recalculation of all IHBGs, both for Fiscal Year (FY) 2006 and past FYs.

To avoid any hardship to IHBG recipients, the Department is seeking a stay or modification of Judge Matsch's Order so that this matter and all other issues related to it can be litigated on appeal without impact on IHBG participants other than the plaintiff. However, until such a stay is granted, the Department is unable to process any further FY 2006 IHBG awards.

I will keep you informed of the progress of this litigation, as well as all matters related to it, as soon as I have any additional information.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'O' followed by several horizontal strokes.

Orlando J. Cabrera  
Assistant Secretary