



## TABLE OF CONTENTS

<b>SECTION 1 OVERVIEW OF NAHASDA REQUIREMENTS .....</b>	<b>9</b>
1.1 INTRODUCTION.....	9
1.2 PURPOSE OF NAHASDA .....	10
1.3 ELIGIBLE FAMILIES.....	10
1.4 TRIBAL PREFERENCE IN SELECTION .....	11
1.5 APPLICABLE INCOME LIMITS .....	12
1.5.1 Definition of Low-Income.....	12
1.6 DEFINITION OF GROSS ANNUAL INCOME .....	12
1.7 ELIGIBLE ACTIVITIES .....	13
1.8 REQUIRED POLICIES.....	14
1.9 OCCUPANCY.....	15
1.10 MAINTENANCE & INSPECTIONS.....	16
1.11 INSURANCE .....	16
1.12 USEFUL LIFE.....	16
1.13 ENVIRONMENTAL REQUIREMENTS.....	17
1.14 UNIFORM RELOCATION ASSISTANCE .....	17
1.15 OTHER FUNDERS' REQUIREMENTS .....	18
1.16 CONFLICT OF INTEREST.....	18
<b>SECTION 2 ORGANIZING AN ADMISSIONS &amp; OCCUPANCY DEPARTMENT.....</b>	<b>20</b>
2.1 OVERVIEW .....	20
2.2 ESTABLISHING AN ADMISSIONS & OCCUPANCY POLICY.....	20
2.3 PROGRAMS AND SERVICES.....	21
1. Application .....	22
2.4 STAFFING REQUIREMENTS .....	23
2.5 FILE MANAGEMENT .....	24
2.5.1 Statutory and Regulatory Requirements .....	24
2.5.2 Legal Responsibility .....	24
2.6 GENERAL FILE REQUIREMENTS .....	25
2.6.1 File Documentation.....	25
2.6.2 Criminal Record Information.....	25



2.6.3 Drug Abuse Treatment Information..... 26

**2.7 FILE ORGANIZATION..... 27**

**2.8 FILE RETRIEVAL..... 27**

**2.9 MAINTAINING HOUSING COUNSELING FILES ..... 29**

**SECTION 3 THE APPLICATION PROCESS..... 31**

**3.1 RECIPIENT RESPONSIBILITY..... 31**

**3.2 WRITTEN APPLICATION ..... 31**

**3.3 ELIGIBILITY SCREENING ..... 32**

**3.4 DIFFERENT PROGRAMS, DIFFERENT PROCESS..... 33**

**3.5 INTERVIEWING THE APPLICANT ..... 33**

**SECTION 4 DETERMINING INCOME ELIGIBILITY..... 35**

**4.1 INCOME UNDER NAHASDA..... 35**

**4.2 ANNUAL INCOME AS DEFINED IN 24 CFR PART 5 ..... 36**

    4.2.1 Whose Income to Count?..... 36

    4.2.2 Types of Income to Count ..... 38

    4.2.3 Income from Self-Employment ..... 39

    4.2.4 No Income or Not Enough Income..... 39

    4.2.5 Social Security Income ..... 41

    4.2.6 Calculating Alimony, Child Support Income ..... 41

**4.6 CHILD CUSTODY & SUPPORT PAYMENT COMPUTATION ..... 42**

    4.2.7 Military Pay ..... 43

    4.2.8 Methods for Computing Part 5 Annual Income – No Assets ..... 44

    4.2.9 Anticipated Annual Income Tips & Practice Summary..... 46

**4.3 TREATMENT OF ASSETS..... 47**

    4.3.1 What to Include as an Asset..... 48

    4.3.2 Actual Income from Assets..... 49

    4.3.3 Assets Owned Jointly..... 49

    4.3.4 Two Unique Rules..... 50

    4.3.5 When Assets are Disposed of at Less than Fair Market Value ..... 51

    4.3.6 Summary of the Items That Need to be Considered when Calculating Asset Income ..... 53

**4.4 U.S. CENSUS DEFINITION OF INCOME ..... 55**



**4.5 INTERNAL REVENUE SERVICE (IRS) DEFINITION OF INCOME..... 56**

**4.6 COMPARING THE THREE DEFINITIONS..... 58**

**4.7 WHOSE INCOME COUNTS? ..... 58**

**SECTION 5 CALCULATING ADJUSTED GROSS INCOME ..... 60**

**5.1 NAHASDA ALLOWANCES ..... 60**

**5.2 ALLOWANCE FOR DEPENDENTS..... 61**

    5.2.1 Family Sharing Custody Deduction ..... 61

**5.3 ELDERLY AND DISABLED DEDUCTION ..... 61**

**5.4 MEDICAL AND ATTENDANT EXPENSES DEDUCTION ..... 63**

**5.5 HOW IS ADJUSTED INCOME CALCULATED? ..... 65**

    5.5.1 Elderly and Disabled Households ..... 65

    5.5.2 Allowance for Child Care Expenses ..... 66

    5.5.3 Earned Income of Minors..... 68

    5.5.4 Excessive Travel Expenses ..... 68

    5.5.5 Other Amounts..... 68

**5.6 TOTAL TENANT PAYMENT (TTP) COMPUTATION ..... 68**

    5.7 Low-Income TTP Computation Issues ..... 70

        5.7.1 Flat Rate ..... 70

        5.7.2 Less Than 30 Percent..... 71

**5.8 WHEN IS A FAMILY CONSIDERED LOW-INCOME?..... 71**

**5.9 CALCULATING ASSISTANCE FOR NON-LOW-INCOME FAMILIES ..... 72**

**SECTION 6 VERIFICATION PROCESS..... 73**

**6.1 PROCESSING APPLICATIONS ..... 73**

**6.2 VERIFICATION OF INFORMATION ..... 73**

    6.2.1 Verifying Social Security Numbers ..... 75

**6.3 TYPES OF VERIFICATION ..... 77**

    6.3.1 Third-Party Verification ..... 77

    6.3.2 Second-Party Verification ..... 78

    6.3.2 First-Party Verification ..... 78

**6.4 TIMING OF INCOME CERTIFICATIONS ..... 79**

**6.5 VERIFICATION FORMS ..... 79**



6.6 PROVISIONS FOR REFUSAL TO SIGN..... 80

**SECTION 7 WAITING LIST MANAGEMENT ..... 81**

7.1 WAITING LIST ORGANIZATION ..... 81

7.2 PREFERENCES..... 81

7.3 PRIORITIES ..... 82

7.4 PLACEMENT ON THE WAITING LIST ..... 83

7.5 UPDATING THE WAITING LIST ..... 83

**SECTION 8 SELECTION..... 85**

8.1 NAHASDA TENANT AND HOMEBUYER SELECTION PLAN ..... 85

8.2 TENANT SELECTION PLAN ..... 85

8.3 SELECTION CRITERIA..... 86

8.4 OVERVIEW OF SELECTION PROCESS..... 87

8.5 SELECTION PROCESS..... 89

**SECTION 9 OCCUPANCY STANDARDS..... 91**

9.1 UNIT SIZE ..... 91

9.1.1 General Guidelines for Unit Size ..... 91

**SECTION 10 A&O ISSUES FOR OTHER PROGRAMS ..... 93**

10.1 OVERVIEW ..... 93

10.2 DOWN PAYMENT ASSISTANCE POLICY..... 93

10.3 LEASE PURCHASE PROGRAM ..... 96

10.4 OCCUPIED HOME REPAIR OR REHAB PROGRAMS ..... 97

10.4.1 Home Repair Agreement..... 99

10.5 WEATHERIZATION ..... 100

**SECTION 11 LEASE MANAGEMENT & COMPLIANCE ..... 103**

11.1 NAHASDA REQUIREMENTS..... 103

11.2 DWELLING LEASES ..... 104

11.3 EXCLUSIONS ..... 105

11.4 LEASE PURCHASE AGREEMENT ..... 106

11.5 ORIENTATION..... 106

11.6 COMPLIANCE ISSUES ..... 107

11.7 MAINTENANCE..... 108



**11.8 INSPECTIONS..... 109**

    11.8.1 Initial Inspections ..... 109

    11.8.2 Recurring Inspection Requirements..... 109

**11.9 RECERTIFICATION ..... 111**

    11.9.1 Scheduling ..... 111

    11.9.2 Timing of Recertification ..... 111

    11.9.3 Interim Recertification ..... 112

**11.10 CORRECTIVE ACTION ..... 112**

***SECTION 12 COUNSELING ..... 114***

**12.1 PURPOSE..... 114**

**12.2 WHAT IS HOUSING COUNSELING? ..... 114**

**12.3 HOUSING COUNSELING GOALS..... 114**

**12.4 COMMON CHALLENGES ..... 115**

**12.5 TYPES OF HOUSING COUNSELING ..... 116**

**12.6 DELIVERING HOUSING COUNSELING SERVICES ..... 116**

**12.7 INDIVIDUAL COUNSELING TROUBLESHOOTING TOOLS ..... 117**

**12.8 TOOLS FOR STRUCTURED LEARNING ..... 118**

***SECTION 13 COLLECTIONS ..... 119***

**13.1 PURPOSE OF COLLECTIONS POLICY ..... 119**

        13.1.1 Collection procedures ..... 119

**13.2 EVICTION..... 120**

**13.3 BENEFITS OF COLLECTION..... 121**

        13.3.1 Credit Basics ..... 121

        13.3.2 Housing Program Design Considerations..... 122

        13.3.3 Three Recommendations ..... 122

**13.4 CASE MANAGEMENT ..... 122**

        13.4.1 Case Management Communication Styles ..... 123

**13.5 COLLECTIONS TIPS ..... 124**

**13.6 STRATEGIES FOR EFFECTIVE COMMUNICATION WITH RESIDENTS..... 125**

        13.6.1 Active Listening and Communication..... 125

        13.6.2 Negotiating Effectively ..... 127



**SECTION 14 APPENDIX ..... 128**

## COURSE SYLLABUS

### GENERAL INFORMATION

**Course Title:** Admissions & Occupancy

**Prerequisites:** No previous course work is required.

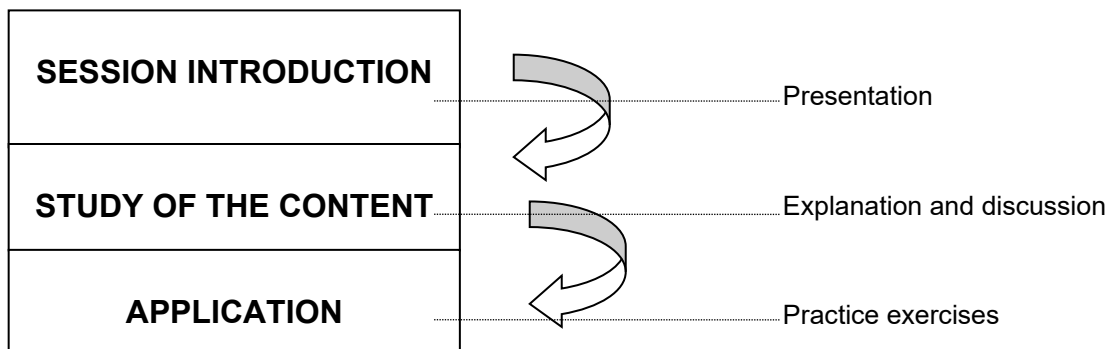
**Who Should Attend:** Admissions and occupancy staff, resident services staff, housing directors, deputy directors, housing management staff, housing board members, or others interested in learning about the admissions and occupancy program should attend.

### COURSE DESCRIPTION

*Admissions & Occupancy* is a 3-day interactive course designed to enhance the job performance of admissions and occupancy staff and other tribal housing professionals working on admissions and occupancy issues.

This course will cover admissions and occupancy program management with topics to include the application and selection process, eligibility for housing assistance, calculating annual income, determining monthly rental or homeownership payments, occupancy standards, collections practices and compliance, effective communication techniques with residents, lease agreement compliance, and collections. Participants should consider their own admissions and occupancy policies so that they can practice applying them to case studies and exercises presented during this course. The course will also examine how maintaining high standards in the admissions and occupancy program affects the overall management of tribal housing programs. **Participants are encouraged to bring calculators.**

### FORMAT AND PROCESS



## **COURSE OBJECTIVES**

Upon completion of this course, participants should be able to:

- Understand how NAHASDA, tribal housing policies, and other program requirements impact admission and occupancy programs.
- Improve job performance related to admissions and occupancy issues.
- Learn the application and admission process for tenants and residents.
- Understand what requirements should be included in admission, occupancy, and collection policies.
- Calculate annual income to determine income eligibility for NAHASDA assisted programs.
- Learn how to calculate adjusted gross income to calculate monthly housing payments or other housing assistance.
- Recite the process for and importance of verifying applicant information.
- Understand the legal and financial implications of collections and lease compliance.
- Understand the importance and benefits of effective collections and compliance with policies and procedures.
- Recognize the essential steps in the eviction process works.

## **COURSE REQUIREMENTS**

To achieve the course objectives, participants must actively participate in group discussions, exercises, work groups, and homework requirements. All participants are expected to be prompt and attend all sessions. Students will be required to sign in at the beginning of class each day.

## **TERMINOLOGY**

Throughout this material, the term "Recipient" means the housing department or the tribally designated housing entity (TDHE).



## **SECTION 1**

### **OVERVIEW OF NAHASDA REQUIREMENTS**

#### **1.1 INTRODUCTION**

The Native American Housing Assistance and Self-Determination Act (NAHASDA) provides funds annually to assist tribes and Alaska Native corporations and villages to provide housing assistance. Although tribes - through their exercise of self-determination - can design their programs and organizational delivery of affordable housing services, they must do so within the statutory and regulatory requirements of NAHASDA.

Section 1 provides a brief introduction to NAHASDA requirements that must be considered in developing and implementing an admissions and occupancy department. Whether the admissions and occupancy department is large or small, organized as a housing department or a tribally designated housing entity (TDHE), the entity receiving Indian Housing Block Grant (IHBG) assistance must become well versed with the basics of NAHASDA. Exhibit 1-1 outlines some of the areas which the Recipient must demonstrate proficiency to properly perform the admission and occupancy functions under NAHASDA.

#### **EXHIBIT 1-1**

<b>NAHASDA REQUIREMENTS</b>	
<ul style="list-style-type: none"> <li>• Eligible Families</li> </ul>	<ul style="list-style-type: none"> <li>• Definition of Annual Gross Income</li> </ul>
<ul style="list-style-type: none"> <li>• Selection Plan</li> </ul>	<ul style="list-style-type: none"> <li>• Maintenance &amp; Inspections</li> </ul>
<ul style="list-style-type: none"> <li>• Eligible Activities</li> </ul>	<ul style="list-style-type: none"> <li>• Useful Life</li> </ul>
<ul style="list-style-type: none"> <li>• Policies</li> </ul>	<ul style="list-style-type: none"> <li>• Adjusted Gross Income</li> </ul>
<ul style="list-style-type: none"> <li>• Environmental Requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Waiting List</li> </ul>
<ul style="list-style-type: none"> <li>• Insurance</li> </ul>	<ul style="list-style-type: none"> <li>• Verification</li> </ul>
<ul style="list-style-type: none"> <li>• Uniform Relocation Act</li> </ul>	<ul style="list-style-type: none"> <li>• Occupancy</li> </ul>
<ul style="list-style-type: none"> <li>• Conflict of Interest</li> </ul>	<ul style="list-style-type: none"> <li>• Recordkeeping</li> </ul>

The remainder of Section 1 will briefly describe the areas identified in Exhibit 1-1 as they apply to admissions and occupancy. Section 16 contains all the relevant appendices pertaining to NAHASDA including the statute in **APPENDIX 1** and 24 CFR Part 1000 in **APPENDIX 2**.

Eligibility for assistance is based on anticipated household annual gross income as determined by HUD annually. **APPENDIX 3 includes the latest** published HUD Income Limits applicable to the Indian Housing Block Grant (IHBG) program. Additional program-specific eligibility requirements apply but vary depending on the type of assistance and funding source. Although the focus of this manual is NAHASDA, it should be noted that

different funding sources may have different requirements. For example, housing projects funded by the U.S. Department of Agriculture (USDA) Rural Development are required to target residents with income levels lower than those required by NAHASDA. Recipients should be prepared to address requirements of other funders when leveraged with NAHASDA funds.

## **1.2 PURPOSE OF NAHASDA**

NAHASDA SEC. 201. National Objectives and Eligible Families, states that the primary national objectives of the Act are as follows:

- (1) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families;
- (2) to ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members;
- (3) to coordinate activities to provide housing for Indian tribes and their members with Federal, State, and local activities to further economic and community development for Indian tribes and their members;
- (4) to plan for and integrate infrastructure resources for Indian tribes with housing development for tribes; and
- (5) to promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

## **1.3 ELIGIBLE FAMILIES**

Assistance for eligible housing activities under NAHASDA are generally limited to low-income Indian families on Indian reservations and other Indian areas. NAHASDA specifically identifies four types of families that may be assisted:

- **Low-income family.** A 'low-income family' means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary or the agency that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.
- The term 'median income' means, with respect to an area that is an Indian area, the greater of--
  - the median income for the Indian area, which the Secretary shall

- determine; or
- the median income for the United States.

- **Non-low-income family.** A non-low-income family is one whose income exceeds 80% and is less than 100% of the applicable median income limits AND has a need that cannot reasonably be met without IHBG assistance.

Housing assistance for non-low-income families requires HUD approval as required in §§ 1000.106, 1000.108 and 1000.110. If the Recipient plans to: (1) use more than 10 percent of the amount planned for the tribal program year for such assistance or (2) provide housing for families with income over 100 percent of the median income. In cases in which HUD approval is not required, the Recipient must still determine and document when there is a housing need for non-low-income families and that this need cannot reasonably be met without IHBG assistance.

- **Essential family.** Essential families may receive assistance if the family's housing need cannot be met without IHBG assistance and the Recipient determines that the non-low-income family's presence is essential to the well-being of the Indian families living on the reservation or in the Indian area.
- **Law enforcement officers.** Section 201(b)(4) of NAHASDA specifically addresses the provision of housing or housing assistance for a law enforcement officer on an Indian reservation or Indian area. The officer must be employed full-time by the Federal, state, county, tribal, or other unit of local government and sworn to uphold and make arrests for violations of Federal, state, county, or tribal law. In addition, the program must determine that the presence of the law enforcement officer may deter crime.

More information may be found in the following:

- **APPENDIX 4:** Program Guidance 2013-05(R) *Calculating Annual Income for Purposes of Eligibility under NAHASDA*
- **APPENDIX 5:** Public and Indian Housing (PIH) Notice 2014-02 *Providing Assistance to Non-Low-Income Families under the Native American Housing Assistance and Self-Determination Act of 1996*

#### **1.4 TRIBAL PREFERENCE IN SELECTION**

The IHBG regulation at 24 CFR § 1000.120 permits Recipients to provide preference to Indian families who are members of the Indian tribe or to other Indian families. If the Recipient has adopted the preference in the admissions and occupancy policy, the recipient shall ensure that housing activities funded under NAHASDA are subject to the preference.

## **1.5 APPLICABLE INCOME LIMITS**

### **1.5.1 Definition of Low-Income**

To meet the definition of low-income, the family's annual income may not exceed 80 percent of the median income for their area, with adjustments for smaller and larger families. Section 4 (15) of NAHASDA defines "median income" with respect to an area that is an Indian area, the greater of –

- (A) The median income for the Indian area, which the Secretary shall determine; or
- (B) The median income for the United States.

To determine the income limits applicable to your area, compare your local area median income limits to the national income limits published by HUD. If your project is funded solely by NAHASDA, choose the higher of the two, which should raise the limit of what a family can earn and still be defined as low-income. Tribes located on large reservations or those that have land in more than one borough may have more than one income limit. However, to reduce administrative burden, the Recipient may set income limits for multi-county/borough/reservations/areas at the income limit level of the county/borough with the highest income limits. Program Guidance 2019-02 *Income Limits under the Native American Housing Assistance and Self-Determination Act of 1996* contains the latest published median family income (MFI) limits that are applicable to establishing median income limits for providing NAHASDA assistance.

#### **Example**

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A family of four with a household annual income of \$65,800 will not qualify as a low-income family if the Recipient uses the 2019 National Median Income Limits.

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## **1.6 DEFINITION OF GROSS ANNUAL INCOME**

The IHBG regulations at 24 CFR §1000.10 provide Recipients with the option to choose any one of the following three definitions of "annual income" for the purpose of determining eligibility:

- Annual Income as defined for HUD's Section 8 programs in 24 CFR part 5, subpart F (except when determining the income of a homebuyer for an owner-occupied rehabilitation project, the value of the homeowner's principal residence may be excluded from the calculation of net family assets).

- **Census Definition.** Annual income as reported under the U.S. Census long form for the most recent available decennial Census. This means the definition of income used by the Census, not the dollar amount reported.
- **IRS Definition.** Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes. Recipients should review the program participant's appropriate past IRS Form 1040s to obtain this information. On the 1040 Form this is line 7.

The Recipient must identify in its policy how it defines income for purposes of eligibility. A complete discussion of calculating income is provided in Section 4 of this manual *Determining Income Eligibility* as well as **APPENDIX 4**, Program Guidance 2013-05 *Calculating Annual Income for Purposes of Eligibility under NAHASDA*.

## **1.7 ELIGIBLE ACTIVITIES**

**Eligible Activities:** Section 202 of the Statute permits a wide variety of activities to provide affordable housing and to assist low-income families living in affordable housing units. A thorough description of eligible activities may be found in **APPENDIX 6**.

Implementing the following eligible activities requires admission and occupancy functions such as application processing, selection, and management.

- **Housing assistance**
  - Modernization or operating assistance for 1937 Act housing (i.e., low rent, mutual help)
- **Development**
  - Acquisition
  - New construction of affordable housing
  - Reconstruction
  - Rehabilitation
  - Site improvements
  - Development and rehabilitation of utilities
  - Necessary infrastructure and utility services
  - Conversion
  - Demolition
  - Financing
  - Administration and Planning
  - Energy efficiency
  - Mold remediation
  - Other related activities
- **Housing services**

- Housing counseling
- Energy auditing
- Self-sufficiency activities
- Tenant-based rental assistance
  
- **Housing management services** (Assist NAHASDA units)
  - Preparation of work specifications
  - Loan processing
  - Inspections
  - Tenant selection
  - Management of tenant-based rental assistance
  - Operation and maintenance of units developed with funds provided under the NAHASDA
  - Management of affordable housing projects
  
- **Crime prevention and safety activities**
  - A range of activities related to safety, security and law enforcement measures and activities to protect residents of affordable housing from crime.
  
- **Model activities**
  - This category enables Recipients to undertake affordable housing activities that are consistent with the law but are not included in the activities above. HUD approval is required.

## **1.8 REQUIRED POLICIES**

Section 203 of NAHASDA requires that certain policies be adopted.

---

### **(a) RENTS-**

*(1) ESTABLISHMENT- Subject to paragraph (2), each Recipient shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this Act, including the methods by which such rents and homebuyer payments are determined.*

*(2) MAXIMUM RENT- In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this Act, the monthly rent or homebuyer payment (as applicable) for such dwelling unit may not exceed 30 percent of the monthly adjusted income of such family.*

**(b) MAINTENANCE AND EFFICIENT OPERATION-** *Each Recipient who owns or operates (or is responsible for funding any entity that owns or operates) housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall, using amounts of any grants received under this*

*Act, reserve and use for operating assistance under Section 202(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing. This subsection may not be construed to prevent any Recipient (or entity funded by a Recipient) from demolishing or disposing of Indian housing referred to in this subsection, pursuant to regulations established by the Secretary.*

**(c) INSURANCE COVERAGE-** *Each Recipient shall maintain adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this Act.*

**(d) ELIGIBILITY FOR ADMISSION-** *Each Recipient shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act.*

**(e) MANAGEMENT AND MAINTENANCE-** *Each Recipient shall develop policies governing the management and maintenance of housing assisted with grant amounts under this Act.*

Whether the Recipient is small or large, operational policies are essential for good business practices and must include written procedures to facilitate fair and equitable application policies. NAHASDA also requires policies beyond those that deal with admissions and occupancy. Below are a sample of various programs offered by IHBG Recipients for which a policy is needed to manage the delivery of the program.

- Tenant-based Rental Assistance
- Uniform Relocation Assistance
- Mutual Help
- Low Rent Housing Program
- Lease with Option to Purchase
- Housing Counseling
- Elderly Assistance Program
- Senior Citizen Rental Program
- Down Payment Assistance
- Rehab Assistance
- Homebuyer Counseling
- Revolving Loan Program

## **1.9 OCCUPANCY**

Each Recipient must develop a written occupancy policy that establishes requirements for continued occupancy and grounds for termination of a housing lease. This policy must be consistent with the lease requirements from Section 207 of NAHASDA. In general, the occupancy policy should:

- Not contain unreasonable terms and conditions.
- Require the property manager or owner to maintain the housing compliance with applicable housing codes.



- Require the property manager or owner to give adequate written notice of lease termination or eviction.
- Establish terms and conditions for termination and eviction.

### **1.10 MAINTENANCE & INSPECTIONS**

Recipients are required to develop written policies that define responsibilities of homebuyers, tenants, and the Recipient for maintenance of units assisted with IHBG funds. Annual on-site inspections of all NAHASDA-assisted units are required by Section 403(b) of NAHASDA.

### **1.11 INSURANCE**

Insurance coverage is required for housing units that are owned, operated, or assisted with IHBG funds. Adequate insurance is insurance in an amount that will protect the financial stability of the Recipient's IHBG program. This means that the Recipient's housing units and privately-owned housing units that are assisted with IHBG funds must be adequately insured for one of the two time periods listed below, whichever is longer:

- The useful life (affordability period) of Recipient or privately-owned units, or
- The term of a repayment or forgiveness agreement for all or part of the IHBG assistance for privately owned housing units.

See **APPENDIX 7**, Program Guidance 2014-03 *Insurance Requirements under the IHBG Program* for a complete discussion of insurance requirements.

### **1.12 USEFUL LIFE**

Section 205(a)(2) of NAHASDA requires that housing units remain affordable for either (1) the remaining useful life of the property (as determined by the Secretary) or (2) for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purpose of NAHASDA. Useful life is the time period during which an assisted property must remain affordable.

Useful life is also referred to as the "period of affordability." The following activities are subject to useful life restrictions regardless of the amount of funds invested in the project.

- Housing rehabilitation
- Property acquisition
- Down payment assistance
- New construction
- Weatherization





The following table provides an example of affordability periods. Each Recipient needs to develop its own affordability periods based on its own circumstances.

<u>IHBG Funds Expended</u>	<u>Useful Life</u>
Under \$5,000 .....	6 months
\$5,000 to \$15,000 .....	5 years
\$15,001 to \$40,000 .....	10 years
Over \$40,000 .....	15 years
New construction or acquisition of newly constructed housing .....	20 years

A thorough discussion of useful life requirements may be found in **APPENDIX 8** Program Guidance 2014-09(R) *Useful Life and Binding Commitments*.

**1.13 ENVIRONMENTAL REQUIREMENTS**

The Recipient should be knowledgeable about the environmental requirements described in 24 CFR Part 58. In addition to all construction and acquisition related activities, duties performed by admissions and occupancy staff are subject to environmental requirements. Services provided include, but are not limited to, the following:

- Application intake and processing
- Routine inspections
- Tenant-based rental assistance
- Down payment assistance
- Recertification
- Housing counseling
- Revolving loan
- Housing rehabilitation
- Maintenance

**1.14 UNIFORM RELOCATION ASSISTANCE**

There are certain relocation and real property acquisition policies that apply to housing developed or operated under NAHASDA. These are contained in 24 CFR §1000.14 (**APPENDIX 2**) and 49 CFR Part 24. If the Recipient does not have the authority to acquire the real property through condemnation, before discussing the purchase price the Recipient must inform the owner of the amount believed to be the fair market value of the property. This amount must be based on at least one appraisal prepared by a qualified appraiser. The Recipient must also tell the owner that the Recipient will be unable to acquire the property if negotiations do not result in an amicable agreement. The Recipient must 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 must take all reasonable steps to minimize displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted by IHBG funds. If temporary relocation is necessary, the Recipient must provide residential tenants and homebuyers with:

- 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 and any increase in monthly housing costs (e.g., rent utility costs).
- Appropriate advisory services, including reasonable advance written notice of:
  - The date and approximate duration of the temporary relocation.
  - The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period.
  - 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.
  - The provisions for reimbursement.

If relocation is necessary, the Recipient must provide relocation assistance for displaced persons at the levels described in 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.

The Recipient must certify that it will comply with the URA, the regulations at 49 CFR Part 24, and the requirements of 24 CFR §1000.14. The Recipient must maintain records in sufficient detail to demonstrate compliance with these regulations.

### **1.15 OTHER FUNDERS' REQUIREMENTS**

Tribes or housing authorities that leverage their IHBG funds with other Federal, state, or tribal sources of funding may be required to adopt additional policies, as specified by those funders.

If a project involves multiple sources of funds, the policies should implement the stricter set of requirements. For example, if IHBG funds are matched with Low-Income Housing Tax Credit (LIHTC) funds, the policy must include the stricter income limit rules as required by the IRS when using LIHTC Funds.

**Recordkeeping and Reporting:** The Recipient is required to maintain records for 3 years from the end of the tribal program year during which the funds were expended, or until the completion and resolution of any litigation, claim, negotiation, audit, or other action involving the records, whichever is later (§1000.552). However, it is advisable that all tenant files should be maintained for a much longer period. This will be addressed later in the manual.

### **1.16 CONFLICT OF INTEREST**

In order to effectively comply with the conflict of interest requirements, Recipients should have in place a set of procedures for determining when a conflict of interest exists and for reporting the conflict to HUD and disclosing it to the public as required by the regulations. Those procedures should include:

- A method of determining whether there is a potential conflict of interest with an applicant (e.g. does the housing application ask applicants to disclose any personal, family or business relationships with the housing entities decision makers? Does the housing entity maintain a list of persons having immediate family or business ties to its decision makers?); and
- Recipients must identify administrative steps for reporting a potential conflict of interest to the Area Office of Native American Programs (ONAP) and disclosing to the public the conflict of interest, the nature of the assistance to be provided the individual, and the specific basis for which there is no conflict. Additional information may be found in **APPENDIX 9**, Program Guidance 2002-13 *Conflict of Interest in IHBG Housing Admissions*.

## **SECTION 2 ORGANIZING AN ADMISSIONS & OCCUPANCY DEPARTMENT**

### **2.1 OVERVIEW**

In addition to the NAHASDA requirement described in Section 1, the cornerstone of good business practice is a written plan of operations. One of the most important functions of a tribal housing program is to have a fair and consistent process to determine who is eligible to participate in the housing programs. This task is usually performed by admissions and occupancy staff who are designated by many titles: occupancy specialist, resident services coordinator, housing counselor, or housing manager. The Admissions and Occupancy Policy is the blueprint housing staff and participants rely upon to achieve the goals and objectives of the housing program. This section will address the following:

- Establishing an Admissions & Occupancy Policy
- Staffing
- File Management
- Reporting

### **2.2 ESTABLISHING AN ADMISSIONS & OCCUPANCY POLICY**

Recipients of IHBG funds face the challenge of designing housing assistance programs that respond to the housing needs of the community. Typical Native housing programs include:

- Housing Rehabilitation
- Down Payment Assistance
- Lease Purchase
- Tenant-Based Rental Assistance (TBRA)
- 1937 Act Low Rent and Mutual Help
- Emergency Assistance

Whether programs operated by Recipients are very small or large, all Recipients must establish admissions and occupancy policies that address any housing assistance provided. Additionally, TDHEs created by State law may need to consider law when developing policies.

Admissions policy development requires Recipients to:

- Understand mandatory NAHASDA requirements;
- Develop **reasonable** policies for discretionary areas of NAHASDA;
- Develop procedures that translate mandatory and discretionary policies into action;
- Communicate (and train on) policies and procedures to ensure consistency; and
- Monitor policies and procedures to ensure compliance by staff.

A Recipient's policies seek to:

- Provide daily guidance to housing staff in the performance of routine activities;
- Ensure transparency in decision-making;
- Provide defensible resolution when challenges arise;
- Ensure that all housing staff do things the same way, thus promoting consistency and fairness while also minimizing the potential for disputes or legal actions;
- Provide a foundation for sound management and supervision; and
- Provide a basis for auditor justification.

**APPENDIX 10** includes a sample admissions and occupancy policy. A sample lease purchase policy is included in **APPENDIX 11**. Recipients' policies may vary depending on the programs offered. However, the process outlined in Exhibit 2-1, describes many of the areas policies and procedures must address.

### **2.3 PROGRAMS AND SERVICES**

Policies represent the vehicle through which housing assistance programs are described. In addition to explaining program substance, the policies are the source for describing who will be served. Although NAHASDA identifies who is eligible for housing assistance, Recipients identify more specifically who will be assisted.

#### ***EXHIBIT 2-1***

1. **APPLICATION**
  - a. Submission of written application
  - b. Calculation of annual income
  - c. Determination of apparent eligibility
  - d. Notification of applicant of apparent eligibility or ineligibility
  - e. Placement on waiting list, if eligible
2. **Pre-Selection**
  - a. Determination of availability of appropriate housing unit
  - b. Applicant interview to update and certify information
  - c. Orientation
3. **Verification Process**
4. **Final Selection**
  - a. Unit assignment or other requested housing assistance provided
  - b. Calculation of house or housing assistance payment
  - c. Execution of applicable agreement or contract
  - d. Move-in Inspection
  - e. Punch List, if applicable
5. **Occupancy**
  - a. Compliance with occupancy standards
  - b. Ongoing counseling
  - c. Early intervention
6. **Lease or Contract Compliance**  
Maintenance, inspections, recertification as applies to program assistance
7. **Collections**
8. **Reporting, File Management**

Some of the areas in which Recipients can exercise self-determination responsibility are as follows:

- Defining family characteristics - "Family" includes, but is not limited to, a family with or without children, an elderly family, a near-elderly family, a disabled family, and a single person, as determined by the Recipient.
- Identifying preferences
- Identifying priorities within preferences
- Identifying areas where services will be provided
- Establishing ceiling amounts
- Establishing minimum rents (but not to exceed 30 percent of adjusted gross

income for low-income).

- Identifying additional deductions in calculating adjusted gross income.

These are just some of the ways a Recipient can be creative. Whatever options a Recipient chooses, these must be fully described in the admissions and occupancy policy.

## **2.4 STAFFING REQUIREMENTS**

No two Recipients are exactly alike and, consequently, there is no one "right way" to organize or to staff a management operation. But one thing is true for all Recipients—a capable, well-trained staff with a sense of teamwork is essential to good management. Personnel requirements for managing day-to-day admissions and occupancy functions vary depending upon the following factors or combination of these factors:

- Size of the housing department
- Amount of funds available to operate
- Availability of housing in the area
- Community needs
- Availability of skilled labor force
- Availability of other resources
- Accessibility to other resources

Circumstances may force Recipients to rely on one or two staff to perform multiple tasks. Programs with adequate funding give some Recipients the advantage of hiring more staff to perform specialized areas. In both cases the community's needs typically exceed the availability of funds. Consequently, staffing practices require extensive multi-tasking. Exhibit 2-2 identifies many of the duties that maybe involved depending on the size of the program.

## **EXHIBIT 2-2**

<ul style="list-style-type: none"> <li>• <b>Receiving and processing applications for new and continued housing assistance, including down payment, emergency, rehab, rental assistance, etc.</b></li> <li>• <b>Advising applicant on eligibility requirements, methods of selecting residents, and available housing assistance opportunities, including rental, rent-to-own, rental assistance, or homeownership</b></li> <li>• <b>Determining applicant eligibility or ineligibility per policies</b></li> <li>• <b>Notifying eligible applicants of vacancies and assignment procedures</b></li> <li>• <b>Computing monthly house payments or amount of housing assistance</b></li> <li>• <b>Conducting annual, interim, or special housing reviews or recertification</b></li> <li>• <b>Processing loans on homebuyer units</b></li> <li>• <b>Conducting outreach</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Interviewing applicants to obtain additional information such as family characteristics, income sources, need for housing assistance, etc.</b></li> <li>• <b>Verifying applicant information by contacting landlords, employers, service agencies, and other data sources</b></li> <li>• <b>Meeting with the Recipient's governing body to provide information on specific tenant issues (as required)</b></li> <li>• <b>Performing lease compliance including collections, abandonment, occupancy, evictions, etc.</b></li> <li>• <b>Assisting tenants with maintenance work order procedures/submissions</b></li> <li>• <b>Assisting with the process of site suitability</b></li> <li>• <b>Reporting</b></li> <li>• <b>Maintaining detailed filing system</b></li> </ul>
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**APPENDIX 12** includes sample job descriptions which illustrate various approaches to performing admissions and occupancy functions.

## **2.5 FILE MANAGEMENT**

Thorough documentation ensures the Recipient's ability to demonstrate accountability and compliance with statutory and regulatory requirements. However, documentation is meaningless if information can't be retrieved. This section provides an overview of requirements for maintaining a sound recordkeeping system and the contents that must be included in applicant and tenant files.

### **2.5.1 Statutory and Regulatory Requirements**

Section 403(b) of NAHASDA and its implementing regulations at 24 CFR §1000.502(a) require a Recipient of IHBG funds to complete an annual self-monitoring assessment to ensure:

- Compliance with IHBG and other applicable Federal requirements, and
- Performance and progress in implementing the Indian Housing Plan (IHP).

### **2.5.2 Legal Responsibility**



Recipients, applicants, and participants have rights. These rights are protected by the agreements excluded by all parties. Thorough documentation and excellent file management practices ensures enforcement of rights.

The Recipient must establish a records management system to meet NAHASDA's implementing regulations which require Recipients to perform self-monitoring activities annually.

## **2.6 GENERAL FILE REQUIREMENTS**

The Recipient needs to establish written procedures for identifying the types of files it must maintain, documentation required for tenant and programmatic files, and the way files are to be retrieved and stored. Procedures should be written to ensure understanding and compliance. Exhibit 2-3 provides an excerpt from a TDHE's admissions and occupancy policy that outlines file requirements.

### **2.6.1 File Documentation**

Each applicant and tenant file must contain documentation of any verification efforts including, but not limited to the following:

- Household composition
  - Names, relationship to head, birth date, Social Security number and tribal affiliation of all household members
  - Status of live-in aides and foster children
- Income
  - Amounts and sources of income of all family members
  - Net family assets
  - Deductions from income (for rent computation)
  - Rent computation
  - Admission preferences (if any)
  - Screening information (tenant history, credit history, home visit record, and, if applicable, verification of criminal history)

### **2.6.2 Criminal Record Information**

The Recipient must establish a system of records management that ensures that any criminal record received by the Recipient from law enforcement agencies is—

- Maintained confidentially.
- Not misused or improperly disseminated.

- Destroyed once the purpose for which the record was requested has been accomplished.

Criminal conviction records must be kept under lock and key and under the custody and control of the executive director. The tenant or applicant file should document that a criminal background check was conducted, that the applicant passed the check or did not pass the check, and the source of the information. Criminal background record checks should be retained separately from the applicant file for those applicants denied housing until the expiration of the period for requesting an informal hearing to challenge the Recipient's decision. The records should be destroyed at the expiration of the period or at the conclusion of the informal hearing or any litigation. See NAHASDA regulations at 24 CFR §§ 1000.152, 1000.154 and 1000.156 provides additional information.

### ***EXHIBIT 2-3 – Sample Policy***

1. Filing Requirement: All applications are filed as Active or Inactive.
2. File Management: When an applicant is placed on the Waiting List, the application and all the supporting documentation is maintained in the Active File. All applicant files are organized alphabetically.
3. Inactive File: Applicants who are determined to be ineligible for whatever reason are placed in the Inactive File, organized alphabetically by fiscal year. Inactive files will be set up in a database indicating the name, address, bedroom size, income, and date.
4. File Retention: All Inactive Files are retained for a minimum of 3 years. All active files are retained for 5 years after move-out or outstanding issues are resolved, whichever is greater.
5. Inactive File Placement: Waiting List applicants will be placed on the inactive waiting list when treated as follows: Staff has made a determination of ineligibility.
6. Confidentiality: Information contained in the TDHE files is confidential. Only those with a need to know have the right to review the contents of client files. Staff is prohibited from discussing the contents of a client's file with anyone other than TDHE staff. Tribal officials must have a court order to access applicant or occupant information unless the applicant or occupant has signed a consent to release the information to the requesting party.

### **2.6.3 Drug Abuse Treatment Information**

The Recipient also must establish a system of records management that ensures that any information the Recipient receives from a drug abuse treatment facility about a person is—

- Maintained confidentially.
- Not misused or improperly disseminated.
- Destroyed once the purpose for which the record was requested has been accomplished or destroyed following expiration of the period for filing a challenge to a Recipient's decision to deny housing or at the conclusion of litigation.

These records must never be retained in the applicant or tenant file but must be retained separately and securely.

## **2.7 FILE ORGANIZATION**

Files need to be established for each applicant or resident associated with the Recipient's housing assistance program. Exhibit 2-4 provides a sample file organization outline using an eight-part file folder. The sample file plan reflects low-rent, mutual help, down payment, and lease option programs that require housing counseling prior to selection,

The type of folder used by the Recipient depends on the size of the program and the type of program. The contents identified in Exhibit 2-4 can be tailored to the requirements of any program.

A Recipient who provides an intense housing counseling program will want to use a separate folder to maintain those contents. Also, legal documents resulting from court action should be maintained in a separate folder as well.

## **2.8 FILE RETRIEVAL**

The circulation of tenant files should be strictly limited to those staff who need them for the efficient performance of their duties. Anytime a file is removed, it needs to be signed for and dated by the staff checking it out for any length of time. A File Check-Out Log is a divider inserted in the file cabinet in front of every tenant file to track the location of the file. Exhibit 2-5 includes a sample File Check-Out Log.

**EXHIBIT 2-4**

**Inside front cover:**

- Left side:** Application, latest application on top  
 Preselection notice (move-in & deposit requirements sheet)  
 Results of drug testing  
 Receipt of security deposit  
 Receipt of key issuance  
 Certificate of completion of orientation/housing counseling class  
 Tenant itemized worksheet  
 All initial verifications (enrollment number)  
 Copy of payroll deduction form with date sent to Finance  
 Amortization computation schedule (if applicable)  
 Recomputations of loan balance (if applicable)  
 Move-in inspection  
 Lease agreement  
 Addendums or contract agreements  
 Conveyance documents (if applicable)
- Right side:** Recertification/verifications/updated application sheets, payoff statements (if applicable)

**Second Section:**

- Left side:** All inspections (interior & exterior)  
 Work orders  
 Billing
- Right side:** Payback agreements  
 Tenant history (if necessary)  
 Adjustments  
 Delinquency notices  
 Notices to credit bureau

**Third Section:**

- Left side:** Incoming correspondence  
**Right side:** Outgoing correspondence

**Additional File for Counseling:**

- Left side:** Client assessment (budget, credit report, debt management)  
**Right side:** Counseling session summaries



**EXHIBIT 2-5**

<b>FILE CHECK OUT LOG</b>				
<b>Any TDHE</b>		<b>FILE NAME</b> James Bond & Iraida Bond		
<b>PROGRAM &amp; UNIT NUMBER:</b> LP 007-336:				
<b>FILE TYPE</b>	<b>Occupancy</b>	<b>Counseling</b>	<b>Legal</b>	
<b>CHECKED OUT BY</b>			<b>RETURNED BY</b>	
<b>Staff Name</b>	<b>Date</b>	<b>File Type</b>	<b>Staff Name Sent To</b>	<b>Date</b>

**2.9 MAINTAINING HOUSING COUNSELING FILES**

The forms listed below in Exhibit 2-6 are tools housing counselors may use to maintaining accurate records of the activity related to each client. Housing counseling does not always follow a natural progression of events from start to finish. There are often new information and changing circumstances which the counselor must track. A good record-keeping system is the foundation to providing good service to clients,

**EXHIBIT 2-6**

<b>TYPE OF FORM</b>	<b>WHEN TO USE</b>
Intake Form	Initial Session
Client Action Plan	Initial Session/Return Appointments
Monthly Budget Worksheet	As Necessary
Debt Payment Worksheet	As Necessary
Prequalification Worksheet	Pre-Purchase Counseling Session
House Hunting Checklist	As Necessary
Home Evaluation Checklist	As Necessary
Wants and Needs Checklist	As Necessary
Application Checklist	Pre-Purchase Counseling Session
Sample Purchase Contract	Pre-Purchase Counseling Session
Uniform Residential Loan Application	As Necessary/Pre-Purchase Counseling
Truth-In-Lending Disclosure Statement	As Necessary/Pre-Purchase Session
Rental Counseling Checklist	Initial Session/Rental Counseling
Rental Inspection Checklist	As Necessary
Seminar Sign-In Sheet	As Necessary
Evaluation & Comment Form	As Necessary

## **SECTION 3 THE APPLICATION PROCESS**

### **3.1 RECIPIENT RESPONSIBILITY**

The most important contributions to the correct determination of eligibility, house payment, and other housing assistance are:

- Correct information provided by the family.
- Effective owner verification and interpretation of the information provided.
- Correct application of NAHASDA regulations by the Recipient.

The challenge for Recipients is to create a system (i.e., policies, procedures, questions, formats, interview tools) reflecting NAHASDA requirements, while ensuring fair and consistent implementation. Not all applicants, even willing ones, provide complete and accurate information. Also, not all Recipients collect the data needed to achieve the desired results. Consequently, Recipients must rely on a process that includes the following:

- A written application
- A program application process
- A definitive screening process
- An interview process

### **3.2 WRITTEN APPLICATION**

Written applications are required of any person or household to apply for housing assistance.

- The applicant should sign and date the application and a staff member should time and date stamp and initial the application to document when it was received.
- Unless its waiting list is closed, the staff should accept every application and process them to the extent necessary to determine eligibility.
- Prior to taking applications and during periods when the waiting list is closed, consider maintaining an inquiry list of those households who are interested in receiving assistance. Make it clear that an "inquiry" does not constitute an

application and does not determine the date and time for purposes of positioning on the waiting list.

- The application may be completed by either the applicant or by a member of the housing staff. The applicant must sign the application if assisted by a housing staff member.

Each Recipient is responsible for developing their own application forms. These forms should capture and organize the information needed to make a determination of eligibility for housing assistance programs, such as:

- Household annual gross income.
- The applicant family's characteristics.
- The appropriate size, location, and type of home for the family.
- Whether the family is suitable for participation in the housing program in accordance with the local applicant selection criteria within the selection policy.
- Whether or not the applicant family qualifies for an established preference.

The application serves as a guide to effective interviewing which additionally supports the following:

- Ensures that the same questions are asked of all families.
- Provides a paper trail for false statements.
- Provides “proof” that questions were asked.

A sample general application form is included in **APPENDIX 13**.

### **3.3 ELIGIBILITY SCREENING**

Screening for eligibility involves consideration of numerous factors such as program requirements, income restrictions, and established preferences. Although many of these factors may be locally determined, a written eligibility policy provides specific guidance regarding procedures for determining eligibility.

Some of the areas examined include:

- Criminal background check
- Landlord references



- Previously assisted applicant and whether there is an outstanding debt
- Program specific requirements
- Eligible family/individual composition
- Tribal enrollment documentation
- Creditworthiness
- Principal residence
- Ability to enter into an agreement
- Rental use and maintenance history
- Habits and practices
- Verification time frame
- Employment stability
- Social Security number(s)
- Birth certificates of newborns
- Marriage license or divorce decrees

Even though it is no longer required, it is still a good practice to require the head of household, spouse, and all family members aged six or older, to disclose and document their Social Security numbers or execute a written certification when a Social Security number has not been assigned.

### **3.4 DIFFERENT PROGRAMS, DIFFERENT PROCESS**

The application process will vary depending on the type of assistance you offer. Exhibit 3-1 illustrates the general process. Remember, in all cases the Recipient must first determine income eligibility.

### **3.5 INTERVIEWING THE APPLICANT**

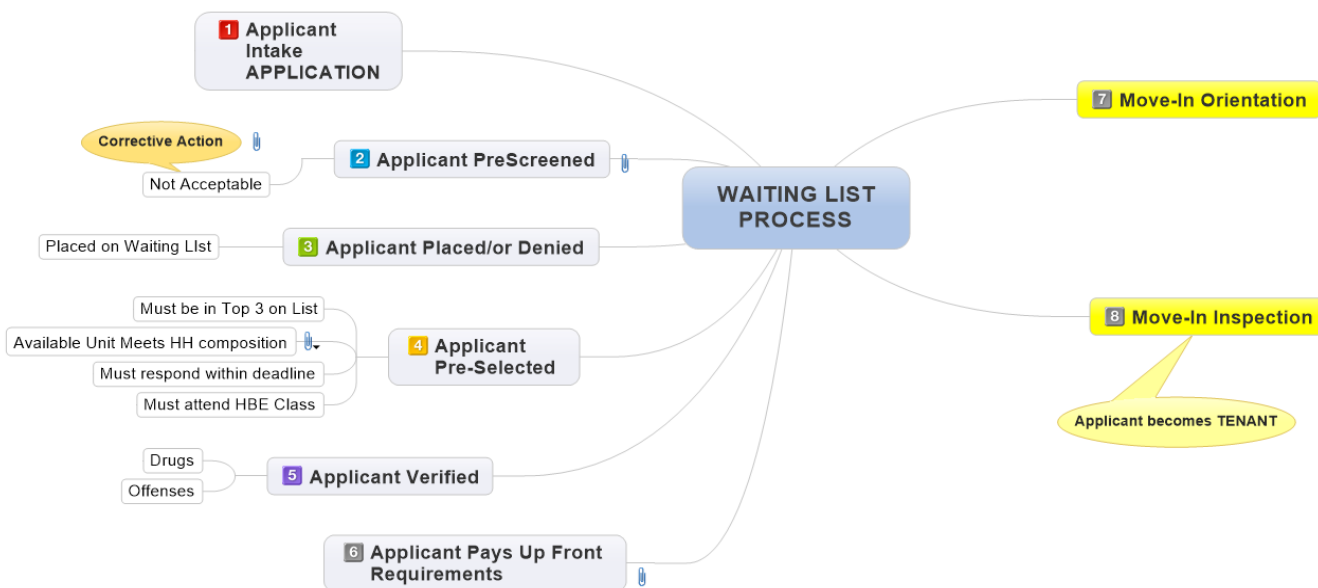
No matter how expertly designed, the questions posed in the application may be interpreted differently by different applicants. To ensure completeness and accuracy, application review should be supported with staff and applicant interviews.

Interviewing is the most important skill in the housing process when performed effectively. It may either encourage or discourage compliance, cooperation, and honest disclosure.

Good interviewers must possess people, data collection, and analysis skills. Additionally, they must demonstrate genuine interest in the family and their circumstances.

**EXHIBIT 3-1**

# BASIC APPLICATION PROCESS



One way of remembering the important purposes of an interview is by using the acronym C.A.V.E. The interview plays an essential role in—

- Collection of complete information.
- Analysis of the information to determine verification requirements and to resolve discrepancies.
- Verification of the information.
- Education of applicants and tenants of what is required and how the program works.

Effective intake results in the selection of tenants who will likely comply with the lease, follow program requirements, and appreciate the housing assistance provided. Poor intake results in the admission of problem tenants and ultimately higher costs to Recipients.

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## SECTION 4 DETERMINING INCOME ELIGIBILITY

### 4.1 INCOME UNDER NAHASDA

As discussed earlier, one of the criteria for eligibility for admission to a housing assistance program is the amount of annual income a family earns. In accordance with Section 4 (9) of NAHASDA, the term "income" means:

#### ***EXHIBIT 4-1***

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*. . . income from all sources of each member of the household as determined in accordance with criteria prescribed by the Secretary (of HUD), except that the following amounts may not be considered as income under this paragraph:*

*(A) Any amounts not actually received by the family.*

*(B) Any amounts that would be eligible for exclusion under section 1613 (a)(7) of the Social Security Act.*

*(C) Any amounts received by any member of the family as disability compensation under chapter 11 of title 38, United States Code, or dependency and indemnity compensation under chapter 13 of such title.*

---

In this case, "criteria prescribed by the Secretary" means the definition of "annual income" described in 24 CFR §1000.10 (b). The three different definitions of income include:

- (1) The HUD Section 8 Definition of Annual Income (24 CFR, part 5, subpart F)
- (2) The U.S. Census Method
- (3) The IRS Method

Accordingly, Recipients exercise their right of self-determination by choosing the definition that is most advantageous to the family or the Recipient. According to Program Guidance 2013-05(R) *Calculating Annual Income for the Purposes of Eligibility Under NAHASDA*, **APPENDIX 4**, Recipients do not need to limit the definition to only one of the three outlined in this guidance. For example, the policy may state that the Recipient may use the definition most advantageous to the family or to the housing entity for purposes of determining eligibility.

Although each method will be discussed separately, the method typically used prior to the enactment of NAHASDA was the Section 8 definition of income. Because it is also the method currently used in most housing programs, we will begin our discussion with the HUD Section 8 Part 5 definition.

## **4.2 ANNUAL INCOME AS DEFINED IN 24 CFR PART 5**

The annual income definition found at **24 CFR Part 5**, provided in **APPENDIX 14**, is used by a variety of Federal programs including, NAHASDA. Annual income is used to determine program eligibility and, in some programs, the level of assistance the household will receive.

The definition of annual income is the *gross amount of income of all adult household members* that is *anticipated to be received* during the coming 12-month period. Each of the italicized phrases in this definition is key to understanding the requirements for calculating annual income.

- **Gross Amount.** For those types of income counted, gross amounts (before any deductions have been taken) are used.
- **Income of All Adult Household Members.** The definition of annual income contains income “inclusions” – types of income to be counted – and “exclusions” – types of income that are not considered.
- **Anticipated to be Received.** The Part 5 annual income definition is used to determine eligibility and the amount of Federal assistance a household can receive. A Recipient must, therefore, use a household’s expected ability to pay, rather than past earnings, when estimating housing assistance needs.

### **4.2.1 Whose Income to Count?**

Knowing whose income to count is as important as knowing which income to count Exhibit 4-22 summarizes whose income generally counts under Section 8 for the purpose of calculating household income for NAHASDA assistance. Under the Part 5 definition of annual income special consideration is given to income earned or unearned by the following groups of people:

- **Minors.** Earned income of minors is not counted. However, unearned income attributable to a minor (e.g., child support, TANF payments and other benefits paid on behalf of a minor) is included.
- **Foster Children and Adults.** These persons are included in the household member count. Foster children earned income is not counted, however unearned income counts as income. Foster adult earned and unearned income counts as income.
- **Live-In Aides.** If a household includes a paid live-in aide (whether paid by the household or a social service program), the income of the live-in aide, regardless of the source, is not counted.

- Persons with Disabilities.** During the annual recertification of a household’s income, Recipients are required to exclude from annual income certain increases in the income of a disabled member of qualified families residing in NAHASDA-assisted housing or receiving NAHASDA tenant-based rental assistance.
- Adult Students Living Away from Home.** If the adult student is counted as a member of the household in determining the household size (to compare to the HUD income limits), the first \$480 of the student’s income must be counted in the household’s income. Note, however, that the \$480 limit does not apply to a student who is the head of household or spouse (his or her full income must be counted). To count the adult student as a household member, the adult student would need to be verified as a dependent, usually on the parent’s tax return. Additionally, student status must be verified with documentation in the file.
- Temporarily Absent Household Members.** The income of temporarily absent household members is counted in the definition of annual income—regardless of the amount the absent member contributes to the household.

**EXHIBIT 4-2**

PERSONS COUNTED IN HOUSEHOLD SIZE FOR THE PURPOSES OF ELIGIBILITY CALCULATION	EMPLOYMENT INCOME	OTHER INCOME
Head	YES	YES
Spouse	YES	YES
Co-head	YES	YES
Other Adult	YES	YES
Dependents	NO	YES
Child under 18	No	YES
Full-time Student over 18	SEE NOTE	YES
Foster Child under 18	NO	YES
Foster Adult	YES	YES
<b>NON-MEMBERS NOT COUNTED</b>		
Live-in Aide	NO	NO

### **EXHIBIT 4-3**

For example, a construction worker employed at a temporary job on the other side of the state earns \$600 per week. He keeps \$200 per week for expenses and sends \$400 per week home to his family. The entire amount (\$600 per week) is counted in the family's income.

**NOTE:** Unless specifically identified above as a temporary or permanent absent household member, Recipients should determine if a unique household situation should be considered permanent or temporary.

- **Permanently Absent Household Members.** If a household member is permanently absent from the household (e.g., a spouse who is in a nursing home), the head of household has the choice of either counting that person as a member of the household, and including income attributable to that person as household income, or specifying that the person is no longer a member of the household.

#### **4.2.2 Types of Income to Count**

A comprehensive list of income that is included and excluded from calculations of annual income under Part 5 is updated by HUD when changes are made by Congress. Program Guidance 2013-05(R) *Calculating Annual Income for Purposes of Eligibility under NAHASDA* is included as **APPENDIX 4**.

Program Guidance 2013-05(R) further explains that lump sum or periodic payments received by an individual Indian in the case entitled *Elouise Cobell et al. v. Ken Salazar et al* are statutorily excluded pursuant to the Claims Resolution Act of 2010 (Pub. L. 111–291). Payments may not be counted as a part of an individual's income for purposes of determining initial eligibility, ongoing eligibility, or level of IHBG assistance. NAHASDA identifies the following income exclusions:

- Any amounts not actually received by the family.
- Any amounts that would be eligible for exclusion under Section 1613(a)(7) of the Social Security Act. This relates to certain amounts received from the United States that are attributable to underpayments of benefits due for 1 or more prior months under the Social Security Act.
- Any amounts received by any member of the family as disability compensation under Chapter 11 of Title 38, United States Code, or dependency and indemnity compensation under chapter 13 of such title. This relates to amounts received from the Department of Veterans Affairs by a family for service-related disabilities of a member of the family and survivor benefits. | 13 includes PIH Notice 2011-15

*Implementation of Statutory Change to the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) related to Income which was extended by PIH Notice 2012-5.*

- Exclude any payments that are expressly excluded from annual income under these NAHASDA exclusions.

A sample of types of income that may be included or excluded from the annual income definition is provided in Exhibit 4-4.

#### **4.2.3 Income from Self-Employment**

The net income from operation of a business or profession including self-employment income is used to calculate annual income. Net income is the gross income less business expenses, interest on loans, and depreciation computed on a straight-line basis. Important considerations when calculating net income include:

- In addition to net income, any salaries or other amounts distributed to family members from the business, and cash or assets withdrawn by family members, must be counted, except when the withdrawal is a reimbursement of cash or assets invested in the business.
- Principal payments on loans, interest on loans for business expansion or capital improvements, other expenses for business expansion or outlays for capital improvements, must not be deducted when calculating net income.
- If the net income from a business is negative, it must be counted as zero income. A negative amount must not be used to offset other family income.

In the case of a self-employed individual who has just started a business, the Recipient should ask the individual to estimate what the net income is that he/she expects to earn from the business. You may need to assist the individual in making this determination by asking him/her how much they expect to make and what expenses the business is expecting to have over the next 12 months.

#### **4.2.4 No Income or Not Enough Income**

Careful assessment is required when an applicant states that they have no income, or the stated income is not enough to cover household expenses. It is important to note if the household expenses are paid and current or if they remain unpaid. This is a clear indicator of whether there truly is no or not enough income. Third-party verifications should be required including verification of Social Security benefits or printout of the record, verification of unemployment benefits, notarized statement of non-filing for Federal income tax, verification of assets on deposit, and a review of checking account statements that may show frequent deposits that may mean income.

#### **EXHIBIT 4-4**

**Examples of income included when calculating the total gross household income:**

- Employment
- Social Security
- TANF
- Tribal General Assistance
- Alimony and child support
- Alaska Corporation Dividends
- Recurring gifts
- Unemployment benefits
- Workers Compensation
- Permanent Fund Dividend
- Per Capita payments from gaming activities (NOTE: Per Cap from Tribal Trust land has an initial \$2,000 per individual exclusion. This ONLY applies to per cap payments whose source is derived from Tribal Trust land.)

**Examples of income excluded when calculating household gross annual income:**

- Food Stamps
- Section 8 rental assistance
- Foster care payments
- Hostile fire pay to military members
- Student financial aid
- Recurring payments paid directly to a childcare provider by a person not living in the home
- Amounts specifically excluded by any other Federal statute – this includes lump sum or periodic payments received by an individual Indian in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.* These *Cobell* Settlement payments are statutorily excluded pursuant to the Claims Resolution Act of 2010 (Pub. L. 111–291). The exemption attaches to the payment and applies for a one-year period from that payment. Payments may not be counted as a part of an individual’s income for purposes of determining initial eligibility, ongoing eligibility, or level of IHBG assistance. For more information regarding exclusions specific to Indian Tribes see Program Guidance 2013-05 *Calculating Annual Income for Eligibility Purposes under NAHASDA*.
- Veterans’ Benefits excluded from income for NAHASDA program eligibility. Per PIH Notice 2011-15, compensation for a veteran or any member of his or her family for service-connected disability or death under title 38 USC, Chapter 11 and dependency and indemnity compensation for service-connected deaths under title 38 USC, Chapter 13 is excluded from the calculation of income for determining program eligibility under NAHASDA.

An assessment of all information available will allow the Recipient to make an informed decision to either accept or deny the application for assistance. Refer to Exhibit 4-5 for



an example of verification suggestions. **APPENDIX 15** provides a sample questionnaire to be used in verifying no income.

**EXHIBIT 4-5 – Declaration of “No Income”**

**Declaration of “No Income” Issue:** Husband, wife and two children apply for assistance. The wife is not on any tax returns, no verifiable income or any other sort of paper trail to use as documentation. What alternative documentation is required to prove she is without any income to contribute?

**Recommendation:** Both adults must sign a 3rd party release of information form before proceeding. To verify the applicant’s zero-income claim, request several of the following:

- ✓ IRS Form 4506-T to verify either income or non-filing for Federal income tax
- ✓ Verification of Social Security benefits or printout of the record
- ✓ Verification of unemployment benefits
- ✓ Verification of assets on deposit (same bank as spouse)
- ✓ Credit report

**4.2.5 Social Security Income**

There are certain rules that assist in determining the correct monthly amount to use when calculating the income from Social Security benefits.

- Use the monthly amount **before** the Medicare amount is deducted.
- Use the monthly amount **after** adjustments for past overpayments.
- Use the monthly amount with the expected Cost of Living Adjustment (COLA) included if the COLA has been announced at the time you are qualifying an individual. COLA is usually announced in October by the Social Security Administration.

**NOTE:** Social Security benefits may now be delivered to the Recipients via a Direct Express® or Debit Mastercard® card account. This creates a scenario where you would count the income being received from Social Security and count the balance on the cards as an asset. You are not double counting because you would only count interest that is being earned on the card balances (if any) just as you would count the interest on any Social Security funds that had been deposited in interest bearing checking/savings accounts.

**4.2.6 Calculating Alimony, Child Support Income**

Alimony and child support that have been awarded by the court must be counted unless the person designated to receive these payments can demonstrate that he or she is not receiving the payments and has taken legal action through the courts or child support enforcement agency to attempt to collect the payments. If the Recipient has a court order, is not receiving any payments, and has not attempted to enforce collection, then the full amount of the court-ordered support must be included when calculating the household's gross annual income.

If the Recipient has filed proceedings to collect the court-ordered payments and is receiving a lesser amount than that awarded by the court, the lesser amount may be counted if third-party verification can be obtained documenting the enforcement attempts. If the support is being paid through the welfare agency, the family may not receive the full amount as the welfare agency will use part of the funds to offset the costs of the welfare benefits that the individual is receiving. The individual entitled to receive the child support may receive what is known as a "pass-through" amount instead of the full amount of the court-ordered child support. In these cases, only the "pass-through" amount is counted toward the household income.

#### **4.6 CHILD CUSTODY & SUPPORT PAYMENT COMPUTATION**

<b>Calculating Alimony &amp; Child Support Income</b>	<b>Full Amount</b>	<b>Partial Amount</b>	<b>Arrears</b>	<b>No Payments</b>
<b>Court Ordered</b>	Include all	3rd party verification - use sum of last 12 months	3rd party verification - use sum of last 12 months	3rd party verification: a) if received in past 12 months b) if not received, don't count
<b>Not Court Ordered</b>	Have family enter amount expected to receive in next 12 months on Child Support Affidavit	Have family enter amount expected to receive in next 12 months on Child Support Affidavit	NA	Have family complete Child Support Affidavit

**EXHIBIT 4-6**

Wendy has a court order requiring her ex-husband to pay \$200 per month in child support. Wendy has pursued collection through the local child support enforcement agency which provides a printout showing what she has received for the last 6 months:

Jan-\$50	Mar-\$75	May-\$100
Feb-\$25	Apr-25	June-\$0

How is the income from the child support calculated?

Step 1: Total amount received for 6 months: \_\_\_\_\_

Step 2: Determine monthly average \_\_\_\_\_

Step 3: Annualize the monthly average \_\_\_\_\_

**EXHIBIT 4-7**

Jada has a court order which awards her \$250 per month in child support for her two children. The father (who is ordered to pay) has not and Jada has made no attempts to collect the support.

Is the \$250/month counted toward the household income?

**4.2.7 Military Pay**

All military pay is counted except for hostile fire pay. The Housing and Economic Recovery Act of 2008 (HERA) included a special provision that allows for the exclusion of housing assistance pay in some counties that have military bases nearby. IRS Notice 2008-79 §6 contains a list of military bases confirmed by the IRS to have met the requirements necessary to allow for the exclusion of housing pay. The Notice also states that “the following list is not meant to be exclusive and any qualified military installation within the meaning of §142(d)(2)(B)(iv) which satisfies the percentage requirements of §142(d)(2)(B)(iii)(I) would be eligible to receive similar treatment regardless of its failure to be included in this list or in any future updates.” Therefore, if you live near a military installation, it may qualify for the housing pay exclusion even if it is not listed below.

**EXHIBIT 4-8**

**Name of Military Installation**

U.S. Air Force Academy  
 Fort Shafter  
 Fort Riley  
 Annapolis Naval Station (including U.S. Naval Academy)  
 Fort Jackson  
 Fort Bliss  
 Fort Hood  
 Dam Neck Training Center Atlantic  
 Naval Station Bremerton

**State**

Colorado  
 Hawaii  
 Kansas  
 Maryland  
 South Carolina  
 Texas  
 Texas  
 Virginia  
 Washington

**4.2.8 Methods for Computing Part 5 Annual Income – No Assets**

Once all sources of income are known and verified, the reported income must be converted to an annual figure. **Appendix 16** provides detailed instructions on the various ways to calculate income. The following is a brief summary of how to calculate income.

Convert periodic wages to annual income by multiplying:

- Hourly wages by the number of hours worked per year (2,080 hours for full-time employment with a 40-hour week and no overtime).
- Weekly wages by 52.
- Bi-weekly wages (paid every other week) by 26.
- Semi-monthly wages (paid twice each month) by 24.
- Monthly wages by 12.
- To annualize other than full-time income, multiply the wages by the actual number of hours or weeks the person is expected to work.
- Because gross pay will differ from week to week, you must determine what an average week's pay will be to project their gross annual income. The formula below should be applied.

**EXHIBIT 4-9 Instructions for Calculating Anticipated Annual Income**

Step # 1 & Step # 2. List the gross salary earned for each pay stub submitted noting the week/ending date. Add all amounts listed to get a total. See below:

- # 1 Week/ending \_\_\_\_\_[date] \_\_\_\_\_[amount]
- # 2 Week/ending \_\_\_\_\_[date] \_\_\_\_\_[amount]
- # 3 Week/ending \_\_\_\_\_[date] \_\_\_\_\_[amount]
- # 4 Week/ending \_\_\_\_\_[date] \_\_\_\_\_[amount] \_\_\_\_\_ [total amount]

- Step # 3. Divide the total amount by the number of stubs to get the average.  
Total divided by number of stubs = average weekly rate.
- Step # 4. Multiply the average weekly rate x 52 weeks to get the projected annual income.
- Step # 5. Divide the projected annual rate by 12 months to get the projected monthly amount.

**EXHIBIT 4-10**

**Calculating Anticipated Annual Income**

Alice works at the local grocery store and her hours vary from week to week. She has submitted the following four consecutive pay stubs as income verification.

Step # 1 & Step # 2

- #1 w/e 10/03/12 - 214.50
- #2 w/e 10/10/12 - 250.25
- #3 w/e 10/17/12 - 188.50
- #4 w/e 10/24/12 - 253.50

**\$906.75** [total amount]

Step # 3

\$906.75 / 4 [stubs] = **\$226.69** [average weekly rate]

Step # 4

\$226.69 [average weekly rate] x 52 [weeks] = **\$11,787.88** [projected annual income]

Step # 5

\$11,787.88 / 12 [months] = **\$982.32** [projected monthly income]

Exhibits 4.11 and 4.12 provide examples that demonstrate how the Part 5 annual income definition is applied to individual household circumstances.

**EXHIBIT 4-11 Seasonal work.**

Clifford Clue is a roofer. He works from April through September. He does not work in rain or windstorms. His employer can provide information showing the total number of regular and overtime hours Clyde worked during the previous 12 months.

*To calculate Clyde's anticipated income, use the average number of regular hours over the most recent 12 months multiplied by his current regular pay rate, plus the average number of overtime hours times his current overtime rate.*

**EXHIBIT 4-12 Calculating Anticipated Annual Income**

A teacher's assistant works 9 months annually and receives \$1,300 per month. During the summer recess, the teacher's assistant works for the Parks and Recreation Department for \$600 per month. The owner may calculate the family's income using either of the following two methods:

1. Calculate annual income based on current income: \$15,600 (\$1,300 x 12 months).

The owner would then conduct an interim recertification at the end of the school year to recalculate the family's income during the summer months at reduced annualized amount of \$7,200 (\$600 x 12 months). The owner would conduct another interim recertification when the tenant returns to the 9-month job.

2. Calculate annual income based on anticipated changes through the year:

\$11,700	(\$1,300 x 9 months)
<u>+ 1,800</u>	(\$ 600 x 3 months)
\$13,500	

Using the second method, the owner would not conduct an interim re-examination at the end of the school year. To use this method effectively, history of income from all sources in prior years should be available.

**4.2.9 Anticipated Annual Income Tips & Practice Summary**

The requirements for determining whether a family is eligible for assistance, and the amount of rent the family will pay, require housing staff to project or estimate the **annual income** that the family expects to receive. There are several ways to make this

projection. The following are two acceptable methods for calculating the annual income anticipated for the coming year.

- **Calculate annual income based on current income.** Generally, current circumstances must be considered in order to determine anticipated income. The projected annual income is calculated by annualizing current income. Income that may not last for a full 12 months (e.g., unemployment compensation) should be calculated assuming current circumstances will last a full 12 months. If changes occur later in the year, an interim recertification can be conducted to change the family's rent.
- Calculate annual income based on anticipated changes through the year. **If information is available on changes expected to occur during the year that information is used to determine the total anticipated income from all known sources during the year. If the information is available, use present circumstance.**

#### **4.3 TREATMENT OF ASSETS**

Some assistance programs require that families "spend down" assets before they can participate. There is no asset limitation for participation under the NAHASDA. Income from assets is, however, recognized as part of annual income under the Part 5 definition. To comply with the Part 5 rules regarding assets, Recipients must know the following:

- What to include as assets.
- How to compute the market and cash value of those assets.
- How to determine the income from the asset to be included in annual income.

Two questions that must be asked before the household asset income can be calculated:

**First:** Does the household member(s) have access to the assets they are listing? For example, a 401k may have certain provisions that prevent an employee from accessing any of the funds in the account until he or she has been employed for a specific number of years. This means the employee would not be allowed to withdraw any of the funds at all. This is different from withdrawing the funds and incurring interest and penalties. If you can withdraw the funds, you have "access."

**Second:** Is the total cash value of the household assets \$5,000 or more? If the total value of the household's assets is less than \$5,000 then it is not necessary to perform a third-party verification on assets and the household can self-certify as to the total value of the assets by signing an "Under \$5,000 Asset Certification" form. Also, if the total value of the assets is less than \$5,000 then only the actual income from the assets (if any) is counted. If the household's total assets are valued at over \$5,000 then each asset will need to be third-party verified and the income from the assets will be determined by

comparing the actual total income from the assets and the imputed income using the HUD 6 percent Passbook Rate.

### 4.3.1 What to Include as an Asset

In general terms, an asset is a cash or non-cash item that can be converted to cash. A summary of items that are and are not to be considered assets are shown in Exhibit 4-13.

**EXHIBIT 4-13**

INCLUDED	EXCLUDED
<ul style="list-style-type: none"> <li>• Savings Accounts</li> <li>• Checking Accounts</li> <li>• Money Market Accounts</li> <li>• 401k</li> <li>• IRAs</li> <li>• Real Estate Ownership</li> <li>• Mutual Funds</li> <li>• Whole Life Insurance</li> </ul>	<ul style="list-style-type: none"> <li>• Personal property (vehicle used on a regular basis, jewelry, furniture, clothes, etc.)</li> <li>• Interest in Indian Trust Land</li> <li>• Assets lost in divorce, foreclosure or bankruptcy</li> <li>• Assets disposed of for fair market value</li> <li>• Term life insurance</li> <li>• Assets not accessible by the applicant</li> </ul>

**NOTE:** It is the income earned—e.g., interest on a savings accounts—not the value of the asset that is counted in annual income. Six months of the most current, consecutive checking account statements and 1 month of the most current savings account statement are the minimum requirements to document these assets. All pages of these statements must be included.

Exhibits 4-14 through 4-21 provide examples that demonstrate how income from assets is calculated. Market value and cash value assets have both a market value and a cash value. The market value of an asset is simply its dollar value on the open market. For example, the market value of a share of stock is the price quoted on the stock exchange on a particular day. A property's market value is the amount it would sell for on the open market. This may be determined by comparing the property with similar, recently sold properties.

An asset's cash value is the market value less reasonable expenses required to convert the asset to cash, including:

- **Penalties or Fees for Converting Financial Holdings.** Any penalties, fees or transaction charges levied when an asset is converted to cash are deducted from the market value to determine its cash value (e.g., penalties charged for premature withdrawal of a certificate of deposit, the transaction fee for converting mutual funds to cash or broker fees for converting stocks to cash).



- **Costs for Selling Real Property.** Settlement costs, real estate transaction fees, payment of mortgages/liens against the property and any legal fees associated with the sale of real property are deducted from the market value to determine equity in real estate.

Under the rules of Part 5, only the cash value (rather than the market value) of an item is counted as an asset. If more than one person owns an asset, Recipients must prorate the asset according to the applicant's percentage of ownership. If no percentage is specified or provided by state or local law, Recipients must prorate the asset evenly among all owners. If an asset is not effectively owned by an individual, it is not counted as an asset.

#### 4.3.2 Actual Income from Assets

Assets can generate income and, for the purpose of determining an applicant's income, the actual income generated by the asset (e.g., interest on a savings or checking account) is what counts, not the value of the asset. The income is counted even if the household elects not to receive it. For example, if an applicant elects to reinvest the interest or dividends from an asset, it is still counted as income.

As with other types of income, the income included in annual income calculation is the income that is anticipated to be received from the asset during the coming 12 months. Several methods may be used to approximate the anticipated income from the asset. Many Recipients are surprised to learn that checking account balances (as well as savings account balances) are considered an asset. This rule is not intended to count monthly income as an asset; rather, it is recognition that some households keep assets in their checking accounts. To avoid counting monthly income as an asset, Recipients must use the average monthly balance over a 6-month period as the cash value of the checking account.

To obtain the anticipated interest on a savings account, the current account balance can be multiplied by the current interest rate applicable to the account. Alternatively, if the value of the account is not anticipated to change soon and the interest rate has been stable, a copy of the IRS 1099 form showing past interest earned can be used.

#### 4.3.3 Assets Owned Jointly

If assets are owned by more than one person, prorate the assets according to the percentage of ownership. If no percentage is specified or provided by a state or local law, prorate the assets evenly among all owners.

If an asset is not effectively owned by an individual, do not count it as an asset. An asset is not effectively owned when the asset is held in an individual's name, but: (a) the asset and any income it earns accrue to the benefit of someone else who is not a member of the family; and (b) that other person is responsible for income taxes incurred on income

generated by the assets.

Determining which individuals have ownership of an asset requires collecting as much information as is available and making the best judgment possible based on that information. In some instances, but not all, knowing whose Social Security number relates to the asset may help in identifying ownership.

Recipients should be aware that there are many situations in which a social security number connected with an asset does not indicate ownership and other situations where there is ownership without connection to a Social Security number. Determining who has contributed to an asset or who is paying taxes on the asset may assist in identifying ownership.

#### 4.3.4 Two Unique Rules

For most assets, calculating cash value and the income from the assets is straightforward. Special rules have, however, been established to address two circumstances:

- Situations in which the assets produce little or no income.
- Assets that are disposed of for less than fair market value.

✓ ***When an Asset Produces Little or No Income***

This rule assumes that a household with assets has an increased payment ability, even if its assets do not currently produce income. Exhibit 4-14 illustrates this rule.

#### ***EXHIBIT 4-14***

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For example, a household owns land that is not rented or otherwise used to produce income. Rather than require the household to dispose of the property, the rule requires that an “imputed” income be calculated based on a Passbook Rate that is applied to the cash value of all assets.

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When calculating income from assets, use 6 percent as the passbook rate. This rule only applies if the total cash value of **all** assets is more than \$5,000. The following examples illustrate how imputed income from assets calculation is applied:

**EXHIBIT 4-15**

The Mark family has \$6,000 (average balance over 6 months) in a non-interest-bearing checking account. The Recipient would include in annual income an amount based on the current Passbook Rate. The calculation would be:  $\$6,000 \times .06 = \$360$ .

**EXHIBIT 4-16**

The Hernandez family has \$3,000 (average balance over 6 months) in a non-interest-bearing checking account and \$5,500 in an interest-bearing savings account. The family reports and the Recipient verify \$150 interest on the savings account. The Recipient would count the greater of the actual income from assets or the imputed income based on the Passbook Rate, as shown below:

Imputed income ( $\$8,500 \times .06$ ) =	\$510
Actual income	\$150
Included in annual income	\$510

**EXHIBIT 4-17**

The Smiths have \$600 (average balance over 6 months) in a non-interest-bearing checking account. No income from assets would be counted because the family has no actual income from assets and the total amount of all assets is less than \$5,000.

**4.3.5 When Assets are Disposed of at Less than Fair Market Value**

Applicants who dispose of assets for less than fair market value (i.e., value on the open market in an “arm’s length transaction”) have voluntarily reduced their ability to afford housing. The Part 5 rules require, therefore, that any asset disposed of for less than fair market value during the 2 years preceding the income determination be counted as if the household still owned the asset.

The amount to be included as an asset is the difference between the cash value of the asset and the amount that was received (if any) in the disposition of the asset. Consider the following example.

Each applicant must certify whether an asset has been disposed of for less than fair market value. Assets disposed of for less than fair market value because of foreclosure or bankruptcy are not included in this calculation. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be less than fair market value if the applicant receives (or received) important consideration not measurable in dollar terms.

***EXHIBIT 4-18***

Mr. Jones cashed in stock to give a granddaughter funds for college in August 2016. The stock had a market value of \$4,500 and a broker fee of \$500 was charged for the transaction.

Market value	\$4,500
Less broker's fee	<u>500</u>
Cash value to be considered	\$4,000

The \$4,000 in assets would be counted for any income determination conducted until August 2018 (looking forward 2 years from the time of disposal). If Mr. Jones has no other assets, no income from assets would be included in annual income because the cash value of the asset is less than \$5,000. If other assets brought total assets to more than \$5,000, however, the imputed income calculation described previously would be required.

***EXHIBIT 4-19***

**Example 2:** Mrs. Dutch "sold" a piece of property to a family member for \$30,000 on July 1, 2016. The home was valued at \$75,000 and had no loans against it.

Market value	\$75,000
Less settlement costs	\$3,000
Less sales price	<u>\$30,000</u>
Cash value to be considered	\$42,000

The \$42,000 would be counted as an asset for any income determination conducted until July 1, 2018. The \$42,000 would be combined with the cash value of other assets (if any) and an imputed income calculation would be required.

### 4.3.6 Summary of the Items That Need to be Considered when Calculating Asset Income

- Are the total household assets under \$5,000?
  - If yes, then there is no need to obtain third-party verifications and only the actual income from the asset (if any) is added to the household income
  - If no, then all the assets must be third-party verified and the greater of the actual asset income vs. the imputed asset income (using the HUD 6 percent passbook rate) is added to the household income.
- Asset income is determined using the interest, dividends, rent, etc. to calculate the amount the asset is earning. If the asset does not earn income (i.e. a non-interest-bearing checking account) then there is no income for that asset.
- Count asset income from all assets held by household members **including** the assets of minor children.
- Under \$5,000 Asset Certification must be executed by all adult household members when the total value of the household assets is less than \$5,000.

#### **EXHIBIT 4-20**

A three-person household (two adults, one child) lists the following assets on their application:

HOH – has \$200 in a savings account with a .50% interest rate.

Minor child#1 – has \$100 in a savings account with a .50% interest rate.

Calculation:

$$\$200 \times .50\% = \$1.00$$

$$\$100 \times .50\% = \$ .50$$

**Total Asset Income for Household = \$1.50**

## EXHIBIT 4-21

A four-person household (two adults, two children) lists the following assets on their application:

HOH – has \$2,000 in a savings account with a 1.00% interest rate.

Spouse – has a \$2,500 Money Market Account with a 1.00% interest rate.

Minor child #1 – \$1,000 in a savings account with a 1.00% interest rate

Minor child#2 – has \$1,000 in a savings account with a 1.00% interest rate.

Calculation:

Total Household Asset Value = \$6,500

HOH: \$2,000 x 1.00% = \$20.00

Spouse: \$2,500 x 1.00% = \$25.00

Child #1: \$1,000 x 1.00% = \$10.00

Child #2: \$1,000 x 1.00% = \$10.00

Total Actual Asset Income for Household = **\$65.00**

Imputed Asset Income Calculation:

\$6,500 x 6% (HUD Passbook Rate) = **\$390.00**

The Household's total asset value exceeded \$5,000 which triggered the HUD Passbook rate calculation. The imputed asset income is greater than the actual income so \$390.00 will be added to the household's total gross income.

### 4.3.7 Summary Anticipated Annual Income Tips & Practice

The requirements for determining whether a family is eligible for assistance, and the amount of rent the family will pay, require housing staff to project or estimate the **annual income** that the family expects to receive. There are several ways to make this projection. The following are two acceptable methods for calculating the annual income anticipated for the coming year.

- **Calculate annual income based on current income.** Generally, current circumstances must be considered in order to determine anticipated income. The projected annual income is calculated by annualizing current income. Income that may not last for a full 12 months (e.g., unemployment compensation) should be calculated assuming current circumstances will last a full 12 months. If changes occur later in the year, an interim recertification can be conducted to change the family's rent.
- Calculate annual income based on anticipated changes through the year. **If information is available on changes expected to occur during the year that information is used to determine the total anticipated income from all known**

**sources during the year. If the information is available, use present circumstance.**

#### **4.4 U.S. CENSUS DEFINITION OF INCOME**

Annual income is the algebraic sum of all amounts received by the family/household including head or spouse and all other persons 15 years old and over residing in the household regardless of relationship, for the 12-month reporting period.

Annual income includes, but is not limited to the following:

- a. Wage or salary income—includes total money earnings received for work performed as an employee during the calendar year. It includes wages, salary, Armed Forces pay, commissions, tips, piece—rate payments, and cash bonuses earned before deductions were made for taxes, bonds, pensions, union dues, etc.
- b. Non-farm self-employment income—includes net money income (gross receipts minus expenses) from one's own business, professional enterprise, or partnership. Gross receipts include the value of all goods sold and services rendered. Expenses include costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes (not personal income taxes), etc.
- c. Farm self-employment income—includes net money income (gross receipts minus operating expenses) from the operation of a farm by a person on his or her own account, as an owner, renter, or sharecropper. Gross receipts include the value of all products sold, government farm programs, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, etc. Operating expenses include cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, and interest on farm mortgages, farm building repairs, and farm taxes (not state and Federal personal income taxes). The value of fuel, food, or other farm products used for family living is not included as part of net income.
- d. Interest, dividend, or net rental income—includes interest on savings or bonds, dividends from stockholdings or membership in associations, net income from rental of property to others and receipts from boarders or lodgers, net royalties, and periodic payments from an estate or trust fund.
- e. Social Security income—includes Social Security pensions and survivor's benefits and permanent disability insurance payments made by the Social Security Administration prior to deductions for medical insurance, and railroad retirement insurance checks from the U.S. Government. Medicare reimbursements are not included.
- f. Public Assistance income—includes

(1) Supplementary security income payments made by Federal or state welfare

agencies to low-income persons who are aged 65 years old or over, blind, or disabled;

- (2) Aid to families with dependent children; and
- (3) General assistance (GA).
- (4) Separate payments received for hospital or other medical care (vendor payments) are excluded from this item.

g. Retirement or Disability Income—includes the following:

- (1) Retirement pensions and survivor benefits from a former employer, labor union, or Federal, state, county, or other government agency;
- (2) Disability income from sources such as worker's compensation; companies or unions; Federal, state, or local government; and the U. S. military;
- (3) Periodic receipts from annuities and insurance; and
- (4) Regular income from IRA and KEOGH plans.

h. All other income—includes

- (1) Unemployment compensation;
- (2) Veterans Administration (VA) payments;
- (3) Alimony and child support;
- (4) Contributions received periodically from persons not living in the household;
- (5) Military family allotments;
- (6) Net gambling winnings; and
- (7) Periodic income other than earnings.

Annual income **does not include** the following:

- a. Money received from the sale of property (unless the Recipient was engaged in the business of selling such property);
- b. The value of income "in kind" from food stamps, public housing subsidies, medical care, and employer contributions;
- c. Withdrawal of bank deposits;
- d. Money borrowed;
- e. Tax refunds;
- f. Exchange of money between relatives living in the same household; and
- g. Gifts and lump—sum inheritances, insurance payments, and other types of lump—sum receipts.

#### **4.5 INTERNAL REVENUE SERVICE (IRS) DEFINITION OF INCOME**

The IRS Adjusted gross income means gross income minus deductions, including the following:

- a. Because a trade or business carried on by the taxpayer (except for services as an



- employee) (Internal Revenue Manual (IRM) Paragraph 1006);
- b. For trade or business expenses paid or incurred by a qualified performing artist for services in the performing arts as an employee (IRM Paragraph 941 A);
  - c. Allowed as losses from the sale or exchange of property (see IRM Paragraph 1701 et. seq.);
  - d. For expenses paid or incurred in connection with the performance of services as an employee under a reimbursement or other expense allowance arrangement with the employer or third party (IRM Paragraph 942). Employee expenses that are not reimbursed under an accountable plan are not deductible from gross income;
  - e. Attributable to rental or royalty property (IRM Paragraph 1089);
  - f. For depreciation or depletion allowed to a life tenant of property or to an income beneficiary of property held in trust, or to an heir, legatee, or devisee of an estate (IRM Paragraph 1090);
  - g. For contributions by self—employed persons to pension, profit—sharing, and annuity plans (IRM Paragraph 2113);
  - h. Allowed for cash payments to individual retirement accounts (IRAs) and deductions allowed for cash payments to retirement savings plans of certain married individuals to cover a non-working spouse (IRM Paragraph 2170 & 2172);
  - i. For the ordinary income portion of a lump-sum distribution to the extent included in gross income (IRM Paragraph 2153);
  - j. For interest forfeited to a bank, savings association etc., on premature withdrawals from time savings accounts or deposits (IRM Paragraph 1120);
  - k. For alimony payments (IRM Paragraph 1008);
  - l. For the amortization of reforestation expenses (IRM Paragraph 1287);
  - m. For certain repayments of supplemental unemployment compensation benefits to a trust described in Code Sec. 501(c)(9) or (17), required because of receipt of trade readjustment allowances (IRM Paragraph 1009);
  - n. For jury duty pay remitted to employer (IRM Paragraph 1010);
  - o. For moving expenses (IRM Paragraph 1073);

- p. For the purchase of clean-fuel vehicle and refueling property (IRM Paragraph 1286);
- q. For interest on education loans incurred on, before, or after August 5, 1997 with respect to loan interest payment due and paid after December 31, 1997 (Code Sec. 62(a)(17));
- r. For contributions to a medical savings account allowed by Code Sec. 220 (Code Sec. 62(a)(16)); and
- s. For expenses paid or incurred by a fee-basis state or local government official for services performed.

**NOTE:** The adjusted gross income figure is found on line 7 of the IRS 1040.

#### **4.6 COMPARING THE THREE DEFINITIONS**

The major differences between the HUD Section 8, Census Long Form, and IRS Form 1040 definitions of annual income can be broken into the following categories shown in Exhibit 4.22.

A reminder about using all three definitions—housing programs may use more than one definition of annual income within their program in its entirety. However, housing programs must also ensure that applicants to their programs and activities are treated equitably.

#### **4.7 WHOSE INCOME COUNTS?**

The answer to this question depends on the definition of income that has been adopted and the specific program requirements. Remember that earned income and unearned income counts, but not for all ages. An example of unearned income is gaming dividends that must be counted for determining eligibility. However, your policy can allow for the exclusion of gaming dividends in the calculation of the monthly rental payment.

## **EXHIBIT 4-22 COMPARING THE THREE DEFINITIONS**

### **Familiarities and Consistency**

Many housing programs have the most experience with the HUD Section 8 definition of annual income, and many have developed administrative procedures and forms based on these rules and requirements.

The HUD Section 8 definition has been used for many years in various HUD programs, such as Section 8 and public housing. The HUD Section 8 definition is also used in the Low- Income Housing Tax Credit Program, which is often used in combination with IHBG Program funding in rental housing projects.

### **Types of Income to Count**

There are also some differences between the three definitions of income that can result in different income calculations. The three most significant differences between the definitions are:

- Child support payments are not included in the IRS Form 1040 definition of income.
- The IRS Form 1040 definition allows the deduction of alimony payments.
- Inheritance and insurance settlements are included in the HUD Section 8 asset calculation, but not included in the Census or IRS definitions of annual income.

### **Treatment of Assets**

The HUD Section 8 definition of annual income requires the special computations concerning assets. The Census Long Form and IRS Form 1040 definitions do not require such calculations. However, income from certain kinds of assets may be included under these definitions.

## **SECTION 5 CALCULATING ADJUSTED GROSS INCOME**

### **5.1 NAHASDA ALLOWANCES**

To determine the total tenant payment (TTP) for monthly rent or homebuyer payment, staff must determine the household's **adjusted gross income** and **monthly adjusted income**. The TTP is based upon a percentage of adjusted income, which is defined as the annual income that remains after excluding the following amounts in accordance with Section 4(1) of NAHASDA. The statutory definition is as follows:

- 
- (1) ADJUSTED INCOME-** *The term `adjusted income' means the annual income that remains after excluding the following amounts:*
- (A) YOUTHS, STUDENTS, AND PERSONS WITH DISABILITIES-** *\$480 for each member of the family residing in the household (other than the head of the household or the spouse of the head of the household)--*
    - (i) who is under 18 years of age; or*
    - (ii) who is--*
      - (I) 18 years of age or older; and*
      - (II) a person with disabilities or a full-time student.*
  - (B) ELDERLY AND DISABLED FAMILIES-** *\$400 for an elderly or disabled family.*
  - (C) MEDICAL AND ATTENDANT EXPENSES-** *The amount by which 3 percent of the annual income of the family is exceeded by the aggregate of--*
    - (i) medical expenses, in the case of an elderly or disabled family; and*
    - (ii) reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed.*
  - (D) CHILD CARE EXPENSES-** *Child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education.*
  - (E) EARNED INCOME OF MINORS-** *The amount of any earned income of any member of the family who is less than 18 years of age.*
  - (F) TRAVEL EXPENSES-** *Excessive travel expenses, not to exceed \$25 per family per week, for employment- or education-related travel.*
  - (G) OTHER AMOUNTS-** *Such other amounts as may be provided in the Indian housing plan for an Indian tribe.*

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*The above described allowances are applicable regardless of which definition of income is utilized.*

## **5.2 ALLOWANCE FOR DEPENDENTS**

For each dependent, \$480 must be deducted. A dependent is any household member (other than the head of the household or the spouse of the head of the household) who is under 18 years of age, or who is 18 years of age or older and a person with disabilities or a full-time student.

Some family members may never qualify as dependents regardless of age, disability, or student status:

- The head of the family, the spouse, and the co-head may never qualify as dependents.
- A foster child, an unborn child, a child who has not yet joined the family or a live-in attendant may never be counted as a dependent.

### **5.2.1 Family Sharing Custody Deduction**

When more than one family shares custody of a child and both live in assisted housing, only one family at a time can claim the dependent deduction for that child. The family with primary custody or with custody at the time of the initial certification or annual recertification receives the deduction.

If there is a dispute about which family should claim the dependent deduction, the family should refer to available documents such as copies of court orders or an IRS return showing which family has claimed the child for income tax purposes.

## **5.3 ELDERLY AND DISABLED DEDUCTION**

A \$400 elderly or disabled family deduction should be allowed ONLY if the head, co-head or spouse is age 62 or older, or a person with disabilities.

The term "person with disabilities" is defined by 24 CFR §1000.10 and means a person who –

- 
- (1) Has a disability as defined in section 223 of the Social Security Act;
  - (2) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act;
  - (3) Has a physical, mental, or emotional impairment which-
    - (i) Is expected to be of long-continued and indefinite duration;
    - (ii) Substantially impedes his or her ability to live independently; and
    - (iii) Is of such a nature that such ability could be improved by more suitable housing conditions;
  - (4) The term "person with disabilities" includes persons who have the disease

of acquired immunodeficiency syndrome or any condition arising from the etiologic agent for acquired immunodeficiency syndrome;

(5) Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for housing assisted under this part, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with 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.

This definition can be used to determine when a live-in attendant is necessary. The definition will also be used to determine which applicants are eligible to deduct their medical and attendant care expenses from their adjusted income (which in turn will affect their monthly payments).

***This deduction is a household deduction only. If the family is an elderly couple, only one \$400 per household deduction would be allowed.***

Other considerations:

- Receipt of Social Security Disability (SSD) benefits or Supplemental Security Income (SSI) disability benefits **DOES** qualify an applicant to be a person with disabilities.
- Receipt of government benefits (or private disability benefits such as workers’ compensation) **DOES NOT ALWAYS** qualify an applicant to be a person with disabilities.
- Receipt of Veterans Administration disability benefits (or other disability benefits) **DOES NOT NECESSARILY** meet the current HUD definition of a person with disabilities.

- An individual is not considered to be a person with disabilities solely based on any drug or alcohol dependence.

#### **5.4 MEDICAL AND ATTENDANT EXPENSES DEDUCTION**

According to NAHASDA medical expenses are deductible for elderly and disabled families only to the extent that the gross annual income of the family is exceeded by three percent of the gross annual income. The expenses include

- Medical expenses, in the case of an elderly or disabled family;

AND

- Reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed.

Medical expenses can only be deducted if:

- They are paid out-of-pocket by the family and not reimbursed by an outside source such as insurance, Medicare, or grants by a state agency or charitable organization.
- They are anticipated to be paid by the household in the 12 months following the date of certification/recertification.

It is up to the Recipient to define medical attendant care and auxiliary apparatus expenses in the admission and occupancy policy. Exhibit 5-1 identifies rules used by 24 CFR Part 5.

***EXHIBIT 5-1 Medical and Attendant Care Allowance***

**Attendant care and auxiliary apparatus expenses may be allowed if they are:**

- 1. Necessary to enable a family member (including a person with disabilities) to be employed.**
- 2. Anticipated to be paid by the household in the 12 months following the effective date of the certification/recertification.**
- 3. NOT reimbursed by an outside source such as insurance, Medicare, grants by a State agency or charitable organization.**
- 4. NOT paid to a family member living in the household.**

**Auxiliary apparatus includes, but is not limited to:**

- 1. Wheelchairs.**
- 2. Reading devices for visually impaired.**
- 3. Equipment added to cars and vans to permit their use by the handicapped or disabled family member.**

Examples of medical expenses include:

- Services of physicians and other health care professionals
- Services of health care facilities
- Medical insurance premiums (including Medicare premiums)
- Prescription and non-prescription medicines
- Transportation to/from treatment
- Dental expenses
- Eyeglasses
- Hearing aids, batteries
- Attendant care or periodic medical care
- Payments on accumulated medical bills



## **5.5 HOW IS ADJUSTED INCOME CALCULATED?**

Adjusted income is derived by subtracting any of five deductions (or allowances) that apply to the household from the household's annual (gross) income. The household's eligibility for deductions depends, in part, on the type of household. Not all households are eligible for all deductions. Exhibit 5-2 summarizes these deductions by household type:

### **EXHIBIT 5-2 ALLOWABLE DEDUCTIONS**

Type of Deduction Permitted	Type of Household	
	Elderly or Disabled	Family
Elderly or disabled Household	✓	
Dependent	✓	✓
Childcare	✓	✓
Medical expenses	✓	
Disability assistance expenses	✓	✓

### **5.5.1 Elderly and Disabled Households**

As noted in Exhibit 5-2, a household's eligibility for adjustments to annual income depends in part on whether the household qualifies as an "elderly" household, a "disabled" household or a "family" (non-elderly) household.

An elderly household is any household in which the head, spouse or sole member is 62 years of age or older; two or more persons who are at least 62 years of age live together; or one or more persons who are at least 62 years of age live with one or more live-in aides. Exhibit 5-3 provides examples of elderly households.

### **EXHIBIT 5-3**

Each of the following are considered elderly households:

- Alice Smith (age 65) and her husband Joe (age 60)
- Juan Azul (age 69) and Rosa Ramirez (age 63) who live together
- Jane Green (age 92)
- Thomas Miller (age 74) and his live-in aide

A disabled household is one in which the head, spouse or sole member is a person with disabilities. Two or more persons with disabilities living together and one or more persons with disabilities living with one or more live-in aides also qualify as disabled households. The following examples in Exhibit 5-4 are considered disabled households:

#### ***EXHIBIT 5-4***

---

- Carlos Blanco (age 25 and disabled)
  - Fred Jones (age 42) and his wife Suzanne (age 41 and disabled)
  - Daniel Jackson (age 35 and disabled), his housemate Charlie Andrews (age 38 and disabled), and their live-in aide □
- 

Certain households may, however, include elderly or disabled household members and still not qualify as an elderly or disabled household. For example, neither of the following households qualifies as an elderly or disabled household:

#### ***EXHIBIT 5-5***

---

- Bob and Carol Jackson (age 50 and age 49, respectively) who have taken in Bob's mother (age 70) to live with them. Because Bob's mother is not the household head or spouse, this is not an elderly household.
  - Ted and Alexis Cooper (both age 35) have a son (age 14) who is disabled. Because the son is not the household head or spouse, this household is not a disabled household. □
- 

Exhibit 5-6 illustrates a family who is eligible for a combined deduction for both disability assistance and medical assistance.

### **5.5.2 Allowance for Child Care Expenses**

Childcare expenses are defined as the amount anticipated to be paid by the family for the care of children (including foster children) during the period for which annual income is computed. Childcare is only deductible where such care is *necessary to enable a family member to be gainfully employed or to further his or her education*. It is up to housing policies to determine under what age, if any, children must be to be eligible for a childcare deduction.

**EXHIBIT 5-6**

**Special Calculation for Families Who Are Eligible  
for Disability Assistance and Medical Expense Deductions**

Head (retired/disabled)—SS/pension income	\$16,000
Spouse (employed)—employment income	+ \$4,000
<b>Total Annual Income</b>	<b>\$20,000</b>
Total disability assistance expenses	\$500
Total medical expenses	\$1,000

**Step 1:** Determine if the disability assistance expenses exceed 3% of the family's total annual income.

Total disability assistance expenses	\$500
Minus 3% of total annual income (.03 x \$20,000)	- \$600
	(\$100)

*No portion of the disability expenses exceeds 3% of the annual income; therefore, the disability assistance deduction is \$0.*

**Step 2:** Calculate if the medical expenses exceed the balance of 3% of the family's total annual income.

Total medical expenses	\$1,000
Minus the balance of 3% of total annual income	- \$100
<b>Allowable medical expenses deduction</b>	<b>\$900</b>

**Suggested Rules for Child Care Allowances:**

Deduct Child Care expenses if:

- The amount(s) deducted are reasonable.
- If childcare enables a family member to be gainfully employed, the amount deducted should not exceed employment income.
- The amount is not paid or reimbursed by an agency or individual outside the household.

Childcare expenses incurred to permit a family member to work must not exceed the amount earned by the family member made available to work during the hours for which childcare is paid.

Do not deduct:

- If child support payments are for children who do not live in the unit.

- If expenses are for the care of a person with disabilities who is older than the age determined by policy.

**NOTE:** *If the individual or organization providing childcare also cares for other family members, prorate the total cost and allocate a specific amount for the care of children under the age set by the policy!*

### 5.5.3 Earned Income of Minors

This allowance excludes any earned income of any member of the family who is less than 18 years of age.

### 5.5.4 Excessive Travel Expenses

This allowance is for the benefit of families who must travel long distances to and from work or school. It is important to remember that this allowance can only be allowed for excessive travel for employment or education purposes. The allowance must be reasonable and **may not exceed \$25 per week** for the entire household, not per traveler.

### 5.5.5 Other Amounts

The Recipient may determine and define other allowances that may be deducted from a family's annual income. These deductions should be included in the admissions policy and the Indian Housing Plan.

## 5.6 TOTAL TENANT PAYMENT (TTP) COMPUTATION

The TTP is the amount a tenant is expected to contribute for rent. TTP for NAHASDA-assisted programs is typically calculated based on a percentage (not to exceed 30 percent) of adjusted gross income. Some programs provide a utility allowance which is subtracted from the TTP, leaving the amount equaling the tenant rent. It is possible for tenant rent to be \$0 if the utility allowance is greater than the TTP.

### **EXHIBIT 5-7**

<b>Example – Calculating Tenant Rent with Utility Allowance Based on Monthly Adjusted Gross Income</b>	
Annual Income	\$21,000
Deductions	- \$ 960
Adjusted <b>Annual</b> Income	\$20,040
Adjusted <b>Monthly</b> Income	\$ 1,670 X .30
TTP:	\$ 501
Utility Allowance:	- \$ 84
Tenant Rent	\$ 417

**Exercise**

**Exercise – Calculating Tenant Rent with Utility Allowance  
Based on Monthly Adjusted Gross Income**

The King family's annual income is \$24,000. They qualify for \$400 in deductions since they are an elderly family. The housing department limits their Total Tenant Payment to 30% of the adjusted monthly income. It also provides a \$75 monthly utility allowance. How much would the Kings pay for their monthly rent?

Annual Income \$ \_\_\_\_\_

Deductions - \$ \_\_\_\_\_

Adjusted **Annual** Income \$ \_\_\_\_\_

\_\_\_\_\_ ÷ 12 months = \$ \_\_\_\_\_  
Adj. Annual Income Adj. Monthly Income

\_\_\_\_\_ x .3 = \$ \_\_\_\_\_  
Adj. Monthly Income Total Tenant Payment (TTP)

TTP: \$ \_\_\_\_\_

Monthly utility allowance: -\$ \_\_\_\_\_

Monthly rent \$ \_\_\_\_\_

**Exercise – Calculating Tenant Rent  
Based on Monthly Adjusted Gross Income**

The Star family’s annual income is \$24,000 and \$25 per week in Food Stamps. They are an elderly family. The head of household works 25 hours every week and must travel over 50 miles to get to work. The housing department allows \$25 per week, per family for excessive travel expenses for employment or education related travel. The housing department also limits their Total Tenant Payment to 30% of the adjusted monthly income. It also provides a \$50 monthly utility allowance. How much would the Stars pay for their monthly rent?

Annual Income	\$ _____
Deductions	- \$ _____
Adjusted <b>Annual</b> Income	\$ _____

_____	÷ 12 months = \$ _____
Adj Annual Income	Adj Monthly Income

_____	x .3	= \$ _____
Adj. Monthly Income		Total Tenant Payment (TTP)

TTP:	\$ _____
Monthly utility allowance:	-\$ _____
Monthly rent	\$ _____

**5.7 Low-Income TTP Computation Issues**

Section 203(a) of NAHASDA states that rent or homebuyer payments for low-income families cannot exceed 30 percent of the family’s monthly adjusted income. The Recipient may choose to use a lower percentage of adjusted income for calculating house payments. A sample excerpt from an admissions and occupancy policy is provided in Exhibit 5-8.

**5.7.1 Flat Rate**

In accordance with 24 CFR §1000.126, the Recipient may now charge a flat or income-adjusted rent or homebuyer payment provided that rent or payment does not exceed 30 percent of the family’s adjusted income. However, the Recipient must ensure that

procedures are in place to ensure that a low-income family's house payment does not violate the 30 percent rule.

## **EXHIBIT 5-8**

### **1. RENTAL PAYMENTS FOR LOW-RENT HOUSING FOR SENIORS**

- a. Gross annual income will be defined in accordance with the Section 8 definition.
- b. Rent will be based on 15% of adjusted gross income of the household.
- c. Gross annual income will be adjusted by the following deductions:
  - (1) Dependents \$480
  - (2) Documented childcare up to \$1,200
  - (3) Utility deduction of \$1,000 per year.
  - (4) Elderly deduction of \$400 per elderly household using the home as their principal residence.
  - (5) Per capita payments of tribal members if there is enough income to meet the minimum payment requirements.

#### **5.7.2 Less Than 30 Percent**

If the Recipient chooses to charge less than 30 percent of adjusted gross income for all families, less income will be generated to operate the housing program as a business. In this instance, the Recipient may have to find other income to fill the gap or reduce operating expenses accordingly. This also applies when the Recipient charges lower rates for elderly, disabled families, and/or veterans.

Regardless of what percentage is used, the occupancy staff will have to calculate the monthly rent or house payment. Today, many housing programs have computerized systems that compute rent and house payment calculations based on the definition of income that is adopted. It is important to remember that after deciding on the definition of income that is to be used, the exclusions from income apply as defined in NAHASDA and 24 CFR Part 1000.

#### **5.8 WHEN IS A FAMILY CONSIDERED LOW-INCOME?**

A family is considered low-income if the family is low-income at the following times:

- In the case of rental housing, at the time of the family's initial occupancy of such unit.
- In the case of a contract to purchase existing housing, at the time of purchase.
- In the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed,

- In the case of a contract to purchase housing to be constructed, at the time the contract is signed. If the family subsequently becomes a non-low-income family due to an increase in income, the family may continue to participate in the program in accordance with the Recipient's admission and occupancy policies.

### **5.9 CALCULATING ASSISTANCE FOR NON-LOW-INCOME FAMILIES**

Without HUD approval, a Recipient may use up to 10 percent of the amount planned for the tribal program year for families whose income falls within 80 to 100 percent of the median income. HUD approval is required if a Recipient plans to use more than 10 percent of the amount planned for the tribal program year for such assistance or to provide housing for families with income over 100 percent of median income.

Non-low-income families cannot receive the same benefits provided low-income Indian families. The amount of assistance non-low-income families may receive will be determined as follows:

- The rent (including homebuyer payments under a lease purchase agreement) to be paid by a non-low-income family cannot be less than:  $(\text{Income of non-low-income family} / \text{Income of family at 80 percent of median income}) \times (\text{Rental payment of family at 80 percent of median income})$ , but need not exceed the fair market rent or value of the unit.
- Other assistance, including down payment assistance, to non-low-income families cannot exceed:  $(\text{Income of family at 80 percent of median income} / \text{Income of non-low-income family}) \times (\text{Present value of the assistance provided to family at 80 percent of median income})$ .

To determine the fair market rent for your area, visit [www.huduser.org/datasets/fmr.html](http://www.huduser.org/datasets/fmr.html).

The requirements set forth in this section do not apply to non-low-income families that the Recipient has determined to be essential under §1000.106(b).

Guidance on Calculating Down Payment Assistance, Calculating Rental Monthly Payments, and Calculating Homebuyer Payments for non-low-income families are provided in **APPENDIX 5**.



## **SECTION 6 VERIFICATION PROCESS**

### **6.1 PROCESSING APPLICATIONS**

Before the selection process can occur, admissions and occupancy staff should interview the applicant family and obtain current information about the applicant family's circumstances in order to prepare for the verification process.

At the interview:

- Confirm and update all information provided on the application.
- Explain program requirements, verification process, and penalties for providing false information.
- Obtain current family income and household composition information and other data needed to certify eligibility and compute the applicant's rent or homebuyer payment.

### **6.2 VERIFICATION OF INFORMATION**

In accordance with 24 CFR §1000.128, housing staff must verify that a family is income-eligible based on the family's anticipated annual income. Verifications must be retained in the resident's file as it will be reviewed during compliance monitoring.

Recipients are required to verify information relating to eligibility, assets, income, and deductions from income, admission preferences, and compliance with applicant selection criteria. Exhibit 6-1 provides examples of typical items that need to be verified for housing assistance programs.

Because Recipients have flexibility in designing its programs, there may be program specific items that need to be verified. Likewise, some items mentioned in Exhibit 6-1 may not be applicable. Whatever the situation, each program must be governed by policies and procedures applicable to that assistance.

<b>Exhibit 6-1</b>
<ul style="list-style-type: none"> <li>• Eligibility for admission, such as:</li> </ul>

- Proof of tribal affiliation
- Income, assets and asset income
- Family composition
- Social Security numbers
- Recipient Preferences if any, such as:
  - Tribal member preference
  - Other federally recognized enrolled member
  - Program-specific preference (i.e., homeownership, veterans, etc.)
- Recipient Priorities
  - Income targeting, income tiers, broad range of income goals
  - Never been served
  - Elderly
  - Homeless
  - Displacement by natural disaster, governmental action, domestic violence
- Deductions, such as:
  - Family members (other than head or spouse) under age 18
  - Age or disability of family head or spouse
  - Disability of family members other than head or spouse
  - Full-time student status of family members other than head or spouse
  - Childcare costs
  - Disability assistance expenses (working families only)
  - Unreimbursed medical costs (Elderly and Disabled Families only)
- Recipient standards for Applicant Selection Criteria, such as:
  - Documented ability to abide by Recipient lease/contract requirements
  - Landlord references
  - Home visits
  - Credit checks
  - Previous history of tenancy, rent paying, caring for a home
  - Utility history
  - Criminal history of all adult household members, if required
- Other Program Requirements, if applicable, such as:
  - Emergency Housing
  - Congregate Housing
  - Special Needs Housing
  - Housing Rehab
  - Down Payment Assistance

For example, the Any Tribal Housing Authority operates a down payment assistance program for low-income families. The level of assistance is \$5,000 for any low-income

family who can qualify to purchase a home and income qualify under NAHASDA. In this case, the Recipient needs to verify gross annual income. Factors such as displacement or disability will not even be a priority consideration. Exhibit 6-2 provides verification items specific to other programs.

### 6.2.1 Verifying Social Security Numbers

One of the most important tools for identification is an applicant's/participant's Social Security number. Prior to admission each family member who has a Social Security number and who is at least 6 years of age is required to disclose and verify that Social Security number. Children on whose behalf welfare benefits are paid have Social Security numbers.

The best verification of the Social Security number is the original Social Security card. If the card is not available, the Recipient may accept letters from Social Security that establish and state the number. Documentation from other governmental agencies should also be accepted that establishes and states the number. A driver's license, military ID, passport, or other official document that establishes and states the number is also acceptable. The documents used to verify social security numbers should be copied and placed in the applicant's file.

**TIP:** If your tenants need an updated SS benefits statement they can go online using the following link to request that a copy be sent to their home:  
<https://secure.ssa.gov/apps6z/BEVE/main.html>

If applicants state that they do not have Social Security numbers, the Recipient should ask if the applicants have ever worked, had a bank account, received any government benefits, or attended school in the United States. If applicants respond negatively to these questions and continue to state that they do not have a Social Security number, they are required to sign a certification to this effect.

The Recipient may not require any individual who does not have a Social Security number to obtain a Social Security number. Most methods of verification require the Social Security number, so the Recipient should be familiar with how an applicant may obtain a Social Security number locally.

If applicants indicate they have Social Security numbers, but cannot readily verify them, the family cannot be assisted until verification is provided. Applicants who have Social Security numbers but refuse to provide them are not eligible for housing assistance.

If a member of a tenant family indicates he/she has a Social Security number, but cannot readily verify it, he or she shall be asked to certify to this fact and shall be given 60 days to provide the verification. If the individual is at least 62 years of age, they may be given up to 120 days at the Recipient's discretion.

**Exhibit 6-2: Verification Examples for Other Programs**

**Down Payment Assistance Additional Verification Requirements**

- Completion of 18 hours of homebuyer education
- Two years' stable employment
- Mortgage readiness
- Appraisal
- Private financing commitment
- Insurance
- No outstanding debt to the housing authority
- First-time homeowner
- Principal residence

**Housing Rehabilitation Grant Assistance**

- Residential status
- Principal residence
- One-time assistance
- Home inspection
- Scope of work
- Cost analysis
- Ownership status
- Priorities
  - Senior citizen
  - Families with children
  - Veterans
- Work priority 1 – Emergency
- Work priority 2 – Major essential improvements
- Work priority 3 – Minor essential improvements

**Revolving Loan Assistance:**

- Ownership status
- First-time assistance
- Maintenance counseling
- Ability to repay
- Home inspection
- Scope of work
- Essential improvements

## **6.3 TYPES OF VERIFICATION**

To assure that the data upon which a determination of eligibility is to be based are full, true, and complete, the information submitted by each tenant is to be verified before any action or change can take effect. Complete and accurate verification records are to be maintained in the tenant's folder. Although there are three types of verifications that the Recipient can pursue, every attempt should be made to use third-party verification. If third-party verification is unsuccessful, the tenant file should be documented describing the efforts and result. All three methods are explained below.

### **6.3.1 Third-Party Verification**

Housing staff sends directly to the source and the documentation is returned directly to the housing office.

1. Third-party verifications should be obtained whenever possible. This type of verification comes directly from the income or information source. A third-party verification form should never be hand carried by the applicant to be filled out. The applicant will usually sign the top portion of the verification form confirming his or her permission to release the information. The form is then sent by the housing staff to the entity verifying the information and that entity returns the form directly to the housing office.

The completed verification form can be sent via e-mail, fax, or regular mail. **NOTE:** It is important that the method of return delivery clearly indicate that it is being provided directly from the information source. If an employer faxes a completed employment verification form to the housing office, then the fax number, date, and name of sender should appear on the top of the fax. If it is sent via e-mail, then the cover e-mail should be included with the completed verification form in the file to show the source of the income and the date and time it was received. Original verifications that are returned via regular mail should have housing's received stamp showing the date it was returned.

Sometimes the third-party verification form is not filled out by the entity completing the form. When this occurs, clarifications can be obtained via telephone follow up. The clarification must be on a separate form or memo as housing staff should **never** write in the areas of a verification form that are to be completed by the third party. The clarification record should indicate the name of the person contacted and the company, the date and time of the follow-up contact, the questions that were asked, and the information received. The housing staff person who made the follow-up call must also sign and date the clarification form.

Possible third-party verification sources can be obtained from, but not limited to, the following:

- Credit bureau
- Internal Revenue Services for income verification
- Federal matching programs for Social Security, income, public assistance
- Social Services/TANF for income
- Employer(s)
- Financial institutions
- Bureau of Indian Affairs
  - Credit and trust income
  - Certificate of Indian Blood
- Educational institutions
- Employment verification
- GA benefit verification
- Child support verification
- VA benefits verification

### 6.3.2 Second-Party Verification

2. Second-Party Verification is to be used when third-party verification has proven unsuccessful. The admissions and occupancy policy must address when circumstances warrant second party verification. As an example, a Recipient may require three attempts prior to relying on second party verification. In any event documentation must be included in the file demonstrating that all efforts were made and the decision to resort to second-party verification. The following represents examples of second party documents:

- Check stubs
- Social Security award letters provided by the applicant
- Copies of tax returns provided by the applicant

### 6.3.2 First-Party Verification

3. First-Party Verification is the least reliable method for verifying household information. You may use documents submitted by the applicant when:

- Information does not require third-party verification, e.g., birth certificates and Social Security cards.

- Third-party verification is impossible or delayed for a considerable period.
- You may wish to accept an applicant's notarized statement or signed affidavit if:
  - Such certifications are authorized, e.g., alien certification or asset disposal.
  - Other preferred methods can't be obtained.
  - Where family income is derived solely from cash transactions or through barter.
  - To document lack of any income.

A copy of these documents should be kept in the applicant's file (later to be resident's file). The resident file should also include a memorandum issued by the appropriate housing employee when third-party verification is not available.

#### **6.4 TIMING OF INCOME CERTIFICATIONS**

All households that receive assistance must be income eligible at the time assistance is provided. This declaration of income eligibility is called the **certification**. Verification of income is the process by which certification of income eligibility is established. The Recipient has the option to establish a time limit for which verification is valid. For example, some programs allow a 60-day period before the verification process must begin again. The "date of assistance" may vary depending on the activity. For example, in the homebuyer activity, it is close of escrow; however, for housing rehabilitation, it would be at the time a promissory note is executed.

Establishing a deadline for formal eligibility determinations is a challenging part of the planning process. The certification, the formal determination of income eligibility, must be made shortly before a household receives assistance. Because eligibility determination involves verification of income, waiting too long can delay assistance. Conducting income certifications too early in the process, however, might mean that certifications become outdated and must be redone. As an example, a Recipient may allow on 60 days.

#### **6.5 VERIFICATION FORMS**

When verifying information, occupancy staff should:

- Develop standard, professional looking forms requesting all information that must be verified including a general *Consent to Release Information* form, which provides a useful tool for acquiring necessary information. Consent forms must be signed by:

- The head of household (regardless of age)
- The spouse or co-head of household (regardless of age)
- Any other occupant who is 18 years old or older
- Standard verification forms include, but are not limited to, the following:
  - Consent to Release Information
  - Verification of Employment
  - Verification of Income
  - Verification of Trust Income
  - Verification of Savings
  - Verification of Pension
  - Landlord Verification

See **APPENDIX 17** for sample verification forms.

- Ask applicants to sign multiple copies of each verification form. If the third party misplaces the first copy, immediately forward another request for information without obtaining an additional signature. Alternatively, a clause can be included in the verification form in which the applicant provides permission that allows for the use of copies of the form.
- Send self-addressed stamped envelope with the request for information.
- Make personal contacts with major employers and public agencies from which many tenants receive income.
- Give the family an opportunity to explain any significant differences between the amounts they report, and amounts reported by the third party.

## **6.6 PROVISIONS FOR REFUSAL TO SIGN**

If the applicant or tenant, or any adult member of the applicant's or tenant's family does not sign and submit the consent form or verification forms as required, denial of assistance may be exercised.



## **SECTION 7 WAITING LIST MANAGEMENT**

### **7.1 WAITING LIST ORGANIZATION**

Once an applicant is determined to appear eligible to receive housing assistance pursuant to your policies, the applicant's name is placed on the waiting list. The waiting list is the mechanism used to implement the preference system and establishes the order in which housing assistance is offered to qualified applicants.

Policies should include the following topics:

- a. Essential application information required for waiting list placement
- b. Preferences and priorities within those preferences
- c. Opening and closing the waiting lists, as applicable
- d. Waiting list organization (i.e., by location, bedroom size, and program type)
- e. Entering new applicants
- f. Updating
- g. Removal from the waiting list
- h. Making and rejecting offers
- i. Reporting

Setting up and maintaining the waiting list properly is essential to carrying out admissions in accordance with program regulations and local policies. A well-organized waiting list is also a source of data about need and demand for units by size, type, and location. The waiting list may be closed if the number of applications greatly exceeds the available units.

### **7.2 PREFERENCES**

The admissions policies may include preferences, which do not guarantee admission but rather, establish the order of placement on the waiting list. Assigning preferences to applicants who meet certain criteria is a method intended to provide housing opportunities to applicants based upon household circumstances.

Applicants with preferences are selected from the waiting list and receive an opportunity for an available unit earlier than those who do not have a preference. Preferences affect only the order of applicants on the waiting list. They do not make anyone eligible who

was not otherwise eligible, and they do not change an owner's right to adopt and enforce tenant screening criteria.

Recipients' policies identify available preferences and give all applicants an opportunity to show that they qualify for available preferences. The preference specifically identified under NAHASDA allows Recipients to give preference to tribal members first in providing housing assistance. Exhibit 7-1 provides an excerpt from a Recipient's policy regarding tribal preference.

**EXHIBIT 7-1**

**Example – A&O Policy Statement**

**Tribal & Indian Preference**

Notwithstanding the other provisions of this section or this Policy, the Cullowhee Tribe will give preference in admissions to members of the respective Bands of the Cullowhee Indian Tribe of Somewhere. The order and application of these preferences shall be set forth elsewhere in this Policy.

Other examples of preferences are:

- Length of residency in the Indian Area
- Mortgage readiness
- Elderly
- Homelessness
- Students
- Persons of disability
- Veterans

**7.3 PRIORITIES**

The admissions policies may also identify priorities within program preferences to ensure consistency with specific program requirements or to correct any inequities, such as families who have never been assisted versus those who have been previously assisted.

Exhibit 7-2 provides examples of priorities for a Lease/Purchase Program

### **EXHIBIT 7-2 HOMEBUYER PROGRAMS**

Lease/Purchase Program can establish priorities including, but not limited to, the following:

- First time homebuyer
- Length of stable employment
- Creditworthiness
- Affordability
- Savings

#### **7.4 PLACEMENT ON THE WAITING LIST**

The Recipient must review each completed application received and make a preliminary assessment of the family's eligibility. Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. A final determination of eligibility and qualification for preferences will be made when the family is selected from the waiting list. The admissions and occupancy policy must identify the circumstances under which an application is considered eligible to be placed on the waiting list. A common practice is to consider only **completed** applications. This makes sense for large housing programs because of the huge demand for housing assistance. However, incomplete applications must still be reviewed in order to identify missing information and tracked. The admissions and occupancy policy should address how incomplete applications are handled and the applicant is notified.

If it appears that the applicant is likely to be eligible, the Recipient may send written notification of the family's placement on the waiting list. If applicable, the notice will also indicate the waiting list preference(s) for which the family appears to qualify.

The Recipient must place on the waiting list families for whom the list is open unless the Recipient determines the family to be ineligible. Where the family is determined to be ineligible, the family must be notified in writing. The notice will specify the reasons for ineligibility and inform the family of their right to request an informal hearing and explain the process for doing so.

#### **7.5 UPDATING THE WAITING LIST**

It is a good practice to update waiting lists annually by contacting applicants to confirm that the information in their applications is still accurate, and to reaffirm that they are still



interested in the housing assistance for which they applied. If staff determines that the applicant is no longer eligible or if the applicant requests to be removed, staff should document this and remove the applicant from the waiting list.

Waiting lists can be maintained manually or in an automated system. The primary advantages of automation are the quick manipulation of a large amount of data and greater objectivity. However, the data is only as good as the staff inputting the data.

## SECTION 8 SELECTION

### **8.1 NAHASDA TENANT AND HOMEBUYER SELECTION PLAN**

Section 207(b) of NAHASDA describes the tenant selection criteria for housing assistance provided with IHBG funds:

*(b) **TENANT AND HOMEBUYER SELECTION-** The owner or manager of affordable rental housing assisted with grant amounts provided under this Act shall adopt and utilize written tenant and homebuyer selection policies and criteria that—*

- (1) are consistent with the purpose of providing housing for low-income families;*
- (2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and*
- (3) provide for—*
  - (A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in the Indian housing plan for the tribe that is the grant beneficiary of such grant amounts; and*
  - (B) the prompt notification in writing to any rejected applicant of that rejection and the grounds for that rejection.*

### **8.2 TENANT SELECTION PLAN**

Recipients must develop and make public written tenant selection policies and procedures that include descriptions of the income and other eligibility requirements that must be met for admission. Exhibit 8-1 provides a sample outline of the areas that a tenant selection plan should address.

### **EXHIBIT 8-1**

### Required Topics

1. Income eligibility requirements
2. Indian Preference requirements
3. Other preferences and priorities
4. Definition of "family"
5. Project specific eligibility requirements
6. Social Security number requirements
7. Income limits
8. Procedures for accepting applications and selecting from the waiting list:
  - Procedures for accepting applications and pre-applications
  - Procedures for applying preferences (including income-targeting)
  - Applicant screening criteria
    - Required drug-related or criminal activity criteria
    - Other allowable screening criteria
9. Procedures for rejecting ineligible applicants
10. Occupancy standards
11. Unit transfer policies, including selection of in-place residents versus applicants from the waiting list when vacancies occur
12. Section 504 of the Rehabilitation Act requirements & the Indian Civil Rights laws and statutes
13. Policy for opening and closing the waiting list for the property
14. Applicant notification and opportunity to supplement information already provided
15. Procedures for identifying applicant needs for the features of accessible units or reasonable accommodations
16. Policy for notifying applicants and potential applicants of changes in the tenant selection plan

### **8.3 SELECTION CRITERIA**

Selection criteria for tenants and homebuyers are established by policy. Examples of permissible criteria are:

- Demonstrated ability to make monthly rental or homebuyer payments on time and to be a good customer and neighbor
- Comments from current and prior landlords
- Credit references
- Housekeeping habits

- Criminal background checks (to document illegal drug use or criminal activity)
- Units which are handicapped accessible
- Reasonable accommodation to disabled applicants
- Consideration of any extenuating circumstances
- Use/necessity of assistive animals

The following criteria are **prohibited**:

- Physical Examination
  - Physical examinations or medical testing may not be required as a condition of admission.
  - Pregnant applicants may not be required to undergo medical testing to determine a child's sex for assigning bedroom size.
- All applicants may be uniformly required to furnish evidence of ability to meet the obligations of tenancy, but greater burdens may not be imposed on individuals with handicaps. Persons with handicaps may meet the requirements of occupancy with the assistance of others, such as attendant care providers.
- Disability Status.
  - Except for units specifically designed for individuals with disabilities, (where an applicant requests such a unit or preference) it is unlawful to make an inquiry to determine whether an applicant for a dwelling unit, a person intending to reside in that dwelling unit after it is rented or made available, or any persons associated with that person, has a disability, or to make an inquiry as to the nature or severity of the disability of such a person.

## **8.4 OVERVIEW OF SELECTION PROCESS**

Generally, the steps in the selection process are as follows:

- An applicant must complete a preliminary application which provides enough information to determine eligibility to receive housing assistance in order to be placed on the waiting list.
- When an appropriate unit becomes available, the top applicant on the waiting list is notified of pre-selection and asked to come in for an interview to collect current information.



- During the verification process, the staff will determine if the applicant still meets the qualifications for the specific program.
- Once verification is completed and eligibility is confirmed, an offer of housing assistance is extended and, if it is accepted, a unit is assigned.

Many systems for selecting participants have been developed to ensure fairness and prevent conflict of interest issues from occurring. The methodology chosen by the Recipient must be established by policy. Some of the selection methods include, but are not limited to, the following:

- Lottery
- First come, first serve
- Points system

A sample selection criterion score sheet using a points system for a rental program and a lease purchase program are included in Exhibits 8-2 and 8-3 respectively.

**EXHIBIT 8-2**

**RENTAL SELECTION SCORE SHEET**

DESCRIPTION	POINTS VALUE	AWARDED
<b>LOCAL AREA BONUS POINTS: Enrolled Tribal member Family living in the community</b>	<b>25</b>	
<b>1. HEAD OF HOUSEHOLD</b>		
<b>a. 2 Enrolled Tribal Members</b>	<b>60</b>	
<b>b. 1 Heads of Household Enrolled Tribal Member</b>	<b>30</b>	
<b>c. Member of Federally Recognized Tribe</b>	<b>15</b>	
<b>2. CHILDREN</b>		
<b>a. Enrolled Tribal Members</b>	<b>20</b>	
<b>b. 1 Enrolled Tribal Member</b>	<b>15</b>	
<b>c. Member of Federally Recognized Tribe</b>	<b>10</b>	
<b>3. REFERENCES</b>	<b>10</b>	
<b>4. EMPLOYMENT HISTORY</b>	<b>10</b>	
<b>5. HOUSING COUNSELING</b>	<b>10</b>	



**EXHIBIT 8-3**

**LEASE PURCHASE SELECTION SCORE SHEET**

DESCRIPTION	POINTS VALUE	AWARDED
<b>LOCAL AREA BONUS POINTS: Enrolled Tribal Member Family living in the community</b>	<b>25</b>	
<b>1. HEAD OF HOUSEHOLD</b>		
a. 2 Enrolled Tribal Members	60	
b. 1 Heads of Household Enrolled Tribal Member	30	
c. Member of Federally Recognized Tribe	15	
<b>2. CHILDREN</b>		
a. Enrolled Tribal Members	20	
b. 1 Enrolled Tribal Member	15	
c. Member of Federally Recognized Tribe	10	
<b>Mandatory Points for Consideration</b>		
<b>3. REFERENCES (credit)</b>	<b>10</b>	
<b>4. Meets minimum Income guidelines for Debt Service</b>	<b>20</b>	
<b>5. 3 years' employment stability</b>	<b>20</b>	
<b>6. Homebuyer education compliance</b>	<b>20</b>	
<b>7, Mortgage ready in 3 years</b>	<b>20</b>	

**8.5 SELECTION PROCESS**

Upon availability of a unit, the staff will select an applicant from the top of the appropriate waiting list. Some housing programs select the top two applicants to expedite the process so that if the first family does not qualify, they can quickly move on to the next family

Generally, the following selection procedures will apply:

- Send written invitation to top family (or families) on the appropriate waiting list.
- Respondents submit notice of acceptance within a prescribed time frame—typically 14 working days from the date of the letter of pre-selection.
- Staff requires meeting with family to provide orientation and update them about the requested information for verification.
- Staff verifies all information and determines income and program eligibility.

- After determining that all criteria for selection have been satisfied, the housing staff will proceed to final selection and move-in.
- Once a determination is made, written notice must be mailed to the family. The notice should include at least the following:
  - A description of the determination
  - A time frame for receipt of a response from the family
  - A description of hearing appeals process
- If an applicant rejects two offers, your policies could require that they be removed from the waiting list for a specified period—typically 6 months.

## **SECTION 9 OCCUPANCY STANDARDS**

### **9.1 UNIT SIZE**

One of the most difficult aspects of selecting families for housing is determining the appropriate size of the housing unit. Because the number of family members increases and/or decreases over time, a dwelling unit appropriate today may not be appropriate a year from now. It may be necessary to anticipate the size of the family to avoid having to move them to a larger home in the future. However, it is never appropriate to place a family in an overcrowded situation in anticipation of the family size decreasing in the future.

There are no set requirements specified by NAHASDA or HUD as to what size of unit should be assigned to a family at the time of move-in. Consider developing occupancy standards for determining unit size at move-in. In doing so, think about:

- The number of people in the household
- Children expected to be born
- Children who are in the process of being adopted
- Children whose custody is expected to be obtained by a member of the household
- Live-in attendants
- Children who are away at school, but live with the family when school is out
- Families requiring additional bedrooms due to health or medical reasons
- Possible growth potential of the family (in homeownership programs)

#### **9.1.1 General Guidelines for Unit Size**

The Recipient should follow these guidelines:

- Determine how many persons can share a bedroom or whether persons of the opposite sex can share a bedroom.
- In developing standards, consider the size of the unit, and the number and size of the bedrooms.
- Determine whether children of the same sex may share a bedroom.
- Consider (when reasonable to do so) the number of persons in the household and

the relationship and sex of the persons.

- Consider whether the number of persons required to share a bedroom should be limited.
- Consider whether unrelated adults and persons of the opposite sex (other than spouses) should not be required to share a bedroom.
- Consider whether a child may be required to share a bedroom with a parent, depending on the child’s age.
- Consider whether it is permissible to provide additional bedroom space for others who are not members of the household—such as adult children on active military duty, or visitors.

To avoid overcrowding, it is advisable to match the family size to the bedroom size of the home in accordance with locally established Occupancy Standards. Such standards could be waived when necessary to achieve or maintain full occupancy. Exhibit 9-1 below shows typical standards.

**Exhibit 9-1** SAMPLE OCCUPANCY STANDARDS

Bedrooms	Minimum Persons	Maximum Persons
1	1	3
2	2	5
3	3	7
4	4	9
5	5	11

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## **SECTION 10 A&O ISSUES FOR OTHER PROGRAMS**

### **10.1 OVERVIEW**

This manual provides comprehensive coverage of standard admissions and occupancy practices governing typical low-rent housing assistance. While these policies apply to housing programs in general, Recipients have created additional programs which generated unique requirements. These include NAHASDA-enabled activities such as the following:

- Down payment and closing costs assistance
- Tenant-based rental assistance
- Housing rehabilitation assistance
- Homeowner loan improvement assistance
- Mold remediation assistance
- Weatherization
- Emergency assistance

Sample policies are included in the Appendices.

### **10.2 DOWN PAYMENT ASSISTANCE POLICY**

Recipients operating down payment assistance programs must establish policies governing the eligibility of participants and the delivery of assistance. Regardless of the content of the policy, the first order of business is to determine income eligibility. In addition to the basic admission requirements, down payment assistance programs are developed by the Recipient based on needs of the tribal community. In designing a program, the Recipient should consider the following factors:

- Number of families who can qualify
- Grant assistance or loan
- Availability of housing existing housing stock/new construction
- Area economy
- Affordability ratios

- Mortgage financing lenders
- Useful life

When using NAHASDA funds, there must be binding agreements to comply with affordability requirements which defines the period for repayment or recapture of the funds based on the amount of funds invested in the home purchase. The example below outlines a Recipient's approach to useful life. Program Guidance 2014-09(R) *Useful Life and Binding Agreements*, **APPENDIX 8**, describes in detail NAHASDA useful life requirements.

**EXHIBIT 10-1**

Per Unit MFA Investment	Minimum Recapture Period	Secured by:	Financing Terms
<\$5,000	1 year	<b>Subordinate mortgage promissory note</b> as determined by the Executive Director	Contingent upon Affordability, income
\$5,000 - \$10,000	10 years	<b>Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note</b>	Contingent upon Affordability, income
\$10,000 - \$15,000	15 years	<b>Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note</b>	Contingent upon Affordability, income
\$15,000 - \$25,000	20 years	<b>Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note</b>	Contingent upon Affordability, income
\$25,000 - \$40,000	30 years	<b>Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note</b>	Contingent upon Affordability, income

Exhibit 10-2 provides sample eligibility criteria for down payment assistance.

**EXHIBIT 10-2**

CATEGORY	DESCRIPTION
1. Purpose	Addresses tribal community needs
2. Eligibility Requirements	Income, affordability
3. Housing Counseling Requirements	Includes credit repair, homebuyer education, debt management
4. Selection Criteria	First qualify for mortgage financing, first served
5. Eligible Property Type	Standard condition
6. Property Value	Establish cost limit, may apply TDC
7. Maximum Assistance for Low-Income Families	\$10,000
8. Maximum Assistance for Moderate Income Families	Use HUD formula to calculate maximum assistance depending on moderate income level
9. Property Standards	Set parameters for unit condition
10. Eligible Costs	Down payment, closing costs, legal review, appraisal
11. Financing Source	Terms of financial assistance; terms in the event of resale or other disposition of the property
12. Period of Repayment, Recapture, or Resale Provisions	Establishes a period of affordability for assistance:
13. Leveraging	Encourages participant to personally invest in the home or find other funds
14. Monitoring Requirements	Monitor debt service repayment and useful life tracking
15. Application Procedures	Standard application, copy of loan documents, conditional grant document or subordinate mortgage document, record documents as lien on property

**APPENDIX 18** contains a sample down payment assistance policy.

### **10.3 LEASE PURCHASE PROGRAM**

Lease purchase programs provide an exclusive option to the homebuyer to purchase the home within an option period based on when the applicant can achieve mortgage readiness. Analysis of income and education requirements exceed those required for a simple rental assistance program. Some programs require a prequalification waiting period to be sure the applicant is committed to becoming mortgage ready. Whatever program design the Recipient chooses must be based on the demand for such a program and the cost for developing and operating a lease purchase program.

Because this type of program requires credit and debt monitoring as well as strict affordability requirements, the selection process is more rigorous as show in Exhibit 10-3.

#### ***EXHIBIT 10-3***

#### **Preferences in Selection of Homebuyers**

<b>1</b>	<b>Credit</b>	<b>50 pt.</b>
<b>2</b>	<b>Stability in Employment (2 or more years)</b>	<b>50 pt.</b>
<b>3</b>	<b>Income</b>	<b>40 pt.</b>
<b>4</b>	<b>Housing Ratios</b>	<b>20 pt.</b>
<b>5</b>	<b>Housing Counseling</b>	<b>10 pt.</b>
<b>6</b>	<b>Savings</b>	<b>5 pt.</b>

Homebuyer education and intense one-on-one housing counseling represent the components critical to the success of a homebuyer program. Exhibit 10-4 outlines the steps typical of a successful lease purchase program.



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**EXHIBIT 10-4**

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**1. Admission Orientation for Applicant**

- Review application with the applicant.
- Review a list of all the required documents that applicant must provide.

**2. Initial Intake Interview (Individual Setting):**

- Staff member completes standardized application with the applicant.

**3. Staff Reviews Application**

- Staff reviews the Credit Report(s) and compares it to the applicant's debt information contained in the application.
- Staff calculates the debt-to-income ratio and the "estimated" home loan affordability ratio for said applicant.
- Staff will recommend eligibility or ineligibility.

**4. First Draft Client Action Plan (CAP):**

- Staff member uses the information gathered from the application, credit report(s), ratios to prepare a draft of the applicant's CAP.

**5. Client Action Plan (CAP) Review Session (Individual Setting):**

- Schedule a CAP review session with the applicant.
- Discuss with the applicant program requirements and how these correlates to their CAP.
  - Explain the "estimated" home affordability and debt-to-income ratios.
  - Explain obstacles; identify goals.
  - Review the CAP with the applicant and referring to credit report when necessary.
  - Make any changes to the CAP while you have the applicant in your office.
  - Applicant determines whether they can be successful at reaching their CAP goals. Adjust if/when needed.
  - Review education classes required and get an idea of the applicant's schedule.
  - Record entire session in your applicant's CAP.
  - Review the CAP in its entirety one last time.
  - Staff member and applicant sign the CAP and provide copy of signed CAP to the applicant.

**6. Family Pre-Qualification Waitlist (12 months):**

- Applicants that have completed all their counseling requirements, CAP 1-year goals, and have all documentation in their file in 12 months will be placed on final waitlist.
- If any of the activities are incomplete, the applicant will remain on the pre-qualification waitlist, unless there are other circumstances that were cause for removal.

**7. Final Selection:**

- Applicant placed in home with a 3-year option period

**8. Option Exercised**

- Homebuyer obtains a mortgage for the home that was leased to them.

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**10.4 OCCUPIED HOME REPAIR OR REHAB PROGRAMS**

One of the common uses of IHBG funds is to assist homeowners with repairs and/or major rehab. To accomplish this, the Recipient must create a process for implementing

the steps to operate the program. These steps include but are not limited to:

- Establishing a written owner-occupied rehabilitation program which describes who will be served, the assistance to be provided, and the requirements to receive the assistance.
- Marketing the program and accepting applications.
- Processing applications and selecting participants.
- Performing environmental reviews.
- Establishing binding commitments to ensure assisted housing remain affordable according to the established useful life.
- Developing a scope of work.
- Obtaining wage rates.
- Establishing a project plan including detailed budgets, schedule, and production method.
- Competitively procuring a contractor or, if using force account, competitively procuring materials, tools and equipment, and hiring workers.
- Obtaining necessary insurance.
- Implementing work in accordance with plans and specifications.
- Regularly inspecting work to ensure quality.

Probably the most important element of this program is the complete understanding of the obligations and responsibilities of all parties involved throughout the entire process. Failure to put this information in writing often results in unrealistic expectations and hard feelings. Therefore, it is important that a checklist be used, such as the sample provided in Exhibit 10-5 following, to ensure nothing is missed or misunderstood.

A housing rehabilitation program must include all the relevant income and program eligibility requirements for staff to perform the admissions component of the program. Additionally, an orientation for applicants should be conducted for applicants to fully comprehend their responsibilities in arranging for the work to be performed and maintaining the property once the work is completed. A sample policy is contained in **APPENDIX 19**.

**EXHIBIT 10-5**

**REHAB PROGRAM CHECKLIST**

**STEP 1: ELIGIBILITY**

- Income
- Consent to release information
- Verifications
- Ownership status

**STEP 2: DEFINE SCOPE OF WORK (SOW)**

- Inspect property
- Prepare SOW
- Environmental
- DOL
- Cost analysis
- Procurement
- Budget
- Insurance

**STEP 3: EXECUTE AGREEMENT**

- Meet with applicant
- Review documents

**STEP 4: COMMENCE WORK**

- Inspect
- Make payments
- Final inspection, payment
- Certificate of occupancy

**STEP 5: FINAL PROCESS**

- Record lien
- Monitor

**10.4.1 Home Repair Agreement**

Another important document that needs to be completed is a Home Repair Agreement, such as Exhibit 10-6. This agreement should include provisions that comply with NAHASDA useful life requirements. The Useful Life Program Guidance 2014-09 contains other sample agreements as well. Additionally, agreements must be recorded, and insurance requirements apply.

**EXHIBIT 10-6**

**SAMPLE HOME REPAIR PROGRAM AGREEMENT**

The (Tribe/TDHE), hereinafter referred to as "Tribe/TDHE", and \_\_\_\_\_ hereinafter referred to as "Homeowner", hereby agree as follows:

1. The Homeowner has applied for the Home Repair Program. Based on the information supplied by the Homeowner and verified by the Tribe/TDHE, the Homeowner has been determined to be eligible for the program.
2. An Inspection and Environmental Review of the property located at \_\_\_\_\_ has been done by the Tribe/TDHE and substandard conditions have been verified and included in the Scope of Work, which is attached and considered a part of this Agreement.
3. (Elderly Only) A grant in the amount of \$ \_\_\_\_\_ has been approved. No payback of this grant is required.
4. (Non-Elderly Only) A loan in the amount of \$ \_\_\_\_\_ has been approved. This loan will be amortized over \_\_\_\_\_ years and no repayment will be required if the Homeowner does not sell or otherwise transfer ownership of the home during this amortization period. If the Homeowner does sell or otherwise transfer ownership of the home during this period, the unamortized portion of the loan shall be due and payable immediately. In addition, the Tribe/TDHE will place a lien on the property during the amortization period.
5. (Non-Elderly Only) The Homeowner must agree to carry Homeowner's Insurance on the dwelling, naming the Tribe/TDHE as Loss Payee and providing insurance certificates to the tribe for same. The insurance must be in an amount necessary to protect the loan investment in the property for a minimum of ten years after the date of the loan, or until the loan obligation is satisfied.
6. The Homeowners certifies that the home described in this Agreement is the primary residence of the Homeowner, and acknowledges that if any of the information provided to the Tribe/TDHE is false or misleading, participation in this program will be terminated and all costs incurred by the Tribe/TDHE shall be due and payable immediately, including any costs associated with collecting this debt.
7. The Tribe/TDHE agrees to have all work described in the Scope of Work performed in a professional and satisfactory manner. The Homeowner agrees that no further work will be done other than the work described in the Scope of Work.
8. All work shall be done either by the Tribe/TDHE or by subcontractors selected by the Tribe/TDHE. It shall be at the Tribe/TDHE discretion as to how the work is completed. All payments related to this work shall be made directly to the vendor. No payments of any kind shall be made to the Homeowner.

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by:

TRIBE/TDHE

HOMEOWNER

\_\_\_\_\_

**10.5 WEATHERIZATION**

Weatherization programs have similar considerations as do housing rehabilitation programs. The standard application form may be used to determine eligibility. However, additional questions need to be asked to determine the extent of assistance required. Useful life and insurance requirements may apply depending on the amount of assistance. The following list includes additional information that must be gathered to respond to the intent of a weatherization program.

- Energy Audit consent
- Primary Secondary Heating Sources

- Oil / Propane
- Natural Gas
- Electricity
- Wood
- Coal
  
- Types of Appliances
  
- Structural Deficiencies
  
- Consent Form for Utility Usage Data
  
- Weatherization Education Requirements
  
- Property Value Information
  
- Property Standards Requirements
  
- Warranty

Exhibit 10-7 lists the minimum steps that must be implemented to ensure program success for housing rehabilitation, weatherization, and or emergency assistance.

**Exhibit 10-7**

GENERAL STEP	INVOLVEMENT
Intake	Meet and interview tenant, homebuyer, or homeowner; take a pre-application, determine income eligibility, determine type of assistance, explain program and counseling requirements.
Initial Inspection	Schedule property inspection, inspect property, write deficiency list; prepare detailed work write-up and cost estimate (scope of work).
Verification	Prepare and submit verification forms, order title search, order appraisal (if applicable).
Verify Homeowner Income	Prepare and submit verification forms.
Schedule Counseling	Discuss during initial contact, insurance requirements, maintenance counseling.
Finalize Agreement	Complete all application documents.
Construction	Choose force account or conventional method of construction. Activities include but are not limited to the following: Comply with procurement and labor requirement, schedule construction, mobilize force account crew, Tenant/Homebuyer/Owner preconstruction conference, sign notice to proceed and scope of work.
Contracting	Solicit bids for electrical, heating, or other specialty items. Negotiate price and contract terms when applicable.
Construction Management	Conduct progress-inspections, final inspection, obtain owner approval.

## **SECTION 11 LEASE MANAGEMENT & COMPLIANCE**

### **11.1 NAHASDA REQUIREMENTS**

Tribes or housing authorities are required to adopt a *rental program dwelling lease* that contains the provisions described below from Section 207 of NAHASDA. *Lease-to-own* and *homeownership* programs may have separate leases and occupancy agreements. All leases and occupancy agreements, and any changes to them, should be reviewed by an attorney before they are implemented.

### **NAHASDA SEC. 207. LEASE REQUIREMENTS AND TENANT SELECTION.**

*(a) LEASES- Except to the extent otherwise provided by or inconsistent with tribal law, in renting dwelling units in affordable housing assisted with grant amounts provided under this Act, the owner or manager of the housing shall utilize leases that—*

*(1) do not contain unreasonable terms and conditions;*

*(2) require the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards;*

*(3) require the owner or manager to give adequate written notice of termination of the lease, which shall be the period of time required under State, tribal, or local law;*

*(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State, tribal, or local law, a resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;*

*(5) require that the owner or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms or conditions of the lease, violation of applicable Federal, State, tribal, or local law, or for other good cause; and*

*(6) provide that the owner or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—*

*(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the owner or manager of the housing;*

*(B) threatens the health or safety of, or right to peaceful enjoyment of*

*their premises by, persons residing in the immediate vicinity of the premises; or  
(C) is criminal activity (including drug-related criminal activity) on or off the premises.*

## **11.2 DWELLING LEASES**

The dwelling lease is one of the most important documents used in occupancy. It defines the binding contractual obligations between the Recipient and the resident and offers the opportunity for the Recipient to exercise its discretion. However, there are several suggested "dos and don'ts" you should consider. A list of inclusions is contained in Exhibit 11-1 and a sample dwelling lease is included in **APPENDIX 20**.

### **EXHIBIT 11-1: RENTAL LEASE INCLUSIONS**

- Identification of the parties who will reside in the dwelling unit
- Dwelling unit location
- Term
- Amount and due date of payments
- Other charges
- Amount and use of security deposit
- Resident's right to use and occupancy
- Receipt of policies
- Notice procedures
- Court jurisdiction
- Recertification, changes in house payments, household composition
- Utility services provided (if any)
- Tenant responsibility for utilities, solid waste
- Inspections
- Resident's maintenance responsibilities
- Housekeeping standards
- Defects hazardous to life, health or safety
- Tenant caused damages, charges, corrective action
- Entry of dwelling unit during tenancy
- Termination of the lease
- Grievance procedures
- Provisions of modifications
- Criminal activity, Illegal drug use
- Appliance use as intended (i.e., not using kitchen stove to heat house)
- Septic system guidelines (i.e., proper use)
- Appliance use as intended (i.e., not using kitchen stove to heat house)
- Recipient obligations
- Evictions
- Administrative remedies
- Signature clause
- Pet and or livestock restrictions (if any)
- Parking restrictions (if any)
- Abandoned vehicles

Here are some suggested addenda to dwelling leases many programs use. These items are part of the lease and are usually signed and dated separately by the resident. The



reason they are included with the lease is because the information or requirements may change periodically during the term of the lease, and it is easier to change the addendum rather than the entire lease.

- List of occupants residing in the unit
- Notice of payment and collections procedures
- Federal Privacy Act statement
- Drug-Free Housing
- Rules of occupancy
- Requirement to maintain “essential family” status for continued occupancy

### **11.3 EXCLUSIONS**

The following are some 'prohibited lease provisions,' or exclusions, along with a short description of each.

- **Confession of judgment:** Residents cannot be required to give consent to judgments against him/her before you have made any lawsuit against the resident. Residents cannot be required to say "I'm guilty" before he or she even knows the charges.
- **Seizure of personal property for rent or other charges:** It is not allowable to establish an agreement that will permit you to take the resident's property or possessions as collateral for rent or other charges specified in the lease. For example, impounding a resident's car because he or she owes maintenance charges is illegal.
- **Exculpatory clauses:** You cannot wash your hands of all liability before the fact. Requiring the resident to agree to such a clause in the lease is not permitted.
- **Waiver of legal notice by resident prior to actions for eviction or money judgments:** The resident must be given the right to notice of your intended legal actions against him or her. He or she cannot be denied this right.
- **Waiver of legal proceedings:** The resident cannot be denied his or her right to legal proceedings in the event of a dispute. Starting eviction proceedings or holding a resident's possessions prior to the resident's right to legal proceedings is prohibited.
- **Waiver of jury trial:** The resident cannot be denied the Constitutional right for legal proceedings relevant to disputes between the resident and the Recipient.
- **Waiver of right to appeal judicial error in legal proceedings:** In the event the

court makes an error in its ruling, the lease cannot require that the resident be denied his or her right to appeal.

- **Resident responsible for cost of legal actions regardless of outcome:** Residents cannot be required to pay for court costs and/or attorney fees for any legal action that you initiate, regardless of who wins. For example, if you have an established cost of \$20 for each non-payment of rent case taken to court, the resident cannot be billed for the \$20 if the court's judgment is in the resident's favor. On the other hand, if the resident loses, you may charge the \$20.

If you are at all familiar with the Constitution of the United States, you will recognize that these exclusions reinforce many rights all American citizens enjoy. These rights also apply to residents of Indian housing programs.

Your lease should contain all the terms and conditions necessary to protect the rights and uphold the responsibilities of both the housing program and its customers. The lease should be practical, enforceable, and consistent with the qualifications and expectations of your customers. Remember, the dwelling lease is the legal agreement that outlines how you and your residents will interact.

#### **11.4 LEASE PURCHASE AGREEMENT**

A Lease Purchase Agreement is a lease that allows the homebuyer to purchase their unit or to lease the unit with an exclusive option to purchase. This agreement specifies the resident's obligation over the term of the contract including:

- The obligation to perform or pay for required maintenance.
- The ability to provide a contribution in land, materials, cash or labor.
- The capacity to pay monthly homebuyer payments.

Homebuyers must also pay their utilities and monthly administrative charges, if any.

Because financial eligibility criteria for homebuyer programs are more stringent than the rental program, some Recipients have separate admissions policies designed to identify prospective homebuyers with the ability to meet the obligations of the program.

Admissions and occupancy policies may also include mandatory housing counseling requirements to help participants understand their financial and social responsibilities as participants in the homebuyer program.

#### **11.5 ORIENTATION**

Regardless of program type, an orientation for any applicant family must include a thorough review of the applicable lease agreement. For example, important points that should be covered when reviewing the lease for a rental unit include the following:

- Use the unit only as a principal, private residence.
- Pay rent and utilities on a regular basis.
- Keep the unit in good and safe condition.
- Cooperate with annual income recertification procedures and periodic inspections.
- Assure that household members and guests follow reasonable rules and do not disturb neighbors.
- Explain who is responsible for furnishing the specified utilities and appliances.
- Explain tenant's responsibility to maintain the property in decent, safe and sanitary condition.
- Familiarize the tenant with the process for requesting maintenance work, and policies about charging tenants for tenant-caused damage.
- Explain how the tenant should notify the housing program office when changes in family circumstances occur or when the family intends to move out.
- Describe the procedures that will be followed in terminating tenancy if the tenant violates the lease, and how disputes and grievances will be handled.
- Review insurance coverage available including:
  - Insurance provided by the Recipient.
  - Resources for tenants to obtain content (renters) insurance.
  - Process for filing claims.
  - Circumstances under which tenant family is responsible for payment of deductible.

### **11.6 COMPLIANCE ISSUES**

Lease compliance issues range from simple issues that can be handled by staff to complex issues that may require legal action. In all cases, preventative approaches ensure that time and money are spent more appropriately on housing services than on court actions. Basic compliance areas that are critical to continued occupancy include:

- Maintenance
- Inspections

- Recertification
- Housing counseling (see Section 12)
- Collections (see Section 13)

## **11.7 MAINTENANCE**

Maintenance responsibilities vary based on specific program requirements. Generally, tribes or housing authorities provide maintenance for rental housing, while homebuyers and homeowners must provide most or all the work on their properties. Most program funds restrict maintenance services to normal wear and tear and non-routine maintenance. Where tenant damage exceeds normal wear and tear, the Recipient may adopt a policy to charge tenants for the work required.

Maintenance policies describe the responsibilities of the Recipient and the tenant. A basic policy covering at least the following topics provides a helpful tool for occupancy staff working with families:

- Emergency, urgent, routine, and non-routine services
- Vacated unit repair
- Preventive maintenance
- Inspections
- Right of access
- Work order process
- Standards of work
- Schedule of costs
- Forms
- Maintenance counseling

It is a good idea to include excerpts of the maintenance policy in the standard lease agreement. Regardless of the housing assistance program, all families are expected to maintain the property in a safe and sanitary condition.

Exhibit 11-2 contains a sample "Failure to Perform Maintenance" clause included in a homeownership occupancy agreement.

### ***EXHIBIT 11-21***

#### **FAILURE TO PERFORM MAINTENANCE**

Failure of the participant to perform his maintenance obligations constitutes a breach of this policy and is grounds for termination of program assistance. Upon a determination by housing staff that a breach has occurred, the staff shall require the participant to agree to a specific plan of action to cure the breach and to assure future compliance. The plan shall provide for maintenance work to be done within a reasonable time by the housing staff in a

## **11.8 INSPECTIONS**

Generally, all housing programs have requirements for unit inspections. A tribal housing program that is responsible for the management and operation of 1937 Act homes and housing developed using IHBG funds must perform inspections in accordance with PIH Notice 2012-45 as follows:

### **11.8.1 Initial Inspections**

Initial inspections must be performed on all units constructed, acquired, and/or rehabilitated with NAHASDA funds. These units must be inspected by a recipient subsequent to, during the provision of such assistance, and prior to occupancy by the beneficiary household or, in the instance of owner-occupied housing, upon completion of rehabilitation work to ensure that the work performed and/or the condition of the housing meets the approved standards.

It is strongly recommended that the recipient document when and by whom the inspections were performed and that the results of the inspections be maintained by the recipient and made available during an on-site monitoring review.

### **11.8.2 Recurring Inspection Requirements**

NAHASDA requires recipients to review their housing for compliance not less frequently than

annually, and, as part of that review, to carry out an “appropriate level of onsite inspection”.

Evaluating the condition of housing assisted under NAHASDA is an integral part of a recipient’s self-assessment responsibilities. In determining the appropriate level of onsite inspection, it is incumbent upon a recipient to include the inspection of housing on a reasonable schedule in its

policies governing the management and maintenance of assisted housing (Section 203(e)). Periodic, scheduled inspections will allow a recipient to adequately assess the on-going compliance of such units with the requirements of NAHASDA.

Recurring inspections apply to NAHASDA-assisted housing units, regardless of the location of the unit. When the recipient owns, operates, or maintains the unit, it has an ongoing responsibility to ensure that an appropriate level of onsite inspections is carried out to ensure the proper maintenance and upkeep of the unit, or, to ensure that maintenance is provided by the purchaser/occupant. Examples of units for which a recipient has recurring inspection responsibilities are:

- Rental and homeownership units constructed, acquired, and/or rehabilitated with funds provided under the United States Housing Act of 1937 (Section 502(b) of NAHASDA);
- All units constructed, acquired, and/or rehabilitated with NAHASDA funds owned by the recipient, and those assisted units not owned by the recipient but for which the recipient has an ongoing responsibility to provide maintenance;
- All units constructed, acquired, and/or rehabilitated with NAHASDA funds and operated or managed by the recipient, but maintained by the occupant/purchaser under a lease-purchase agreement;
- Rental units constructed, acquired, and/or rehabilitated with NAHASDA funds and owned by the recipient, but operated or managed by another entity;
- Rental units constructed, acquired, and/or rehabilitated with NAHASDA funds that are owned by another entity, but are operated or managed by the recipient as affordable housing under NAHASDA.

Recurring inspections do not apply to owner-occupied units that receive NAHASDA assistance for rehabilitation, or units that are being purchased by a family with NAHASDA-based financing or mortgage assistance. These units would, however, be subject to an inspection prior to and during the period of rehabilitation, or prior to purchase and occupancy of the beneficiary household to ensure recipient standards of quality is met. Lease-purchase units occupied by a family are subject to recurring inspection requirements because they are owned, operated, or managed by the recipient.

Recurring inspections requirements are also not applicable to housing units that are assisted with NAHASDA funds but not owned, operated, or managed by the recipient (e.g. this may include Section 8 type units, and student housing units).

Period of Recurring Inspection Responsibilities:

The recurring recipient inspection requirement will eventually terminate. For rental housing, the requirement expires when the unit is no longer required to remain as affordable housing upon the end of its "useful life" as defined under 24 CFR §1000.142. For Mutual Help homes developed under Sec. 202 of the United States Housing Act of 1937 and lease-purchase housing developed with NAHASDA funds, the recurring

inspection requirement expires when unit ownership is conveyed to the homebuyer/purchaser.

## **11.9 RECERTIFICATION**

Even though recertifying the income of residents or homebuyers is not required, it is still a good practice to require recertification annually, especially for rentals. The purpose of recertification is to determine and adjust, if required, the monthly payment to be charged; and to determine if the unit size is appropriate for rental program residents.

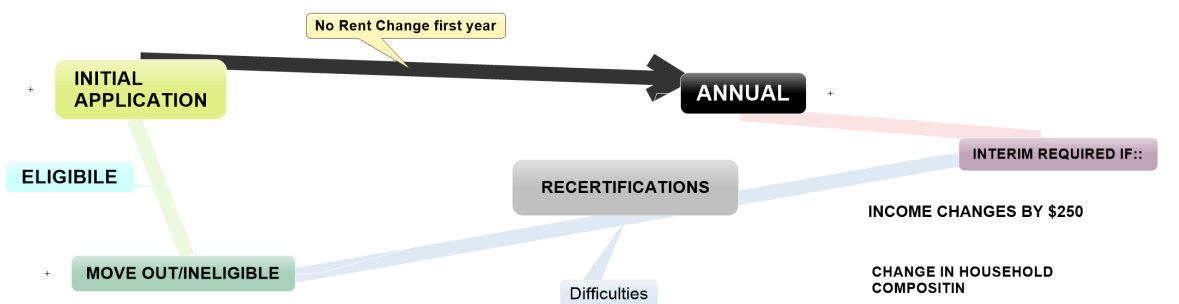
### **11.9.1 Scheduling**

Recertification may be scheduled on the anniversary date of the lease or homebuyer agreement execution. You may also wish to recertify residents on alternative dates to spread out the workload. All residents of a certain community or neighborhood may be recertified at the same time for efficiency. Alternative dates may also be desirable, especially when families are dispersed over a wide geographic area. In any event, recertification scheduling should be well planned so it can be performed in a timely and effective manner.

### **11.9.2 Timing of Recertification**

You should begin recertification at least 90 days in advance of the scheduled recertification date. You may elect to send out an initial notice in advance to schedule the recertification interview and provide a checklist of what you would like your resident to bring to the recertification interview.

During the interview, a staff member should obtain the proper signatures on the verification and release forms. Of course, after obtaining the proper signatures, staff should send out the documents to verify the information that affects the family's income and their rent or homebuyer payment. Verifications should be obtained by a third party whenever possible. Once all verifications are obtained, complete the necessary income and payment calculations. This procedure should be completed no later than 30 days in advance of the scheduled effective date of recertification. This affords the time to give the resident the proper 30-day notice of a rent increase (if necessary) as required by most tenant/landlord laws.



### 11.9.3 Interim Recertification

You may establish policies and standards for the adjustment of the monthly payment charge between regularly scheduled recertification. The policy should be effectively communicated in writing to the residents to assure that they understand their obligation to report interim changes in income and household characteristics that affect their rent/homebuyer payment.

**NOTE:** *It is a good idea to have something in your lease and/or policy that states if the tenant does not promptly report income changes, the re-computation of rent will be backdated to the date the change occurred.*

Some examples where interim recertification may be appropriate:

- A resident loses his or her job and goes on unemployment or welfare.
- A resident retires and is going on Social Security.
- A resident pass away and there is a loss of income and change in family composition.
- A resident moves out and there is a change of income and family composition.
- A resident changes employment and receives a substantial increase in pay.
- A resident family has a baby and there is a change in family composition.
- A resident who was certified as unemployed obtains employment.
- A resident has experienced a substantial increase in allowances, such as childcare medical expenses, handicap assistance or excessive travel.
- A resident turns 62 years of age.

Your policies should guide the implementation of the recertification process. Continued occupancy is determined through the recertification process. To obtain the family's cooperation, staff should thoroughly cover the requirement during the orientation process and the lease review session. Noncompliance should typically follow the same process mentioned above for compliance with maintenance and inspection requirements.

### **11.10 CORRECTIVE ACTION**

In all instances where there appears to be a failure to perform, legal actions should be preceded by taking the following actions:

- Initiate communications by phone.



- Make a home visit.
- Write the first letter to explain the following:
  - Efforts to contact the family.
  - Nature of the issue.
  - Process to resolve the issue.
  - Time frame by which the housing staff must be notified.
- Write a second letter to explain:
  - Efforts to contact the family.
  - Nature of the issue.
  - Process to resolve issue.
  - Time frame by which the staff must be notified.
- Write a third letter informing the family that the situation is being referred for legal action.

When dealing with maintenance, recertification, and collection issues, **documentation is critical** if legal action is pursued. Letters describing non-compliance and the corresponding corrective action details must be supported with written documentation. Phone contact prior to submitting a corrective action plan facilitates the opportunity to prepare the family prior to receiving the notices.

Note. **APPENDIX 23** contains sample letters used to describe a noncompliance issue and the corrective action plan to be followed.

## **SECTION 12 COUNSELING**

### **12.1 PURPOSE**

Increasingly, Native people are accessing housing assistance opportunities through a wide variety of programs. Tribes and housing authorities are offering program designs such as tenant-based rental assistance, emergency housing, and lease with option to purchase, rental housing, down payment assistance, and home purchase. As a result, housing counseling is becoming more and more critical to help families navigate through the myriad of housing programs and their requirements. Ongoing housing counseling can be a critical component of helping residents to become and remain successful homeowners or renters.

### **12.2 WHAT IS HOUSING COUNSELING?**

**Housing counseling** is a process in which the sharing of information between a client and a housing counselor helps to **alleviate the client's housing problems**. It is:

- **Personal** and **specific** to each client and usually conducted **one-on-one**.
- The art of helping people discover ways to **help themselves**.
- A relationship between a **trained helping person** and a client with a problem.
- The process of solving problems in a **professional manner**.

A **housing counselor** is a staff person who works with the client to overcome obstacles to meeting housing obligations. Some areas of housing counseling include:

<b>Housing Counseling Topics</b>	
<ul style="list-style-type: none"> <li>• Budgeting for financial housing obligations</li> <li>• Debt management</li> <li>• Credit repair</li> <li>• Homebuyer education</li> <li>• Advocacy</li> <li>• Self-sufficiency services</li> <li>• Financial literacy</li> <li>• Maintenance counseling</li> <li>• Fire safety</li> <li>• Pre-purchase counseling</li> </ul>	<ul style="list-style-type: none"> <li>• Early intervention before delinquency</li> <li>• Mortgage delinquency</li> <li>• Loss mitigation</li> <li>• Post-purchase (including home improvement and rehabilitation)</li> <li>• Mobility and relocation assistance</li> <li>• Rental Assistance/Section 8</li> <li>• Renters insurance (<i>The housing entity covers the building but not personal contents</i>)</li> <li>• Grievance policy</li> </ul>

### **12.3 HOUSING COUNSELING GOALS**

Some common housing counseling goals for tribes and housing authorities are:

- To **increase homeownership opportunities** for low- and moderate-income families through problem-solving strategies.
- To foster the **development of life skills**, such as household budgeting, financial management, and home maintenance.
- To foster human development, **individual empowerment** and an improved quality of life through education and economic self-sufficiency.
- To foster **community development** by strengthening the social and economic bonds of Native communities through increased housing assistance.
- To provide a **case management approach** to serving clients in which both housing and non-housing needs are addressed through a comprehensive community resource network.

#### **12.4 COMMON CHALLENGES**

Providing housing counseling brings counselors face-to-face with a myriad of challenges confronting families. The following represent the most common challenges:

- Hardships with meeting housing obligations occur for any number of reasons, such as too much debt or lack of stable employment. Many families fail to make house payments in a timely manner because they lack the resources to save money and handle emergencies. Debt management, budgeting, and credit repair services are critical to meeting housing obligations and achieving housing goals.
- Many tenants do not have the resources to properly handle home maintenance obligations. Carrying out simple home maintenance procedures is another challenge tenants face because many have never turned off the water to the house, reset the breaker box, or turned a gas furnace or stove back on after an outage. And finally, for many, housekeeping and cleaning routines may be new to them.

The following table identifies other issues families encounter and the tools housing counselors use when counseling clients

<b>COUNSELING BARRIERS</b>	<b>COUSELING TOOLS</b>
• Slow payment	• Budgeting worksheets, debt monitoring

• Credit issues	• Credit repair letters
• Insufficient income	• Second job, varies
• High Debt or Slow Payment	• Powerpay or other debt Monitoring method
• Low savings	• Budgeting worksheets
• Employment stability	• Resume, referral to tribal office, varies
• Trust property	• Lease, resolution, varies

## **12.5 TYPES OF HOUSING COUNSELING**

Housing counseling includes many types that respond to challenges families experience to acquire housing or meet lease obligations. Each of the following types involves budgeting but focuses on a family's specific need(s).

- Pre-occupancy counseling matches the family with the program best suited to the family's needs.
- Rental occupancy counseling assists the family in meeting financial obligations of leasing,
- Pre-purchase counseling assists families become mortgage readiness.
- Credit repair counseling assists those facing credit issues.
- Debt management counseling helps families better manage their expenses.
- Post purchase counseling assists families having trouble in meeting their homeownership obligations.

## **12.6 DELIVERING HOUSING COUNSELING SERVICES**

Programs may combine group sessions with one-on-one meetings to give attendees a chance to discuss matters they may not wish to discuss in a group setting. Sessions should be offered at convenient times and locations.

- **Client Intake Meeting.** This initial meeting affords the staff to meet the family, introduce the services offered and explain the family application process and the various consent to release information forms. Scheduling a future appointment to review credit and debt and registering for classes should be completed during this meeting.
- **Group Instruction.** This is an orientation program that informs families about the steps they need to take to prepare themselves for the financial obligations and responsibilities of renting and homeownership. Presented in a **group setting** and facilitated by housing staff, an orientation can be fun and informative.
- **One-On-One Counseling.** Housing counseling services are most effective when 90 percent of the counseling effort is delivered as one-on-one counseling. Many families experience financial hardship for a variety of reasons. Some duties

expected of occupancy staff include the ability to assess family financial needs and work one-on-one with the family to develop an action plan to meet housing goals. This process involves:

- Establishing financial goals
- Reviewing credit reports
- Calculating debt ratios
- Creating and/or reviewing a budget
- Developing an action plan which outlines the client's:
  - Obstacles to meeting financial obligations
  - Steps to overcoming obstacles
  - Time frame for completing steps
  - Schedule of follow-up sessions

**Appendix 21** contains a sample client action plan.

## **12.7 INDIVIDUAL COUNSELING TROUBLESHOOTING TOOLS**

The following tools can assist staff in their efforts to help families overcome challenges to meeting financial housing obligations.

- ***Credit Rebuilding Letters*** are available in the *Pathways Home: A Native Guide to Homeownership*. They can be used by a housing counselor or provided to a client to initiate and document a constructive dialogue with creditors and credit-reporting agencies to assist in rebuilding credit.
- The ***PowerPay® Debt-Reduction System*** developed by F. Dean Minor, Jr. and Judy L. Harris of Utah State University addresses the issue of excessive debt. ***PowerPay®*** can be used by staff to help their clients develop a family budget using effective repayment methods for accelerated debt reduction. It is a free, online program ([www.powerpay.org](http://www.powerpay.org)) with numerous features that anyone can access.
- ***Budgeting Worksheets*** can assist the housing counselor in developing a spending plan to achieve housing goals. These tools help a client establish a realistic budget, identify wasteful spending, and accumulate the savings needed for family goals. Forms listed below may be found in the excerpt from *Pathways Home: A Native Guide to Homeownership* in **APPENDIX 22**.
  - Monthly Budget Worksheet

- Debt Worksheet
- Income Worksheet
- Prequalifying Worksheet

## **12.8 TOOLS FOR STRUCTURED LEARNING**

*Pathways Home: A Native Homeownership Guide*, a curriculum available through the National American Indian Housing Council, is an excellent tool for acquainting families with financial obligations associated with housing. It is divided into eight modules plus a glossary:

Module 1: Exploring Homeownership

Module 2: Considering Mortgage-Based Homeownership

Module 3: Budgeting for Homeownership and Calculating Affordability

Module 4: Evaluating Credit for Homeownership

Module 5: Finding a Home

Module 6: Applying for a Home Loan

Module 7: Meeting Your Financial Obligations

Module 8: Protecting Your Investment

## SECTION 13 COLLECTIONS

### 13.1 PURPOSE OF COLLECTIONS POLICY

The purpose of a **Collections Policy** is to inform the tenants and homebuyers of established guidelines for the collection of rent, house payments, housing services, and payment of work orders and other charges. The goal of the policy is to collect the amounts owed to the program to ensure the continuation of adequate housing services, while providing for the safety and well-being of residents, and promoting fairness and due process. The policy should apply to residents who have entered into a lease or homeownership agreement with the Recipient. A sample policy is included in **Appendix 24**.

#### 13.1.1 Collection procedures

The following requirements may be included in the policy:

- The amount of the required **monthly payment** will be stipulated in the lease or homeownership agreement.
- If the resident fails to meet his or her financial obligations including payment of required rent, the account should be handled as a **delinquent account**. The ability to meet financial obligations is a requirement for initial admission and for continued occupancy.
- If the resident presents evidence of inability to make full payment due to **hardship**, the policy may allow for the consideration of an extension and the negotiation of a settlement. The resident should contact the staff **prior** to the due date to receive an extension. The extension deadline will become the new due date. Extreme circumstances may be considered in approving an extension of the due date. Such conditions may include a death in the immediate family or other disaster that affects the financial state of the family.
- When the resident presents credible evidence that clearly shows an inability to make full payment, a **partial payment** may be accepted.
- A **notice of delinquency** may be sent to a resident who has not made his or her full monthly payment by the time specified. The notice of delinquency is a written demand for immediate payment on the past due balance. The notice shall inform the delinquent resident to make an immediate payment for continued occupancy of the housing unit. Upon service of the notice of delinquency, the resident has specified amount of time to remit the delinquent amount in full or commit to a **payback agreement**. The notice also may recommend that the delinquent resident immediately contact the housing staff regarding any financial problems or unusual circumstances. The notice may inform the resident that failure to comply

with the notice will result in a **notice of termination**.

- A **budget counseling session** may be scheduled with the resident during the period of account delinquency. While the policy should require a minimum of one budget counseling session prior to termination of the lease or homebuyer agreement, a series of follow-up counseling sessions is recommended. A housing counselor is responsible for providing family budgeting and maintenance counseling. They often have the discretion to negotiate a **payment agreement** with delinquent resident before a **notice of termination** is served.
- A **payback agreement** may be negotiated with the delinquent resident as an alternative to immediate termination, though the policy may limit the number of times a resident may enter into a payback agreement within a specified period.
- Failure to make the required monthly payment and/or breach of subsequent pay back agreement and termination of the resident's lease or homeownership agreement may result in **permanent loss of eligibility for future services** or benefits offered by the tribal housing program.
- If the resident does not comply with the notice of delinquency or the resident otherwise breaches the lease, the resident may be served with a written **notice of termination** by certified mail return receipt requested. The notice states the reason for the termination. The resident may respond to the notice or may cure the violation or bring the delinquent amount current.
- The resident has the right to request a hearing in accordance with the grievance procedure if there is a discrepancy with any of the notices. Otherwise, the Recipient may begin its **administrative hearing process**.
- At the administrative hearing, if the resident is delinquent and has not violated any of the other provisions, staff may negotiate a **payback agreement** with the homebuyer in which the resident will be required to pay an additional amount on top of his/her required monthly payment to pay off the past due balance. If the resident defaults on the payback agreement, the Recipient may commence eviction proceedings.

## **13.2 EVICTION**

If collection and negotiation efforts are not successful, an eviction proceeding provides a remedy of last resort. Upon termination of a lease or homeownership agreement and the failure of the resident to peaceably vacate the unit within the required time, the Recipient may file a civil action against the resident for eviction and restitution in the appropriate legal jurisdiction.

The complaint is usually premised on the breach of the resident's agreement with the



tribe or the housing authority. The contractual breach arises from non-payment or failure to make the full monthly payment. Other violations not pertaining to non-payment or failure to make the full monthly payment shall be defined as "other just cause."

Copies of the lease or homeownership agreement and notices (delinquency, termination, administrative hearing and intent to sue) should be attached as exhibits to the legal complaint. The Recipient asks the court for an eviction of the resident and judgment on the delinquent amount owed.

If the resident has paid the delinquent amount in full or has made a payment arrangement which has been agreed upon by both parties before the court date, there may be a motion to dismiss without prejudice with the court, along with a stipulated judgment. Alternatively, the court may order the resident to pay the delinquent amount within a specific period or may order the resident(s) to be evicted.

**NOTE:** *The ability to use eviction as a remedy depends on the applicable legal jurisdiction and the program being administered. For example, eviction is not used in Oklahoma or Alaska for homeownership programs.*

### **13.3 BENEFITS OF COLLECTION**

There is certainly good news and bad news with NAHASDA with respect to a tribal housing programs ability to collect amounts due. The good news is that program flexibility allows housing programs to tailor charges and responsibilities to community requirements, needs, and affordability. No minimum charge is required. For example, a Recipient may build a home and give it to a qualified family with basic requirements for occupancy and insurance for its useful life. The housing program can even pick up the cost of insurance. As discussed, the maximum charge for rental or lease/purchase programs for low-income families is 30 percent of adjusted family income with some common ceiling charges of the local fair market rent (FMR) or a conventional mortgage loan.

The bad news is that failure to collect these charges hurts housing programs and the limited resources and tremendous unmet need throughout Indian Country requires that families pay something for the housing services received. Housing must remain affordable and insured (for assistance in excess of \$5,000) for its useful life. The Recipient is responsible to ensure compliance and the costs of collections, insurance, maintenance and repairs, bad debt expense, legal and other costs all take away from the potential for other affordable housing activities.

#### **13.3.1 Credit Basics**

In the private sector, credit policy is essential to optimize sales, gross margins, and profit in a business setting. It is a decision-making process that establishes the relationship between the business and its customers. That relationship is often described in terms such as the 4 C's: credit, capacity, capital, and collateral. Finding the right balance is

often a combination of science and art. Similarly, in the public sector, governments and non-profits establish policies to extend services to their members, constituents, or the public. When those services require payment or other types of performance, standards are established and applied.

For example, a homeownership program may include both minimum and maximum income standards for applicants. A maximum standard because the program is limited or targeted to low-income families; and a minimum standard because the program requires financial capacity to pay a required monthly payment, utilities, insurance, and maintenance. Families which earn or receive less than the minimum standard can be predicted to encounter difficulties in meeting their financial obligations.

The flexibilities offered by NAHASDA allow tribal housing programs to establish a “credit” relationship through their housing program policies and procedures. Effective policies will consider the needs and abilities of the “customers” and establish a rapport that will result in a successful relationship.

### **13.3.2 Housing Program Design Considerations**

Some questions to consider when developing new housing assistance programs:

- Is the program in line with the needs and wants of the community?
- Can the tribal housing program and families afford the program?
- Will the families pay for the program?

Of course, these and many other questions along with the anticipated answers will be included in the housing program policies.

### **13.3.3 Three Recommendations**

Finally, recognizing the differences and special circumstances found throughout Indian Country, tribes and housing authorities may want to consider the following recommendations:

- Everyone has a role in collections and compliance.
- Everything they do can have an impact on the program’s success.
- Make all the efforts for collection and compliance positive and constructive.

## **13.4 CASE MANAGEMENT**

Like much work in social services, collections and compliance is most effectively done on

a “case-by-case” basis, and customer families benefit from case management. A model for case management for housing collections and compliance is illustrated with a grid established by two factors: willingness & ability. To the extent that a family’s conditions and circumstances can be identified, the model places the family in one of the four quadrants, which identifies possible or appropriate action along with desirable skills for the case managers.

**WILLING**

UNABLE

<p>Temporary Conditions Receptive to “A Plan” Communicates – Willing to work with you Looking for a Permanent Solution</p> <p>[Skills: Job &amp; Financial Counseling, Financing]</p> <ul style="list-style-type: none"> <li>• <i>Often open to options for repayment, collection, or financing agreements, payroll deductions</i></li> <li>• <i>Job training, self-sufficiency programs</i></li> <li>• <i>Restructure debt</i></li> <li>• <i>Temporary solution may include conversion</i></li> </ul>	<p>Pays Every Month (\$0 TARs) Good Maintenance Record “Yeah!”</p> <p>[Skills: Cheerleader, Customer Service]</p> <ul style="list-style-type: none"> <li>• <i>Support them - keep them Willing and Able</i></li> <li>• <i>Send the message to all participants that it is desirable to be current</i></li> <li>• <i>Celebrate!</i></li> <li>• <i>Priority for Modernization/Replacement activities &amp; use of equity.</i></li> </ul>
<p>Won’t communicate “Blood out of a stone” Maintenance Problems / May be high risk Broken promises Waiting for housing program to take action</p> <p>[Skills: Communications, Documentation, Legal actions]</p> <ul style="list-style-type: none"> <li>• <i>Last resort – ejection or eviction.</i></li> </ul>	<p>Often willing to communicate – sometimes too much. Sometimes at an impasse -- someone needs to give. There’s a “story.”</p> <p>[Skills: Mediation and Negotiations]</p> <ul style="list-style-type: none"> <li>• <i>Fix the problem. Break through the impasse.</i></li> <li>• <i>If issues are just \$\$, try to resolve in small claims court or through other money judgments.</i></li> </ul>

ABLE

**UNWILLING**

**13.4.1 Case Management Communication Styles**

**Upper Right – Willing & Able** – Families in this quadrant pay every month, maintain their housing units appropriately, and communicate well and freely with the housing

program staff. Targeted housing program activities for these families should be supportive. These are not only families doing what “is expected,” but also serving as models for all other families. Don’t take them for granted.

**Upper Left – Willing, But Unable** – Families in this quadrant are unable to meet their responsibilities often because of an unexpected, and temporary, change in family conditions. They remain willing to communicate and are open to options for repayment, collection or refinancing agreements – payroll deductions, assignment of tribal payments, etc. Employment, job training and self-sufficiency programs may be an effective way to help these families move back to the “upper right.”

**Lower Left – Unable & Unwilling** – Families in this quadrant have given up on meeting their responsibilities and are often at risk for other problems. High maintenance problems may also place family members in unsafe conditions and at personal risk. Little or no communications and avoidance of housing program staff efforts to resolve the situation are also common. They are waiting for the housing program staff to act. Effective and creative communications efforts may be needed as well as efficient and effective legal actions. These families may be creating substantial risks for the housing program and they should not be ignored or left waiting. A last resort is foreclosure, eviction or ejection.

**Lower Right – Able, But Unwilling** – Families in this quadrant usually have a reason for not meeting their responsibilities. They often have a “story” and are very willing to share it with the housing program staff (and many others). There is often an impasse in making progress to moving the family back to “Willing & Able.” Target activities may include fixing or resolving the “problem” or a formal negotiation or mediation effort. These families are “able” and if the issues are resolvable with money, a court action such as a small claims judgment may be appropriate and effective.

Housing staff skills associated with the appropriate collections and compliance activities should be identified and developed. Some of these include customer service, communications, counseling, and legal services.

### **13.5 COLLECTIONS TIPS**

- Establish ability and willingness to evict.
- Match policies with your practices.
- Follow up. Make sure your promises are always kept.
- Use receipts and remember to say, “thank you.”
- Recognize a participant of the month – emphasize positive payment history.
- Aggressively offer job placement services. Promote self-sufficiency.

- Address the toughest cases in monthly staffing meetings.
- Revisit incentives for prompt payment.
- Communicate with both spouses and other adult family members, if appropriate.
- Develop skills in using the appropriate court system.

## **13.6 STRATEGIES FOR EFFECTIVE COMMUNICATION WITH RESIDENTS**

### **13.6.1 Active Listening and Communication**

Admissions & occupancy specialists work closely with residents during occupancy to resolve a broad range of issues. These issues may include dealing with maintenance problems, enforcing lease requirements, or providing counseling services to help a resident qualify for homeownership. By becoming an “active listener,” staff can improve their communication skills and resolve issues that arise more effectively.

The following information is adapted from a book called *Learn to Listen* by Jim Dugger (National Press Publications, 1992).

***“The goal of all good listening is to tune in to the speaker.”***

*Active listening* is a method of improving your listening skills so that you can be effective in your business and personal life. There are five steps to active listening:

1. **Listen to the content.** Content is the words of the speaker and the facts, figures, ideas, and logic the words convey.
2. **Listen to the intent.** The intent of the message is a balance between the content, the nonverbal communication, the speaker’s background, and whatever bias or position the speaker may have regarding the subject.
3. **Assess the speaker’s nonverbal communication.** About 55 percent of nonverbal communication is body language. About 35 percent is tone of voice, and 10 percent is verbal content. You can use body language to actively “SOFTEN” the discussion:

Smile  
Open Stance  
Forward Lean  
Touch  
Eye Contact  
Nod

4. **Monitor your nonverbal communications and filters.** Filters are ways of responding to information, ideas, words, and even nonverbal communications that you have developed during your lifetime.
5. **Listen to the speaker with empathy and without judgment.** Empathy means that you accept the speaker and the speaker's communication as worthwhile—you don't have to accept the speaker's ideas or point of views.

Sometimes it is a challenge to listen actively when you are meeting with residents. The following active listening techniques may help to keep you focused:

- Eliminate external distractions.
- Eliminate internal distractions by controlling your emotions.
- Come to meetings prepared.
- Take notes if your mind wanders.
- Do not respond only to what the speaker implies—respond to the total communication including content, intent, non-verbal cues.
- Identify words that trigger your emotions.
- Respond to the speaker without judging.
- Do not prepare your response while someone is speaking.
- Do not “listen” with your mind already made up.
- Negotiate behavior with yourself.
- If you realize you are not listening, physically move forward.
- Do not rely on others to interpret what was said.

Another great way to make your communications more effective is to be a *reflective listener*. Reflective listening mirrors what the speaker is saying by reflecting back to the speaker what you heard, thus allowing a fresh perspective on what they have communicated. Some tips for reflective listening:

- Continue to practice good active listening techniques.
- Provide feedback to the speaker.

- Make sure the feedback is expressed and without judgment.

### 13.6.2 Negotiating Effectively

In some situations, an occupancy specialist must negotiate with residents to solve problems they encounter. So, it may be helpful for you to polish your negotiating skills.

The following information is adapted from the book *Successful Negotiating: Letting the Other Person Have Your Way* by Ginny Pearson Barnes (National Press Publications, 1998).

Negotiation is the “art of reaching agreement through an effective exchange of information.” There are eight steps to successful negotiations.

1. Unravel the mystery of negotiations.
2. Understand what drives you and others.
3. Learn to celebrate differences.
4. Negotiate with honor, knowledge, and understanding.
5. Do your homework before negotiating.
6. Negotiate actively, honestly, and fairly.
7. Create a champion from a naysayer.
8. Create satisfaction with your outcome.

## SECTION 14 APPENDIX

<b>1</b>	NAHASDA	
<b>2</b>	NAHASDA Regulation	
<b>3</b>	Program Guidance 2019-02 <i>Fiscal Year 2019 Income Limits under the Native American Housing Assistance and Self-Determination Act of 1996</i>	
<b>4</b>	Program Guidance 2013-05(R) <i>Calculating Annual Income for Purposes of Eligibility under NAHASDA</i>	
<b>5</b>	PIH Notice 2014-02 <i>Providing Assistance to Non-Low-Income Families under the Native American Housing Assistance and Self-Determination Act of 1996</i>	
<b>6</b>	Program Guidance 2010-03 <i>Affordable Housing Activities and Administrative Expenses</i>	
<b>7</b>	Program Guidance 2014-03 <i>Insurance Requirements under the IHBG Program</i>	
<b>8</b>	Program Guidance 2014-09(R) <i>Useful Life and Binding Commitments</i>	
<b>9</b>	Program Guidance 2002-13 <i>Conflict of Interest in IHBG Housing Admissions</i>	
<b>10</b>	Admissions and Occupancy Policy	
<b>11</b>	Sample Lease Purchase Policy	
<b>12</b>	Sample Job Descriptions	
<b>13</b>	Sample General Application	
<b>14</b>	Section 8 Annual Income Definition	
<b>15</b>	Zero Income Verification	
<b>16</b>	How to Calculate Income	
<b>17</b>	Sample Verification Forms	
<b>18</b>	Sample Down Payment Assistance Policy	
<b>19</b>	Sample Rehab Policy	
<b>20</b>	Sample Dwelling Lease	
<b>21</b>	Sample Client Action Plan	
<b>22</b>	Excerpt from <i>Pathways Home: A Native Guide to Homeownership</i>	
<b>23</b>	Sample Corrective Action Letters	
<b>24</b>	Sample Collections Policy	