

State of Minnesota

Minnesota Housing Finance Agency

In the Matter of the Proposed Rules
Relating to Urban Indian Housing Program

Statement of Need
and Reasonableness

4900.1500 through 4900.1586:

Minnesota Statutes, Section 462A.07, Subdivision 15 establishes that the Minnesota Housing Finance Agency (Agency) may engage in housing programs for low and moderate income American Indians residing in designated metropolitan areas throughout the state. The statute further provides, in excerpt, that the program shall demonstrate innovative methods of providing housing for urban Indians, shall, to the extent possible, combine appropriated money with other money from both public and private sources, and shall be flexible as to the entity that shall administer such programs. The statute also provides that the Agency shall consult with the Advisory Council on Urban Indians in the development of programs pursuant to the applicable subdivision.

Recently, the Agency promulgated amended administrative rules to govern administration of these programs. In summary, these rules provided that the Agency may directly administer these programs, established criteria for a "homeownership mortgage participation component" of the program, and established criteria by which administrators other than the Agency may implement programs which are alternatives to the "homeownership mortgage participation component."

In promulgating these rules, the Agency had intended a repealer pertaining to several existing rules under the program. The previous "Statement of Need and Reasonableness" attached hereto referenced the repeal of several of these rules. However, due to an error on the Agency's part, these rules remained intact upon completion of the rules process for the amended administrative rules.

After consulting with legal counsel, it was determined that the appropriate way to rectify this error was to promulgate new rules repealing those rules that the Agency had intended to repeal earlier.

In reviewing the attached "Statement of Need and Reasonableness" it may be noted that the deletion of Administrative Rule 4900.1530 is not referenced. Upon review of the amended administrative rules, it was determined that this section was no longer necessary as the process by which either the Agency or alternate administrators may administer the program is well defined and the application process is open-ended.

The Agency is cognizant of the provisions of Section 14.115 of the Minnesota Statutes, entitled Small Business Considerations in Rule-making, however, the proposed rules do not establish any compliance or reporting requirements, design or operational standards, or directly affect the way any business must operate. Therefore, the provisions contained in Minnesota Statutes paragraph 14.115 (1986) do not apply to the proposed rules discussed herein.

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Upon passage of the statute enabling urban Indian housing programs, the Agency promulgated administrative rules to govern administration of the programs. Generally, these rules provided that individual programs for eligible communities would be administered by nonprofit entities. It was felt that this delivery system would enable programs to be developed that addressed locally identified housing needs and would allow an administering entity to identify and procure local sources of funds to be leveraged with urban Indian program appropriations. These rules have not been amended since they were originally promulgated.

Since the administrative rules governing the urban Indian housing programs have been promulgated, seven separate programs have been operated by six program administrators. The results of this system have been that programs have been implemented that were unevenly administered at a high administrative cost. To date, approximately \$4,622,096 has been disbursed for loans under the program at an administrative cost of \$823,371, which is over \$1.00 in administrative costs for every \$5.60 in benefits delivered. Given the preceding, it is deemed desirable to consider a means of program delivery that would considerably reduce administrative costs while increasing benefits to recipients. While this should be the case for all programs, it is particularly the case with programs designed to improve the housing for an underhoused segment of the population in an era of declining financial resources.

Furthermore, with a few exceptions, the programs that have been implemented in various communities have been very similar and were for the most part leveraged with mortgage revenue bond funds, such as funds from the Agency's home mortgage program. Generally, programs have been operated in each community designed to encourage and increase homeownership opportunities for American Indian households. In three of the four communities, an "equity participation loan" format has been used to meet the leverage requirements of the statute. In the fourth community, a monthly payment and downpayment assistance program similar to the Agency's Homeownership Assistance Fund has been implemented. During the past five years, only one program component has been implemented that was not a homeownership program, and that program provided rental housing by leveraging state and federal resources in a combination that is not likely to recur.

Given the above, the Agency is proposing rules that would enable it to directly administer urban Indian housing programs and to implement a specific homeownership program component that would leverage appropriations for the urban Indian housing program together with mortgage revenue bond funds from the Agency's home mortgage program. Furthermore, the Agency is designing the homeownership program component to be compatible with the Agency's Homeownership Assistance Fund in high interest rate mortgage markets to provide an even greater opportunity for homeownership by the urban Indian housing program's constituency.

It is felt that by implementing these changes, the Agency will be able to deliver the program at a considerably reduced administrative cost while providing a comparable, if not superior, homeownership opportunity than had been provided previously. The Agency is proposing to deliver the program using existing staff and the main costs expected for program administration pertain to marketing and delivery expenses.

However, while providing for a specific homeownership program component, it should be noted that the proposed administrative rules would enable a rental program component to be administered by either the Agency or an outside administrator should resources become available to allow such a component. The advisory council on urban Indians has initially endorsed the concepts described herein.

In accordance with the above, one purpose of the changes to Minnesota Rules 4900.1520 is to enable the Agency to be an eligible administrator of urban Indian housing loan programs. There is also a change to this section to enable the Agency to reallocate funds at its discretion based on varying loan demand after initially allocating program funds equitably among eligible areas. This is to enable use of program resources after a reasonable period of time has elapsed if it becomes apparent that a market does not exist within a particular community to bring about reasonably expeditious use of program funds.

Minnesota Rules 4900.1531 through 4900.1533 have been deleted, although the substance of these rules have been incorporated into other sections of the proposed rules.

Minnesota Rules 4900.1540 are essentially as provided in previous rules. The only significant change to these rules is to provide that if a definition of American Indian is promulgated under Minnesota Statutes 462A.07, that definition may be used for purposes of this program. It is anticipated that a definition under this Statute will be passed during the 1988 legislative session, and this language would enable this definition to be used without further revising the rules.

Minnesota Rules 4900.1550 through 4900.1570 have been deleted, although the substance of these rules have been incorporated into other sections of the proposed rules.

Minnesota Rules 4900.1572 describe the homeownership mortgage participation component to be administered directly by the Agency. This component provides for leveraging urban Indian housing program funds, interest free, with funds from another source to provide for mortgage loans at a very low interest rate. A formula is provided therein by which the interest rate may be computed. The rules also provide other restrictions designed to appropriately target appropriations to a clientele that may be deemed to be most in need. These restrictions are compatible with restrictions used in current urban Indian homeownership programs implemented under the existing statute and rules.

It is felt that the program component proposed in 4900.1572 has several advantages compared to the equity participation loan format previously provided by urban Indian housing program administrators. The mortgage to be provided will be on standard documentation with one note and one mortgage to be amortized over a standard mortgage term. Thus, this concept will be very simple to explain to program beneficiaries. The leveraging of urban Indian housing loan program funds interest free with other funds will provide a very affordable mortgage interest rate at a low administrative cost. Finally, it is anticipated that interest rate levels under this program component will be comparable to interest rate levels provided under housing programs provided by Indian housing authorities on reservations throughout the state, which has always been a desire of the urban Indian housing program constituency.

Minnesota Rules 4900.1574 define persons and families of low and moderate income given the interest rates which are anticipated under this program. Previously, these recipients were defined identically to the recipients under the Agency's home mortgage program. Given that recipients under this program component are likely to receive a far lower interest rate than under the Agency's regular home mortgage

program, it is deemed prudent to provide lower income limits than under the Agency's home mortgage program. The practical result of this is that recipients who would be eligible for the Agency's home mortgage program may use that program, but recipient eligibility is limited for the urban Indian housing program to individuals generally not eligible for the Agency's home mortgage program due to lower household income levels.

Minnesota Rules 4900.1576 provide the circumstances under which urban Indian housing loan program recipients may also be eligible for monthly payment or downpayment assistance under the Agency's Homeownership Assistance Fund. The rules provide that all loan recipients are eligible for downpayment assistance under the rules governing the Homeownership Assistance Fund, but that recipients are only eligible for monthly payment assistance in the event that the first mortgage note or coupon rate exceeds an interest rate of 8% per annum. This is to assure that recipients of very low income who are not reasonable prospects for homeownership under mortgage industry standards do not receive homeownership due to excessive levels of state subsidy.

Minnesota Rules 4900.1578 provide the administrative structure by which the Agency may deliver the homeownership mortgage participation component of the program. It enables the Agency to enter into such agreements that will facilitate delivery of the program and to reimburse itself and others for expenses incurred in program delivery.

Minnesota Rules 4900.1580 through 4900.1586 deal with alternative program components and, for the most part, incorporate many of the provisions of rules in effect for the urban Indian housing programs currently. The main differences within these rules from previous rules are that alternative program components are identified as program components that deal primarily with rental and rehabilitation of housing, that either the Agency or an alternate administrator may deliver such program components, that, in the event an alternative program component is submitted and implemented for a limited geographical area within the state, the allocation of urban Indian program funds to that area will be proportionately reduced, and that the Agency will report to the advisory council on urban Indians on a periodic basis pertaining to the operation of the homeownership mortgage participation component of the urban Indian housing loan program.

The Agency is cognizant of the provisions of Section 14.115 of the Minnesota Statutes, entitled Small Business Considerations in Rule-making, however, the proposed rules do not establish any compliance or reporting requirements, design or operational standards, or directly affect the way any business must operate. Therefore, the provisions contained in Minn. Stat. §14.115 (1986) do not apply to the proposed rules discussed herein.