

**Clarification of Equal Employment Certification Requirements for Home Builders
Participating in the Native American Direct Loan (NADL) Program**

1. Purpose. The purpose of this Circular is to clarify the equal employment certification requirements for home builders in those cases in which the builder is constructing, or subcontracting for the construction of, a home for which funding is being provided under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), 25 U.S.C. 4101 et seq.
2. Background. Pursuant to Chapter 10 of the Department of Veterans Affairs (VA) Lenders Handbook, VA Pamphlet 26-7, builders are required to provide certain information and make certain certifications pertaining to, among other things, the fact that the builder is in compliance with the requirements of 38 CFR 36.4368 and 36.4392, which prohibit discrimination against any employee or applicant on the basis of race, color, religion, sex, or national origin. However, pursuant to 25 U.S.C. 4101 et seq., where construction funding is being provided by NAHASDA, a builder must be in compliance with NAHASDA's hiring preference requirements. In order to facilitate and encourage construction of homes to be financed by the VA NADL program, VA has determined it appropriate to amend its requirements to permit, in cases in which funding is being provided by NAHASDA, builders to provide preferential hiring and subcontracting to Indians and Indian organizations, in accordance with 25 U.S.C. 450e(b).
3. Action. Effective immediately, VA will accept the attached Exhibit A: Builder Information and Certifications, in place of the builder information and certification language contained in Chapter 10, of the VA Lenders Handbook.
4. Rescission: This Circular is rescinded January 1, 2016.

By Direction of the Under Secretary for Benefits

Michael J. Frueh
Director
Loan Guaranty Service

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[on builder's letterhead]
Builder Information and Certifications
VA Loan Guaranty Program

This company certifies that:

1. It will not use any marketing practices or sales contracts which include features considered by VA to be unfair or prejudicial to Veteran-purchasers per Section 9.08 of the VA Lenders Handbook. It understands that the closing of the loan denotes that the builder has determined that the contract is acceptable to VA.
2. It will construct every property which is to become the security for a VA-guaranteed loan to substantially conform to applicable building codes, applicable VA requirements and the standards of quality as measured by acceptable trade practices.
3. It understands that in cases processed by VA as "proposed or under construction," all construction must equal or exceed that shown or described in the construction exhibits used by VA to appraise the property and that, in any conflict between those construction exhibits and the applicable VA minimum property requirements, the latter will govern; and that VA will consider changes to those exhibits to be binding only when they are listed on a properly executed VA Form 26-1844, Request for Acceptance of Changes in Approved Drawings and Specifications; and that it will be proceeding at its own risk in changing or deviating from those exhibits without advance VA approval.
4. It has attached or previously submitted a fully executed VA Form 26-421, Equal Employment Opportunity Certification, and VA Form 8791, VA Affirmative Marketing Certification.
5. It will comply with the NAHASDA hiring preference requirements, in accordance with 25 USC 450e(b), in cases in which funding is being provided under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), 25 USC 4101 et seq.
6. It has provided the names below of all persons who have a controlling or proprietary interest in this company or are principal shareholders, officers or directors. This company will keep this list updated with VA:

Name (*Type or print*) _____ Title _____

Signature _____ Date _____