NAHASDA
Intermediate
Training Course

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This training is offered by the U.S. Department of Housing and Urban Development (HUD) and the Office of Native American Programs under a cooperative agreement with the National American Indian Housing Council.

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Course Objectives

- Provide a basic summary of the Indian housing programs for those new to Indian housing.
- Provide a summary of Indian housing laws.
- Discuss best practices and provide the reference material to operate and maintain a successful Indian housing program.
- Answer common questions.
- Discuss key issues in implementing housing assistance programs.

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Trainers

Bob Gauthier – gauthierbob@gmail.com
Ronan, MT

Bill Nibbelink – nib@mcisweb.com
Flandreau, SD

Introductions

- Your name and position
- Who you work for
- What do you want to learn over the next few days?

6

History of Indian Housing

How It All Began: 1922 to 1960

- 1922 – Congress Passed Snyder Act, offering four housing programs. No appropriations
- 1937 – Post Depression New Deal programs, promised to provide "**safe and sanitary**" dwellings for American's poor.

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How It All Began: 1937 to 1960

- 1949- Congress passed another bill that updated the 1937 Housing Act and addressed the post- World War II housing shortage. The bill was expanded to include "**decent home and suitable living environment for all American families**." Indian Tribes were left out of this initiative.

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How It All Began: 1937 to 1960

- 1960- John F. Kennedy visited Pine Ridge during his campaign for President of the of the United States. After viewing housing conditions, vowed to bring Federal assistance to Native Americans if elected.
- 1961 After being elected, Kennedy convened his Cabinet and asked how they could provide Federal assistance to Tribes.

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The 1960s

- 1961- Two major events impacted Indian Housing
  1. First, following Kennedy's Solicitor Generals opinion, the Public Housing Administration (PHA) recognized tribal governments as municipalities and could establish IHAs via tribal ordinance, or
  2. States could establish IHA's

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The 1960s (cont'd.)

- 1961: First Indian Housing Authority created on Pine Ridge Reservation in South Dakota.
- 1964: First Mutual Help (old) concept created: homebuyer contributes land, material, or labor ("sweat equity") toward the purchase of the home.
- 1964: San Carlos Apache IHA launched the first mutual help project, known as "Old Mutual Help" until 1976 when MH Program revised. (new)

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The 1970s

- In 1971 – The GAO issued Congressional report on Indian housing recommending a national Indian housing policy to simulate agency coordination and accelerate the completion of projects.
- President Ronald Regan proposed in 1981 no funding for the development of the new Indian housing units and offered no substitute.

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The 1980's Federal Initiatives

- 1984- HUD under Secretary Sam Pierce, formally created the Office of Indian Housing (OIH) with its own staff specifically responsible for overseeing the development and management of Indian housing programs. Still under authority of Regional Administrators.
- National American Indian Housing Council established offices in Washington DC, began "on the hill" advocacy.
- 1989 -Indian housing within HUD Office – treated, for the first time, as a separate program.

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The 1990s: Era of Change

- Indian housing advocates and supportive members of Congress fight for funds for new Indian housing units.
- Cranston-Gonzalez National Affordable Housing Act," passed:
  1. Homeownership and Opportunity for People Everywhere (HOPE) program.
  2. HOME Investment Partnerships Act.
  3. Created the National Commission on Native American, Alaskan Native and Native Hawaiian Housing, appointed 12 Commissioners. Held hearings across America, in Alaska and Hawaii. How do we better house America's first citizens?

15

The 1990's Era of Change

- 1992 - National Commission on American Indian, Alaska Native, and Native Hawaiian Housing. submitted report to Congress entitled "Building the Future: A Blueprint for Change."
- 1993 National Commission submitted supplemental report with 50 recommendations.
- October 1, 1993 - OIH became the Office of Native American Programs (ONAP).

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NAHASDA History

- NAHASDA signed into law 10/26/96
- HUD recognizes trust responsibility
- Recognizes Tribe's right to Self-Determination
- Provides tribes with block grant:
    - New flexibilities
    - New responsibilities
- Program and funds called Indian Housing Block Grant (IHBG)

17

NAHASDA Key Points

- Separates Indian Housing from Public Housing.
- Provides a block grant to tribes or their tribally designated housing entity (TDHE).
    - Used for activities defined in an "Indian Housing Plan" which the tribe and TDHE will write and submit to HUD for review.

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NAHASDA Key Points – Cont.

- First recognition in housing legislation of federal trust responsibility to house Native Americans.
- Defines TDHE as the existing IHA which was established "for the purposes of the U.S. Housing Act of 1937…(and)…is acting…as the Indian Housing Authority for the tribe…(and) is not an Indian Tribe."

19

NAHASDA Key Points – Cont.

- Tribes can also establish other entities through self-governance powers or by state law.
- Requires submission of a 1-year plan for the upcoming fiscal year.
- Requires Self-Monitoring by Tribes

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NAHASDA Key Points – Cont.

- Requires HUD to use negotiated rule making when developing regulations and an allocation formula.
- Use of block grant for development, rehabilitation, acquisitions, housing support services, such as counseling or loan processing, and to initiate model housing programs.

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NAHASDA Key Points – Cont.

- Permits the tribe to set a maximum rent that does not exceed 30 percent of the monthly adjusted income.
- Removes requirement of utility allowance.
- Requires the tribe to use the block grant to operate and maintain current housing units.

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NAHASDA Key Points – Cont.

- Can use grant amounts for affordable housing activities through
  – Equity investments
  – Interest-bearing loans or advances
  – Noninterest-bearing loans or advances
  – Interest subsidies
  – Leveraging of private investments

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NAHASDA Key Points – Cont.

- Distributes the grant through an allocation formula developed under negotiated rule making.
- Requires HUD to monitor for non-compliance and to take steps when compliance does not occur.

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NAHASDA Key Points – Cont.

- Authorizes a federal guarantee program
  - Tribe can use, with the secretary's approval, a federal guarantee, to undertake affordable housing activities, that does not exceed 5 times the amount of the tribe's block grant.

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NAHASDA Key Points – Cont.

Reauthorizes the Indian Housing Loan Guarantee Program.

- Extends leasehold interest in trust or restricted land for housing purposes to 50 years.
- Tougher conflict of interest provision.
- Expands affordable housing opportunities.
- Specifically addresses families who are above low-income.

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NAHASDA Key Points – Cont.

- Criminal conviction information on adult applicants or tenants
  - As required by NAHASDA, the National Crime Information Center and other law enforcement agencies shall provide criminal conviction information upon request.
  - Information regarding juveniles shall only be released to the extent such release is authorized by the law of the applicable state, Indian tribe or locality.

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Repealed Programs

- Indian Housing Development Program
- Comprehensive Grant and Comprehensive Improvement Modernization Program
- Indian HOME
- Youthbuild
- Youth Sports
- Homeless Programs, including ESG

28

Recipient of IHBG

- NAHASDA changed recipient to tribe
- Tribe may designate a TDHE as recipient
- Recipient may administer program directly or use subrecipients

29

Negotiated Rulemaking

- A process in which representatives of a government agency and tribal representatives negotiate a proposed administrative rule
- Section 106(b)(2) of NAHASDA: All regulations must be issued according to a negotiated rulemaking procedure
- Purpose of 2010 NegReg: Implement 2008 Reauthorization Act amendments and prior amendments to NAHASDA

30

Negotiated Rulemaking

- Statute mandated negotiated rulemaking process

- Requires HUD to use negotiated rule-making when developing regulations and allocation formula

- Regulations developed by committee of Tribal and HUD representatives
- Approved documents from each Session as well as documents produced by work groups may be found at http://ihbgrulemaking.org/index.php

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NAHASDA Primary Statutory Objectives

- Assist and promote affordable housing
- Better access to mortgage markets
- Promote self-sufficiency
- Plan and integrate infrastructure
- Promotes Tribal Self-Determination
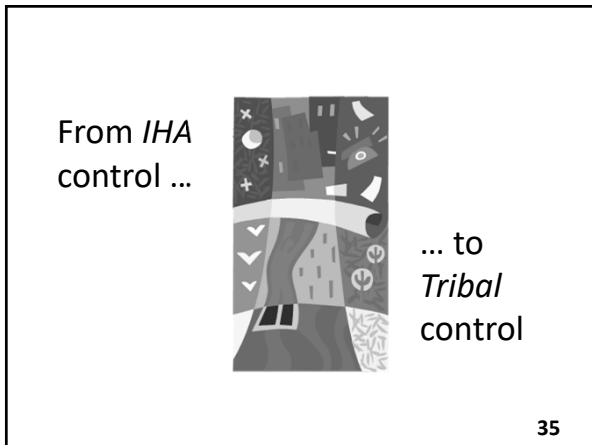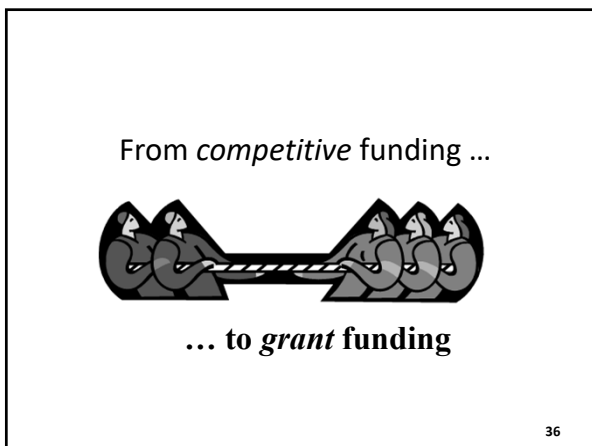- To promote the private capital markets
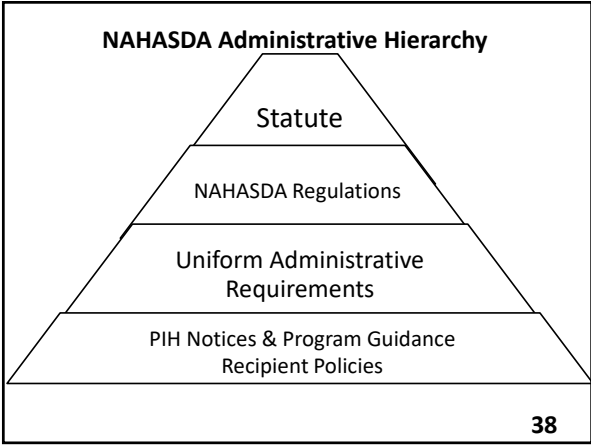
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NAHASDA ....in summary........

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Historical Perspective

1937 Housing Act

1961
1st IHA

1988 Indian
Housing Act

1990
Consolidated
Regulations

1996
NAHASDA

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From *IHA* control …

… to *Tribal* control

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From *competitive* funding …

… to *grant* funding

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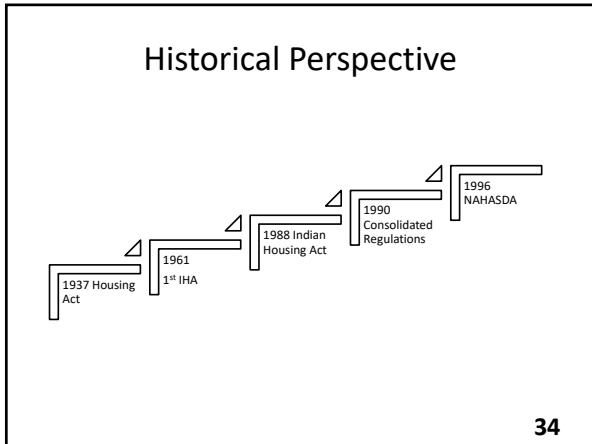
**Introduction
to
Training Materials**

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NAHASDA Administrative Hierarchy

Statute

NAHASDA Regulations

Uniform Administrative
Requirements

PIH Notices & Program Guidance
Recipient Policies

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**NAHASDA
Statute**

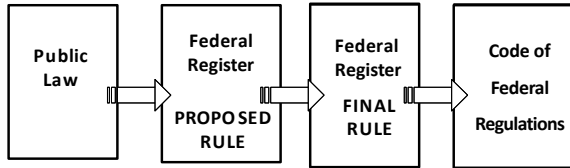**NAHASDA Regulations**

39
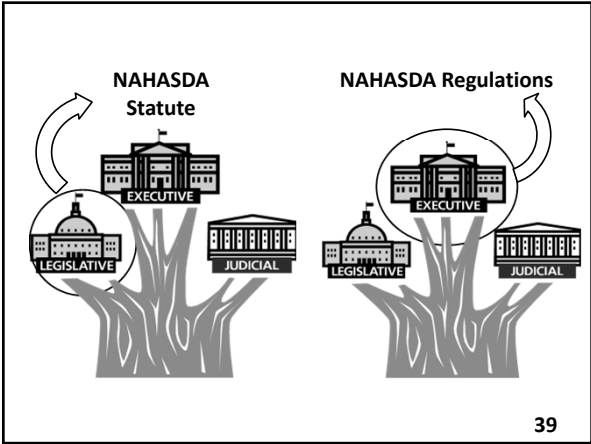
NAHASDA Statutory Sections

- Title I: Block Grants and Grant Requirements
- Title II: Affordable Housing Activities
- Title III: Allocation of Grant Amounts
- Title IV: Compliance Audits and Reports
- Title V: Termination of Assistance
- Title VI: Federal Guarantees for Financing
- Title VII: Other Housing Assistance

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Federal regulations result from the authority in law to the proposed rule, the final rule, and codification in the CFR.

| Public Law | → | Federal Register PROPOSED RULE | → | Federal Register FINAL RULE | → | Code of Federal Regulations |

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NAHASDA Regulations
24 CFR 1000

– Final 3/12/98
– Amended 3/17/98; 1/20/99; 9/28/01; 6/24/03; 6/17/04; 1/27/05; 4/20/07; 10/18/07; 4/1/08; 1/2/13.
– Replaces 24 CFR 950

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Regulatory Sections

- Subpart A: General Objectives
- Subpart B: Affordable Housing Activities
- Subpart C: IHP
- Subpart D: Allocation Formula
- Subpart E: Federal Guarantees for Financing of Tribal Housing Guarantees
- Subpart F: Recipient Monitoring Compliance, Oversight, & Accountability

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CFR Numbering System

- The CFR has a uniform numbering system.
- Most of the 50 titles conform to the system.
- The section is the basic unit of the CFR.
- Cite the CFR by title and section: 12 CFR 303.1
- Text is divided into descending levels of units.

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Six Levels of Paragraphs

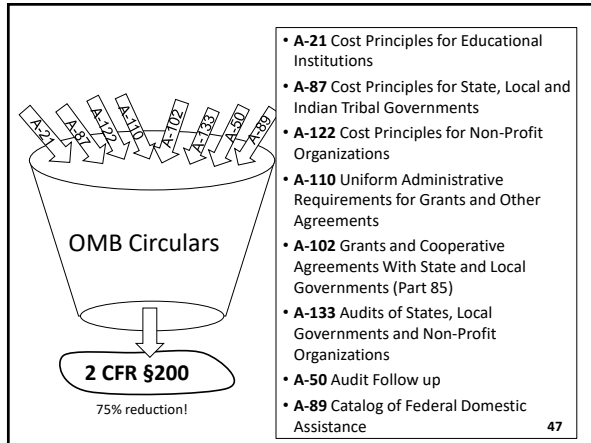| Paragraph	Designations	Cite paragraph as
Level 1	(a), (b), (c), etc.	§ 303.1(a)
Level 2	(1), (2), (3), etc.	§ 303.1(a)(1)
Level 3	(i), (ii), (iii), etc.	§ 303.1(a)(1)(i)
Level 4	(A), (B), (C), etc.	§ 303.1(a)(1)(i)(A)
Level 5	*(1), (2), (3)*, etc.	§ 303.1(a)(1)(i)(A)*(1)*
Level 6	*(i), (ii), (iii)*, etc.	§ 303.1(a)(1)(i)(A)*(1)(i)*

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Uniform Guidance: What is it?

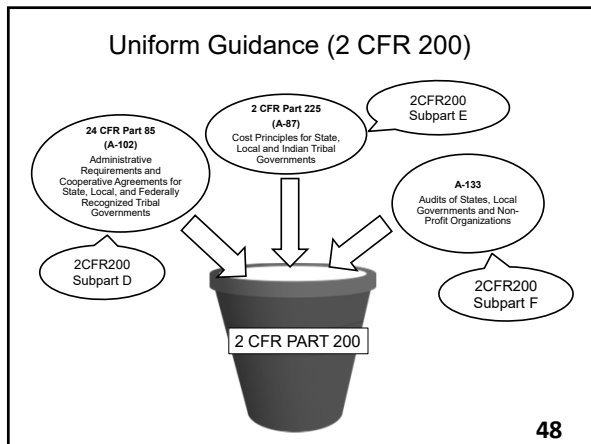Title 2: Grants and Agreements

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

- Now commonly referred to as the "Uniform Guidance" for Federal Awards (2 CFR Part 200).

- Consolidates and streamlines eight Federal regulations into a single guide.

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OMB Circulars

2 CFR §200

75% reduction!

- **A-21** Cost Principles for Educational Institutions
- **A-87** Cost Principles for State, Local and Indian Tribal Governments
- **A-122** Cost Principles for Non-Profit Organizations
- **A-110** Uniform Administrative Requirements for Grants and Other Agreements
- **A-102** Grants and Cooperative Agreements With State and Local Governments (Part 85)
- **A-133** Audits of States, Local Governments and Non-Profit Organizations
- **A-50** Audit Follow up
- **A-89** Catalog of Federal Domestic Assistance

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Uniform Guidance (2 CFR 200)

24 CFR Part 85 (A-102) Administrative Requirements and Cooperative Agreements for State, Local, and Federally Recognized Tribal Governments

2 CFR Part 225 (A-87) Cost Principles for State, Local and Indian Tribal Governments

2CFR200 Subpart E

A-133 Audits of States, Local Governments and Non-Profit Organizations

2CFR200 Subpart D

2CFR200 Subpart F

2 CFR PART 200

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The Uniform Guidance: History

The Uniform Guidance resulted from two documents issued by the President	• November 23, 2009: Executive Order 13520 on Reducing Improper Payments • February 28, 2011: Presidential Memorandum on Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments
The Office of Management and Budget (OMB) issued two calls for comment on this grant reform	• An Advance Notice of Proposed Guidance (ANPG) in February, 2012 • Notice of Proposed Guidance (NPG) in February, 2013

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The Uniform Guidance: History, cont'd

The final guidance was published in the Federal Register on December 26, 2013	• Became applicable to Federal agencies on December 26, 2013 • *"…does not supersede any existing or future authority under law or by executive order…"* • Agencies required to promulgate regulations and implement by December 26, 2014
HUD/OMB published joint interim final rule on December 19, 2014 to formally adopt and implement the Uniform Guidance (2 CFR 2400)	• HUD adopted this guidance at a new part, 2 CFR part 2400 • Removed: 2 CFR parts 215, 220, 225, and 230 and amended 24 CFR Part 84 and 85 (more later) • Unless excepted in HUD Program Regulations, 2 CFR 200 shall apply • Became effective on <u>December 26, 2014</u>

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The Uniform Guidance: History, cont'd

HUD/ONAP published a final rule on **December 7, 2015** to conform HUD regulations to the Uniform Guidance	• This final rule conforms HUD's regulations to OMB's rule • Revises cross references • Makes other conforming changes and corrections. • Amended various program sections of 24 CFR 1000 (IHBG), 24 CFR 1003 (ICDBG), and 24 CFR 1006 (NHHBG), • Published in 80 FR 75943; effective January 6, 2016

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Uniform Guidance: Major Policy Reforms

1. Eliminate duplicate and conflicting guidance
2. Performance over compliance
3. Efficient use of information technology and shared services
4. Consistent and transparent treatment of costs (and limiting allowable costs)
5. Setting standard business processes and data definitions
6. Encouraging family-friendly policies
7. Strengthening oversight
8. Targeting waste, fraud, and abuse

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Subparts at a Glance

Subpart A (200.0 - 99)
• Acronyms and Definitions
Subpart B (200.100 - 113)
• General Provisions
Subpart C (200.200 - 213)
• Pre-Federal Award Requirements and Contents of Awards
Subpart D (200.300 - 345)
• Post Federal Award Requirements
Subpart E (200.400 - 475)
• Cost Principles
Subpart F (200.500 - 521)
• Audit Requirements
12 Appendices – I through XII

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Uniform Guidance Emphasis
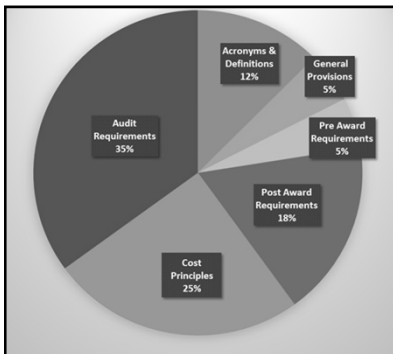
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Other Resources: PIH Notices & Guidance Notices

PIH Notices — Issued by Assistant Secretary for Public/Indian Housing

Provide _guidance_

Guidance Notices — Issued by Deputy Assistance Secretary for Native American Programs

Provide _guidance_

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Authority to Operate

56

Authority

- United States Constitution
- Tribe's Constitution or State Law
- Tribal Ordinance/Code
  - By-Laws
  - Policies

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Ordinances & Statues

- Tribes had to adopt Model Ordinance under 1937 Housing Act
- Offered very limited flexibility
- Created Indian Housing Authorities
- Similar to large public housing authorities
- Didn't recognize differences between Tribes and cities

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Housing Codes

- Tribes may adopt own housing code under NAHASDA
- Adopt or amend ordinance to fit your local needs
- Many tribes are still operating under the 1937 Act Model Ordinance
- Are you?

59

Who will deliver?

- Each tribe chooses the right entity to design, administer and deliver their programs
  - Tribe may directly deliver programs
  - Tribe may designate a TDHE
- Tribe ultimately responsible

60

NAHASDA Delivery Options

1. Tribal Department
2. Subrecipient
3. TDHE

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Definition of a TDHE

- Entity other than tribal government
  - Authorized to receive grant, and
  - Provide housing assistance
- TDHE assumes responsibility to do same
- Designated by:
  - Resolution of tribe(s)
  - Resolution of committee
  - Default to IHA
- Designation may be changed in the future

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Decision Making

- Direct delivery by a tribe
  - Accepts responsibility to comply with NAHASDA
  - Decides about use of funds and design of programs
  - Assigns duties within existing government or creates tribal department
  - May hire contractors or consultants to help

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Decision Making

- Delivery by a TDHE
  - Accepts responsibility to comply with NAHASDA
  - Tribe may define level of authority TDHE may assume
  - TDHE reports to tribe regarding housing issues and business

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Direct Tribal Delivery or TDHE

- Usefulness of model varies by tribe
- Decision affects how:
  - Work gets done,
  - Decisions are made, and
  - Responsibilities are assigned
- Weigh pros and cons of each delivery model

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Decision Factors:
Degree of Control

- Direct Tribal Delivery
  - Tribe retains greatest level of control
  - Actively involved in housing
  - Direct decision-making responsibility
- Delivery by TDHE
  - Tribe retains oversight power
  - Tribe ensures compliance with NAHASDA
  - Written agreement recommended to define responsibilities

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Decision Factors:
Capacity

- Direct Tribal Delivery
  - Need administrative capacity and staff
  - Tribe assumes demands of providing affordable housing and delivery of programs
- Delivery by TDHE
  - Tribe is able to focus on other issues, while TDHE focuses on housing
  - TDHE exists to meet housing needs and usually has dedicated staff to implement

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Decision Factors: Cost

- Direct Tribal Delivery
  - Tribe incurs both administrative and program costs
- Delivery by TDHE
  - TDHE may already have:
    - Fiscal and accounting systems
    - Administrative structure
    - Experience and trained staff
- If TDHE must be created, high initial costs
- Conduct careful cost comparison

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Decision Factors:
Experience

- Direct Tribal Delivery
  - Tribe should have:
    - Understanding of housing issues
    - Administrative structure
  - Tribes may have:
    - Experienced planners
    - Established network
- Delivery by TDHE
  - TDHE may have experienced staff and be ready to go

69

Decision Factors:
Knowledge of Resources

- Direct Tribal Delivery
  - Tribe must be able to identify
    - Community needs
    - Community resources
- Delivery by TDHE
  - TDHEs may have relationships with local organizations and businesses needed for program delivery

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Decision Factors:
Policies and Politics

- Direct Tribal Delivery
  - Do policies exist which favor either tribal or TDHE delivery?
  - Are new policies needed for delivery of housing activities?
- Delivery by TDHE
  - TDHE may have existing policies and procedures for delivery of housing programs and services
- Political reasons for direct delivery or TDHE?

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Delivery by a TDHE

- Board of Commissioners will be elected or appointed
- Legal decision-making body of a TDHE
- Organized group that collectively fosters an organization
- Accountable for actions of organization

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Policy Board or Advisory Board

- Boards have distinct responsibilities and legal obligations
- Authority and accountability is different
- Both usually appointed by Tribal Council
- Share common Tribal goals.
- Both considered community service
- Both are extensions of Tribal Government
- Improve understanding at decision making level

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Policy Board

- Policy Board established by Tribal Code
- Separate Legal Profile
- Establishes Policies and Procedures
- Hires Executive Director
- Sue or be sued with Tribal consent
- Writes own checks
- Only direction from Tribal leadership is as outlined in enabling ordinance/code

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Example of Tribe Policy Boards

- Housing Authority
- Economic Development Corporation
- Utility Authority
- Gaming Commission
- Election Board
- Tax Commission

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Advisory Boards

- Works under tribal administration (policies and authority)
- No policy authority (recommend to Tribal Administration)
- Extension of tribal government
- Recommend program and policy as a group
- Works under an approved "Indian Housing Plan"
- Should represent community concerns and issues
- Assists management staff in development of a comprehensive plan

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Examples of Advisory Boards

- Elderly Commission
- Youth Commission
- Board of Health
- Grazing Board
- Natural Resource Board
- T.E.R.O. Board
- Scholarship Committee
- Cultural Committee

77

General – Advisory and Policy

- Independent Judgment
- Avoid Conflict of Interest
- Representing Entire Tribal Membership
- Consider Tribal Goals in Strategic Plan
- Works to improve programs with "plan of operation"
- Avoids involvement with day to day operations
- Does not get involved with personnel matters

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Board Dynamics – Policy and Advisory

- Board Has Power Only As A Group
- Full Participation
- Challenge One Another
- Encourage Diversity of Viewpoints
- Support Full Board Decision
- Cultural Considerations

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Advisory Board

- Acts only in advisory capacity
- No legal status
- Often no decision making authority
- No hiring and firing authority
- No policy authority
- Does not maintain bank accounts
- Often established to act as intermediary

80

Boards Relationship to Staff -Policy

- Board Represents the Tribal Government
- Key Relationship is to Tribal Government
- Only Board employee is Executive Director
- Board is Not Supplemental Staff
- Accountability Due To Tribe's Authority(Ordinance)
- Seeks Own Training/Board Development
- Chooses Own Activities
- Determines Appropriate Reports to Review

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Board Governance – Policy

- Develop Well Thought Out Governance Policies (Program Requirements)
- Follow Established Rules of Order
- Keep Meetings Within Allotted Time
- Limit Involvement With Day to Day Operations (examples)
- Develop Good Working Relationships With Executive Director
- Add Value – Make Leadership More Effective

82

Policy Board Responsibilities

- Be Aware of Program Operations
- Hire and Retain Director
- Maintain Appropriate Board Structure
- Monitor Operations
- Oversee Performance
- Meet With and Report to Shareholder

83

Be Aware of Program Operations

- Generally observe progress of development, management, customer service and administration.
- Bring issues, observations, informal complaints and concerns to full Board.
- Are things getting done?
- Observe employee morale.

84

Hire and Retain Program Director

- Schedule annual evaluation to include:
  - Goals/Objectives
  - Benchmarks for development
  - Salary considerations
  - Incentives
  - Review Political landscape

85

Maintain Appropriate Board Structure/Process

- Board sets agenda for each meeting.
- Elects officers annually at scheduled meeting
- Review Bi-Laws and updates regularly.
- Appoints committees
  - Planning/Development
  - Finance
  - Assignment to National Organization/Reports

86

Monitor Operations

- Regular reports from Managers:
  - Financial - audits
  - Program Goals
  - Self monitoring reports
  - Program threats
  - Agency reviews (if applicable)

87

Monitor Operations continued:

- Hire Independent Financial Auditor
- Approves and submits to agencies and Tribal Government
- Reviews and submits Annual Report to President and Tribal Council
- Reviews Internal/ Director Goals

88

Oversee Performance

- Review goals quarterly
- Reviews the APR
- Set Board Goals for monitoring
  - Collections
  - Hiring
  - Vacancy rates
  - Units in Rehab

89

Meet With Tribal Government

- Primary contact with Tribal Government.
- Meet at least once a year with Tribal Government
- Encourage full participation in annual planning meeting with Tribal leadership
- Monitor community meetings, report outstanding issues to Tribal Government

90

Duty of Loyalty

- The duty of loyalty generally prohibits a director from placing his or her personal interest, or those of others, above the interest of the Housing Authority.
- A Board member must be fair in all dealings with the Housing Authority and personal interests must not affect his or her decisions as a member.
- A Board member must not take advantage of any company opportunities that the director learns about because of his or her position without first offering those opportunities to the Housing Authority.
- A Board member must neither disclose nor use for his or her personal benefit information about the Housing Authority or its customers acquired because of his or her position as a member.

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Let's take a look at a

Model
Housing
Code

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Executive Director Job Duties

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Planning

Controlling

Management
Functions

Organizing

Leading

Staffing

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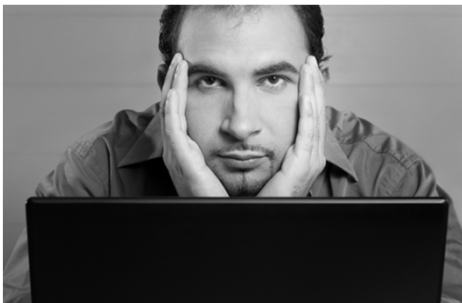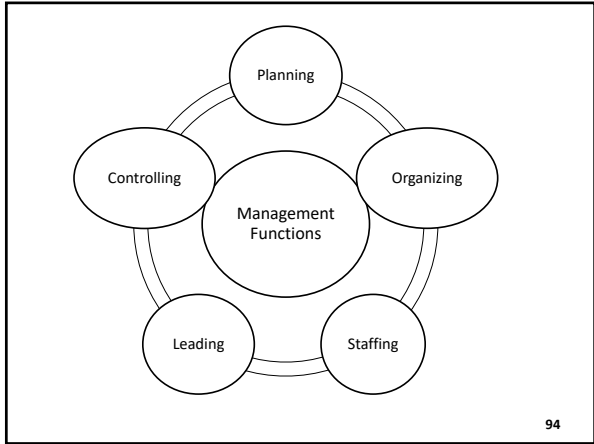
Functions of an Executive Director

- Carry out the functions of planning, organizing, staffing, leading and controlling.
- The concepts and activities of management apply to all levels of management, as well as to all types of organizations and activities managed.
- Management skills are behavioral, controllable, and developable; less competent managers can become more competent in their management skills.
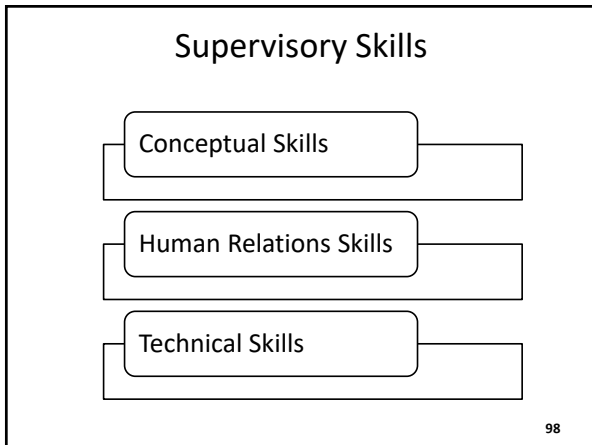
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Functions of an Executive Director

- As a role model and leader in the organization, the Executive Director must search for training that enhances skills programmatically as well as managerial skills.
- Training for all staff can make a difference in how well the program operates. HUD sponsors many trainings throughout the year and these are listed on their website

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Control Process

Step 1:
Establish goals, objectives, and standards

Step 4:
Take corrective action when necessary

The Process of Controlling

Step 2:
Measure performance and progress

Step 3:
Compare actual results against planned activities

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Supervisory Skills

Conceptual Skills

Human Relations Skills

Technical Skills

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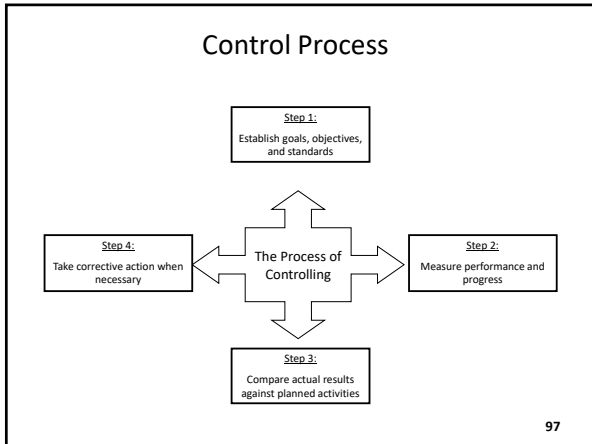
Supervisory Skills

- There are three skills common to every manager. These are conceptual skills, human relations skills, and technical skills.
- **Conceptual skills** allow a manager to visualize the entire organization and work with ideas and the relationships between abstract concepts.
- **Human skills**, also called human relation skills, require communication and attention to relationships with others.
- **Technical skills** are needed to actually get the work done; they are the techniques, practices, tools, and processes needed by front-line employees in the manager's functional area.

99

Politics

- You may face political pressures relating to:
  - Admissions
  - Waiting Lists
  - Employment & Nepotism
  - Land and Construction Issues
  - Procurement
- How do you cope?

100

Administering Your Housing Programs Utilizing Management by Policy Principles

101

Why Do We Need Policies?

- As Indian Housing Block Grant Recipients funded through the Native American Housing Assistance & Self Determination Act (NAHASDA), Tribes & Tribally Designated Housing Entities are required to develop and adopt certain policies & procedures.
- Plus, it would be difficult to govern, operate, and administer housing assistance programs without policies & procedures.

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Types of Required Policies

- Statutory
  - Native American Housing Assistance & Self-Determination Act (NAHASDA)
- Regulatory
  - NAHASDA Implementing Regulations at 24CFR Part 1000
  - Uniform Administrative Requirements at 2CFR Part 200

103

Statutory Required Policies

- Section 203 of NAHASDA
  - (a) Rents
    - (1) Establishment
  - (d) Eligibility For Admission
  - (e) Management & Maintenance
- Section 207 of NAHASDA
  - (b) Tenant & Homebuyer Selection

104

Regulatory Required Policies

- 24 CFR 1000.14
  - Real Property Acquisition & Relocation Policy
- 24 CFR 1000.26
  - (a) Requires compliance with of the Uniform Guidance at 2 CFR 200.
    - (a) Financial Management & Internal Controls Policy required by 200.302
    - (b) Procurement Policy required by 200.318 (a)
    - (c) Standards of Conduct & Conflict of Interest Policy required by 200.318 (c) & 1000.30
    - (d) Travel Policy required by 200.474 (b)

105

More Regulatory Policies

- 24 CFR 1000.42
  - HUD Section 3 – Job training, employment, & contracting opportunities for low-income individuals.
- 24 CFR 1000.46
  - Drug Free Workplace
- 24 CFR 1000.52
  - Indian Preference
- 24 CFR 1000.158
  - Housing Cost & Design Standards
- 24 CFR 1000.502
  - Self-Monitoring & Compliance Assessment

106

Other Recommended Policies

- Here are a few additional management policies that Tribes or TDHEs have adopted to help govern & administer the IHBG program:
  - Grievance
  - Personnel
  - Collection
  - Capitalization
  - Disposition
  - Investment (PIH Notice 2015-08)
  - Vehicle Use
  - Housing Quality Standards

107

Certification

- In compliance with Section 102 (2)(D) of NAHASDA titled Indian Housing Plans, the Tribe or TDHE must certify that all required policies are in effect.

108

Policies & Your Housing Programs

- Policies are the steering mechanism that controls the direction of the tribe/TDHE's housing assistance programs.
- All housing programs are organized & directed by policies.
- Informal policies are "the way things are done" or "that's the way we've always done it".
- Formal policies are developed through a planning process and adopted by the governing body of the tribe/TDHE.

109

More…….

- Adopted policies & informal policies can result in effective actions or ineffective actions.
- Some policies are never implemented by staff or they fail to achieve their desired ends.
- Policies succeed or fail due to the forces of people, finances, laws & regulations, and politics.
- NAHASDA offers flexibility in developing policies in the spirit of self-determination.

110

Policies Question……

- The question isn't whether your policies are the key to your housing program's future.
- The question is what kind of future is being created by your policies?
- Your world needs to operate in the long term interest of your housing programs. But it won't unless you make it happen.
- To be successful, you must be proactive by constantly influencing and overcoming an array of forces and continual pressures.

111

More……

- You cannot be passive or controlled by these forces or your world will revert to operating in ways that don't serve the long term interests of your housing programs.
- *Is this a fair description of our real world?*

112

The Process Of Developing Policy

- Policy Analysis
  - Accurate identification of the requirement or problem and/or desired future to be created.
  - Consider alternative interventions that can reasonably be expected to meet requirements to solve a problem to create the desired future.
  - Assess the likely intended & unintended consequences of implementing each alternative & administrative & financial feasibility.
  - Assess the likely human consequences of making these changes.

113

More Process…….

- Review & adoption process
  - Create a short draft written analysis in summary type segments using plain & clear language.
  - Circulate the draft analysis among policy-makers & potential implementers then have a short feedback session to get their initial thoughts & feelings about all aspects of the analysis.
  - Redraft the analysis & create proposed policy statement for review & approval based on knowledge gained from feedback.
  - Circulate for review by governing body and/or those responsible for implementation.
  - Governing body adopts policy by resolution.

114

Monitoring To Assure Policies Are Being Followed

- Establish agreed upon targets & measurable performance goals.
- Systematically measure progress.
- Follow process described in the Self-Monitoring & Compliance Assessment Policy or, if applicable, any performance improvement or management improvement plans.
- Governing body & staff mutually agree on any amendments that need to be made to achieve planned program activities.

115

What Should Be Done
When Policies Aren't Followed?

- Analyze the problem
  – What are the facts of the situation?
  – What are some possible solutions?
  – What are the effects (intended & unintended) of acting on each possibility?
  – What are the human consequences (intended & unintended) of each possibility?
  – After analysis, take action to amend a policy or other action to ensure implementation of policy (if possible).

116

What Is An 'Effective' Policy?

- An effective policy is one that works.
- Developed & designed to produce desired consequences when followed
- Organizes & prioritizes actions.
- Empowers the staff and housing program participants to achieve goals & objectives.
- Policy "cause & effect" aspects are well thought out & clearly articulated.

117

Example Of An Effective Policy

- Due dates for monthly payments & other charges
  - To keep the Tribe/TDHE in sound financial condition, all required monthly payments are due & payable on or before the 1st day of each month.
  - Payments may be made by check, cash, money order, credit card, debit card, payroll deduction, or direct deposit.
  - Housing program participants are allowed & encouraged to enter into Payback Agreements for delinquent payments.

118

What Is An Effective Procedure?

- Set of specific, detailed sequential steps.
- Cause the governing body's desired policy consequences to occur.
- Structures human behavior (staff, program participants, contractors, etc.) by organizing & prioritizing actions & decisions within specific time frames.
- States in writing who makes what decisions & who does what when.
- Embodies "cause & effect" understandings of what works in the 'real world' of human interaction.
- Causes everyone to respond in ways to achieve the intended policy goals within established time frames.

119

Example Of Effective Procedures

- Collections
  - Timetable for Notices Applicable to Rental Programs
  - First Notice of Delinquency sent by the 10th day of month.
  - Final Notice of Delinquency sent by the 30th day of month.
  - Notice of Termination delivered by the 30th day of following month.
  - Dwelling Lease is terminated on the 14th day after delivery of Notice of Termination & judgment for eviction is filed with appropriate court in accordance with tribal ordinance.

120

Distinction Between
Policies & Procedures

- Main distinction is who adopts (governing body or Executive Director) rather that how they are written of expressed.
- Some policies are very specific, others are more general leaving it up to the staff to translate into procedures.
- Most tribes/TDHEs combine policies & procedures into single document
- Whatever the governing body adopts is considered policy because it cannot be changed without further action by the governing body.
- Some policies allow Executive Director to amend procedures with governing body approval.

121

Remember…..

It's always important to remember that the governing body of the Tribe/TDHE *adopts* policies and the staff *administers* policies.

122

Operating Under
NAHASDA

123

Eligibility Criteria

Family   Income   Suitability

124

Persons Making up a Family

Indians	Non-Indians
Elderly	Near Elderly
Disabled	Single (Sole)
Minors	Students

125

Types of Families

Low-Income Indian Families	Non Low-Income Families
Essential Families	Law Enforcement Officers

126

Annual Income – Definitions
(24 CFR 1000.10)

Section 8 Definition

Census Definition
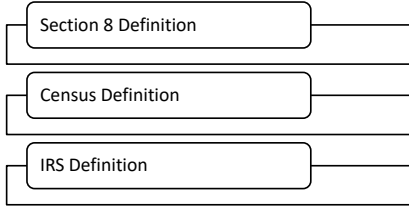
IRS Definition

Policy must state which definition(s) you are using

127

When <u>Must</u> a Family be Low-Income

- At the time services are provided
  - Rental Housing Program – Lease signed with family
  - Homeownership Program – Mortgage signed with family
  - Rehab Program – Agreement signed with family
  - Rental Assistance Program – HAP Agreement signed with landlord

128

Non-Low Income Families

10% Authority	Essential	Law Enforcement	Continued Occupancy	HUD Approved
• 10% of planned expenditures for 80-100% of median income families • Only if needed, and no other housing available • No HUD approval required • Benefits must be reduced	• Presence essential • Only if needed, and no other housing available • Does not count against 10% authority	• Employed full time • Must be sworn to uphold and make arrests • Determined that presence may deter crime • Does not count against 10% authority	• Policy determines if increase in income after entering program affects continued participation and/or change in benefits • Does not count against 10% authority	• Required if exceeding 10% authority, or • Family over 100% of median income

129

Calculating Monthly Payments

- Statutory deductions from annual income include:
- $480 for
  - Children under 18
  - Persons of disabilities over 18
  - Full-time students over 18
- $400 for elderly or disabled family
- Medical and attendant expenses over 3% of income
- Other: childcare, earned income of minors, travel expenses, and tribally determined

130

Calculating Maximum Payment

Annual Income − **Statutory Deductions** = Annual Adjusted Income

Annual Adjusted Income ÷ 12 = Monthly Adjusted Income

Monthly Adjusted Income × 30% = Maximum Payment
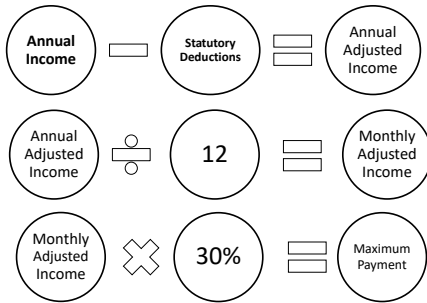
131

Suitability

- Determined by the Recipient (tribe or TDHE) – examples:
  - Violent criminal background
  - Drug-related criminal background
  - Poor history related to previous housing
  - In debt to the tribe or TDHE

HEY
I got what you want

132

Section 202 of NAHASDA
24 CFR 1000.102

ALLOWABLE ACTIVITIES

133

Indian Housing Assistance
(Primarily for 1937 Act Housing)

| Modernization | Operations | Maintenance | Subsidies |

134

Development

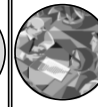| Acquisition | Construction | Rehabilitation | Conversion | Energy Improvements |

135

Housing Services

| Counseling | Self-Sufficiency | Homeless Prevention | Rental Assistance | Youth Activities |

136

Housing Management Services

| Loan processing | Inspections | Management | Grant writers | Maintenance |

137

Crime Prevention and Safety

| Physical Improvements | Security Personnel | Equipment |

138

Model Activities
(must be approved by HUD)

| Offices | Warehouses | Day Care Centers | Community Buildings | Community Generator System |

139

Administrative and Planning

| Salaries and Benefits | IHP Preparation | Annual Performance Report | Monitoring | Admin Costs Related to Activities |

140

Administrative and Planning

- A & P limited as follows:
  - 20% of annual grant allocation or PY expenditures, whichever is greater, for recipients receiving >$500,000
  - 30% of grant allocation or PY expenditures, whichever is greater, for recipients receiving $500,000 or less
- HUD may approve higher percentage.

141

Administrative & Planning Costs
<u>Directly</u> Related to Affordable Housing Activities

- May be expensed as administration and planning cost, or
- May be expensed as a cost for developing or operating the affordable housing activities:
  - Whole salary or pro-rated
  - Example – Development Director salary
- Establish cost allocation plan

142

What is an IHP?

Activities + → IHP

Budget

143

What is an IHP?

- An IHP is an Indian Housing Plan
  - Required by HUD in order to receive IHBG
  - Also a roadmap for responding to housing needs
- IHP spells out how recipient intends to use funds they receive under IHBG

144

Recommended Steps in Developing IHP

Form a vision → Collect data → Determine needs → Develop strategy → Identify resources → Set priorities → Develop programs

145

145
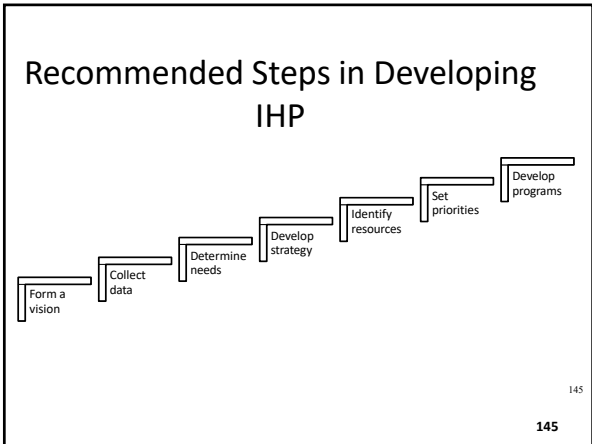
Who Submits the IHP?

- The IHBG Recipient submits the IHP
  - Tribe or
  - Tribally designated housing entity (TDHE)
- If a TDHE has been designated by more than one tribe:
  - TDHE may submit a separate IHP for each, or
  - Single IHP for all tribes in its jurisdiction
- Be sure to include Tribal Certification

146

When should the IHP be submitted?

- Submit IHP 75 days prior to start of program year (PY)
  - Effective management tool
  - Allows recipients to have their IHPs in place at start of PY
  - Failure to submit on time may result in NO IHBG!
- What if Congressional Appropriation is delayed?:
  - If the PY estimate is available, base IHP on PY estimate amount on Formula Response Form; otherwise, use actual grant amount from previous PY IHP
  - Revise IHP (internal only) when actual amount known
  - Update APR to include actual amount (required)

147

IHP Deadlines and Waivers

- Extension may be granted under exceptional circumstances
- HUD cannot waive a due date outside of the statutory limit provided in Section 101(b)(2) of NAHASDA
- Request waiver of the deadline -
  – Any time before or after the IHP submission deadline, however …
  – Extension may only be granted for up to 90 days after the original deadline.

148

Energy and Performance Information Center (EPIC)

- What is EPIC? A HUD-based system originally designed to collect information on how PHA's were expending Capital Project grants.
- The EPIC system has been expanded to include reporting on the Indian Housing Block Grant (IHBG) program.

EPIC

149

Recommended Steps in Developing an IHP

1. Form a vision
2. Collect data
3. Determine needs
4. Develop a strategy
5. Identify resources and how resources could address needs
6. Set priorities
7. Make strategic decisions and develop program descriptions and outcomes

150

Key Sections of the IHP Form

- Cover page
- Housing Needs
- Program Descriptions
- Maintaining 1937 Act Units
- Budget
- Other Submission Items
- Certifications
- Amendments

151

What is the APR?

- Describes recipient's performance for previous program year
- Highlights how recipient ensured compliance and financial accountability
- Provides statistics on unit quality and cost and program outcomes
- Used by recipient, tribal members and HUD to provide feedback for program performance

152

Why is the APR Important?

- Statutory requirement
- Public comment
- Tool to track IHP progress
- Self-assessment and planning
- Technical assistance necessary from HUD
- Public information

153

Key Sections of the APR

- Actual Outcomes and Outputs
- Program Accomplishments
- Budget
- Expanded Formula Area
- Self Monitoring
- Inspections
- Audits
- Public Accountability
- Jobs Supported by NAHASDA

154

MONITORING

155

Why Conduct Self-Monitoring?

- It's the law

- NAHASDA: Section 403(b) PERIODIC MONITORING -

156

Why Conduct
Self-Monitoring?

- It's the law

- NAHASDA: Section 403(b)
  PERIODIC MONITORING -

157

3 Statutory Requirements

- Self-Monitoring Compliance Assessments

- Annual Performance Reports

- Audits

158

Monitoring of Compliance

403(c)PERFORMANCE MEASURES – The
Secretary shall establish such performance
measures as may be necessary *to assess
compliance with the requirements of this Act.*

159

Performance Reports

- NAHASDA Section 404
  - (a.) Requirement
  - (b.) Content
  - (c.) Submission
  - (d.) Public Availability

APR

160

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- Inspections
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- Public Accountability
- Jobs Supported by NAHASDA

163

Audit Requirements

- NAHASDA Section 405
  - (a.) Requirements
  - (b.) HUD monitoring reviews
  - (c.) Review of Reports
  - (d.) Effect of Reviews

164

So, Self-Monitoring involves two components:

- Monitoring your performance
  - What you plan to do or want to do

- Monitoring for compliance
  - What you are required to do

165

Who is Involved in the Process?

- Recipient (Tribe or TDHE)

- Grant Beneficiary (Tribe)

- HUD

166

RECIPIENT

- The recipient (Tribe or TDHE) is required to:
  - Monitor grant activities to ensure compliance with applicable federal requirements
  - Monitor IHP performance goals
  - Prepare:
    - A compliance assessment
    - A performance report
    - An audit, as applicable

167

GRANT BENEFICIARY

- When the recipient is a TDHE, the Grant Beneficiary (Tribe) is responsible for:
  - Monitoring programmatic and compliance requirements of IHP & NAHASDA
    - By requiring TDHE to prepare progress reports, annual compliance assessment, performance report, and audit

168

HUD

- HUD will conduct on-site and off-site review of records, reports and audits

- Provide TA and Training

"Not supposed to have a 'gotchya' mentality!"

169

What are HUD's Performance Measures?

24CFR 1000.524

HUD Performance Measures
24 CFR 1000.524

- (a) The recipient has complied with the required certifications in its IHP and all policies and the IHP have been made available to the public.
- (b) Fiscal audits have been conducted on a timely basis and in accordance with the requirements of the Single Audit Act, as applicable. Any deficiencies identified in audit reports have been addressed within the prescribed time period.
- (c) Accurate annual performance reports were submitted to HUD in accordance with §1000.514.
- (d) The recipient has met the IHP-planned activities in the one-year plan.
- (e) The recipient has substantially complied with the requirements of 24 CFR part 1000 and all other applicable Federal statutes and regulations.

171

Audit Requirements
2 CFR 200 Subpart F

- The Single Audit Act consolidates and allows for one audit rather than multiple audits of each federal grant a Tribe receives.
- $750,000 or more in federal funds *spent in* the fiscal year must have a single audit or program-specific audit in accordance with the provisions of Subpart F of 2 CFR 200.
- Conduct in accordance with 200.514 Scope of audit.

172

Prepare for the Audit

1. Procure an Auditor

   Remember the new requirement: Peer Review must be requested from Auditor. Non-submission or submission of "fail" peer review may disqualify the auditor from consideration.

2. Be prepared to provide items to auditor and must give them access to your records
3. Know all your federal awards (CFDA, Award Number, etc)
4. Prepare the Financial Statements, schedules & Schedule of Expenditures of Federal Awards (SEFA)
5. Be timely:
   - Complete the Audit
   - Submit to Federal Audit Clearinghouse on time! Earlier of:
     - 30 days after receipt of the auditor's report, or
     - 9 months after the end of the audit period.

173

Allowable Audit Costs

NAHASDA funds can be used to pay a proportional share of the cost of the audit, IF an audit is required.

174

When Should Monitoring Occur?

- Monitoring Performance Goals:
  - On-going
    - Track progress and activities
  - Monthly or quarterly
    - Prepare progress reports

- Monitoring for Compliance:
  - At least annually
    - Complete formal assessment, on-site inspection of units
  - Periodic compliance monitoring is also beneficial

175

How is Self-Monitoring Conducted?

- Monitoring for Compliance:
  - Since each Tribe or TDHE is unique in size and amount of funding, Tribes should decide how best to monitor their activities to ensure compliance with requirements of NAHASDA statute and regulations.

176

Components of a Monitoring System

- Policy Statement
- Methodology
- Strategy
- Areas to be monitored
- Resolution of noncompliant areas
- Recommendations for improvement
- Reporting Requirements

177

What if I find problems?

- Develop Corrective Action Plan
  - Develop/revise policies
  - Develop/revise Internal Control Procedures
  - One on one training as needed
- Request assistance/training from HUD

178

How is Self-Monitoring Conducted?

- Monitoring Performance Goals:
  - Spreadsheets are useful tools for monitoring progress of goals and objectives in your Indian Housing Plan

179

Assessment Methods

- Self-Monitoring Committee
  - BOC, Tribal Council, Business Committee, Staff
  - Develop system, conduct, report, follow-up
- Management Session
  - Led by Executive Director, Housing Director
  - Convene meeting of department managers or staff involved in critical compliance areas
- Third Party Review
  - Individual or team familiar with Indian Housing or Tribal Programs but not employed by your agency

180

Therefore, Self-Monitoring under NAHASDA is:

- Observing or reviewing your activities

- Checking or inspecting housing assisted with IHBG funds

- Recording and reporting the results

181

Summary of what monitoring is all about…

"To identify where we're at throughout the year, to raise flags before crunch time, and to identify who should be doing what."

182

REPORTING AND RECORDKEEPING

183

Reporting Requirements
2 CFR 200.302(b)(3)

The financial management systems must provide…accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§200.327 (Financial Reporting) and 200.328 (Monitoring and Reporting Program Performance).

184

Recordkeeping Requirements

- 200.302(3): Maintain records that identify adequately the source and application of funds for IHBG funded activities.
- NAHASDA Part 1000.552 requires financial and programmatic records to be retained for 3 years from the end of the grantees program year or settlement date of any litigation, claim, or audit that was started before the expiration of the three year period.

185

Recordkeeping Policy Requirements

Adopt a policy that includes:
- Retention requirements for records (200.333) - How long you keep the records (1000.552)
- Method to transfer certain records to the federal agency, if required (200.334);
- Methods for collection, transmission and storage of information (200.336);
- Access to records; (200.337) – for HUD, the Inspector General's, the Comptroller General of the United States;
- Restrictions on public access to records (200.337) – for example, Personnel files.

186

Accounting Records to Keep (examples)

- Bank Reconciliation Files
- Journal Entry Files
- Financial Statement Files
- Vendor Files
- Personnel Files –
  - File 1 – Application and other general information
  - File 2 - Confidential information (health, grievances)
  - File 3 – Payroll information

187

Program Records to Keep (examples)

- IHPs
- Agreements
- Policies
- APR
- Organizational docs
- Tenant files

188

Procurement Files to Keep (examples)

- Statement of work and/or work write-up
- Independent cost estimate
- Evidence of publication of solicitation with Indian Preference
- Solicitation mailing list
- Technical Evaluation Plan (RFP – competitive proposals only)
- Solicitation, amendments and approvals
- Bids or Proposals

189

Sustainability
and
Other Housing Resources

190

Sustainability Continued

- Operating a housing program is much like a business. It should be operated as such.
- Revenue and expense calculations
- Too many tribes depend solely on IHBG for funding – not sustainable
- Tribe must protect assets, Housing Inventory
- Reduce tenant damage, charge for it, inspect often and train tenants that it is not HUD housing.

191

Sustainability continued

- Do you know how much money your tribe spends on each rental home each month?
- Suggest tribally driven Allowable Expense Level (AEL).
- Also determine value of each CAS unit in subsidy.
- Collect what is owed to you.
- Limit zero rent units.

192

Sustainability continued

- Must recognize that HUD style admissions and occupancy methods might not be adequate for tenant management.
- Focus on education prior to occupancy.
- Inspections should match risk of new tenant.
- References, background checks, criminal record should all be considered in selection process.
- Educate community as to the value of the housing resource and why we need to work together.

193

Sustainability continued

- Use non subsidized units to support low rent units.
- Build communities by supporting and promoting positive community activities, cultural, gardening , youth sports, clean ups.
- Give tenants a voice in their communities.
- Seek new resources at every opportunity.

194

Sustainability

- Other sources of funds for operation and meeting IHP Goals are Program Income and Non-Program Income
- Charging appropriate rents that are affordable to qualified families will help tribe meet goals.
- Benefit of flexibility of Non-Program income.
- Feeds Homeownership programs
- Fair to all participants

195

Rent Calculation

Annual Income		$27,000
Adjustments:		
4 dependents @ $480		($ 1,920)
Child Care		($ 1,080)
Total Adjustments		$ 3,000
Adjusted Annual Income		$24,000
Adjusted Monthly Income	(24,000/12)	$ 2,000
Monthly Gross Rent	$2,000 x 30%	$ 600
Utility Allowance		($ 250)
Monthly Rent		$ 350
Annual Revenue	$350 x 12	$ 4,200

196

IHBG Subsidy

	Using Maximum	Generous IHA	Very Generous IHA
Average Adjusted Monthly Income	$2,000	$2,000	$2,000
Percentage Used	30%	20%	10%
Monthly Gross Rent	$600	$400	$200
Utility Allowance	$ -0-	$100	$200
Net Rent Payment	$600	$300	$-0-
Units	100	100	100
Monthly Revenue	$ 60,000	$ 30,000	$ -0-
Annual Revenue	$ 720,000	$ 360,000	$ -0-
Annual Expenses	($900,000)	($900,000)	($900,000)
IHBG Subsidy Needed	$ 180,000	$ 540,000	$ 900,000

197

Other Resources

198

A Couple More Things………

- **Administrative Requirements**
- **Financial**
  Management

199

Grant Amount → Activities → Beneficiaries → IHP → Grant Agreement → Participant Selection → Program Administration (NAHASDA Grant Management Process)
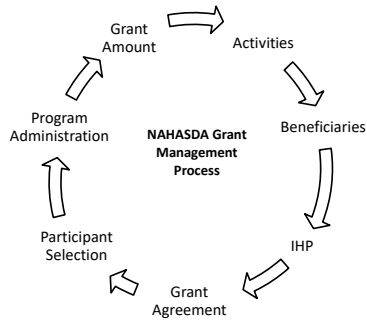
200

Grant Agreement

- Sign agreement after plan is in compliance and funds are allocated"
- Legal document sets out grant award and obligation to follow requirements
  - HUD 52734B
- Other required forms
  - HUD 27054
  - SF 1199A
  - Lobbying certificate
  - Assurance of compliance
  - Indian preference certification

201

Electronic Line of Credit Control System (*e*LOCCS)

- Computerized cash management disbursement system
- Submit form HUD 27054 to get set up
- HUD enters budget into LOCCS – draw against BLI (budget line item)
- Guidance 2014-08(R) provides instructions on accessing eLOCCS.

202

Cooperation Agreements
(24 CFR 1000.240-246 and NAHASDA Sec 101

- Agreement with local government to ensure that local government services will be provided to the housing
- The housing is exempt from all real and personal property taxes
- Payment in lieu of taxes (PILOT) may be negotiated between the recipient and the local government up to the maximum amount to compensate local government for service costs

203

Total Development Costs
24 CFR 1000.156-162

- Total cost cannot exceed published TDC
- Help ensure affordability
- HUD calculates:
  - Hard construction costs
  - Soft costs
  - Site costs
- Recipient can request a variance of their TDCs

204

Procurement Methods
2 CFR 200.320

Small Purchases (Under $150,000)

- Micro purchases (under $10,000 for NAHASDA)
- Other small purchases ($10,000 - $250,000)

Sealed Bidding ($250,000 or more)

Competitive Proposals (not based on price)

Non-Competitive Procurement (limited)

205

PROGRAM COMPLIANCE

PROCUREMENT GENERAL STANDARDS

Procurement "Claw" (Sections 200.317-326)

1. Micro-Purchases
2. Small Purchases
3. Sealed Bids
4. Competitive Proposals
5. Sole Source

General Standards:
A. Documented Policies
B. Necessary
C. Full & Open Competition
D. Conflict of Interest
E. Documentation
  i. Cost & Price Analysis
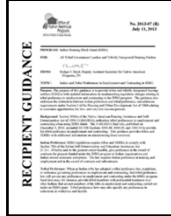 ii. Vendor Selection

206

Section 7(b) of ISDEAA

Preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974.
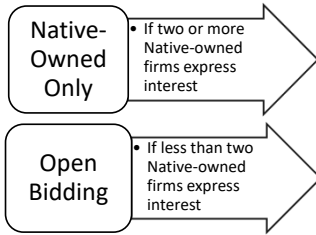
207

Indian Preference Final Rule

- The Final Rule amended 24 CFR Sections 1000.48, 1000.50, and 1000.52 to provide for _tribal_ preference in employment and contracting.
- Program Guidance 2013-07 (R) dated July 11, 2013, provides additional information on administering these revisions.

208

Indian Preference
(24 CFR 1000.448-452)

Native-Owned Only → If two or more Native-owned firms express interest

Open Bidding → If less than two Native-owned firms express interest

Not required for Micro Purchases (under $5,000)

209

Environmental Requirements
24 CFR 1000.18

- HUD may complete the reviews as Certifying Officer under Part 50
- If tribe chooses to be responsible for environmental reviews, the Certifying Officer follows Part 58

210

Environmental Review Categories

Exempt	Categorical Exclusions (not subject to 58.5)	Categorical Exclusions (subject to 58.5)	Environmental Assessments
• Administrative • Engineering • Feasibility study	• Rental assistance • Operating costs • Down payment assistance	• Utility upgrades • Accessibility modifications • Rehab 1-4 unit structures (with restrictions) • Rehab larger structures (with restrictions)	• All projects not exempt or categorically excluded

211

Non-Discrimination Requirements
24 CFR 1000.12

- Age Discrimination Act
- Section 504 of the Rehabilitation Act
  - Qualified disabled persons have access to programs and activities
  - 504 applies to all NAHASDA-related activities
- Indian Civil Rights Act

212

Relocation and Acquisition
24 CFR 1000.14

- Relocation
  - Must comply with Uniform Relocation Act (URA)
  - Pay temporary relocation and displacement benefits
  - Maintain records to demonstrate compliance
- Acquisition
  - Negotiate with seller
  - Not pay more than assessed value

213

Labor Requirements
24 CFR 1000.16

- Davis-Bacon labor standards are applicable to NAHASDA programs
  - Tribe may adopt prevailing wage rates
  - Prevailing wage rates as determined by DOL must be paid for laborers and mechanics for all construction and rehab

214

Conflict of Interest
24 CFR 1000.30

Conflicts prohibited. No person who participates in the decision-making process or who gains inside information with regard to NAHASDA assisted activities may obtain a personal or financial interest or benefit from such activities, except for the use of NAHASDA funds to pay salaries or other related administrative costs. Such persons include anyone with an interest in any contract, subcontract or agreement or proceeds thereunder, either for themselves or others with whom they have business or immediate family ties. Immediate family ties are determined by the Indian tribe or TDHE in its operating policies.

215

Flood Insurance
24 CFR 1000.38

- If in FEMA identified special flood hazard area requires either
  - Participation in National Flood Insurance Program or
  - Private flood insurance
- Many reservations have not been mapped by FEMA

216

What is Financial Management?

- Helps housing business to run smoothly
- Includes:
  1. Effective cost management
  2. Internal controls
  3. Recordkeeping
  4. Auditing

217

## Benefits of A Sound Financial Management System

- Long term financial planning;
- Accurately organize grant activities;
- Effective and efficient use of the NAHASDA funds;
- Achieve program objectives and fulfill commitments of the IHP;
- Demonstrates accountability to the Tribe and HUD; and
- Gain confidence of HUD and potential funders.

218

Overview Of Financial Management System

- One size does not fit all – tailor to staffing and organizational structure
- Refer to 2 CFR 200 Post Federal Award 200.300-309 for financial management system standards
- Refer to NAHASDA 1000.26 Administrative Requirements for NAHASDA specific requirements

219

220
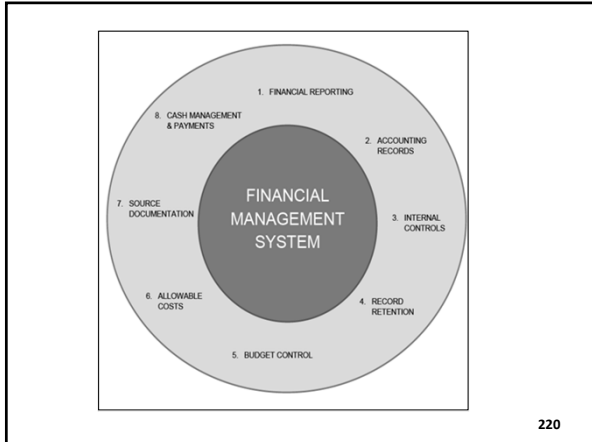
What costs are allowable?
2 CFR 200.403

Necessary, reasonable, allocable

Conform to grant award criteria

Consistent with policies and procedures

Accorded consistent treatment – allowable or allocable.

Generally GAAP

Cannot use as cost sharing or matching requirement

BE ADEQUATELY DOCUMENTED

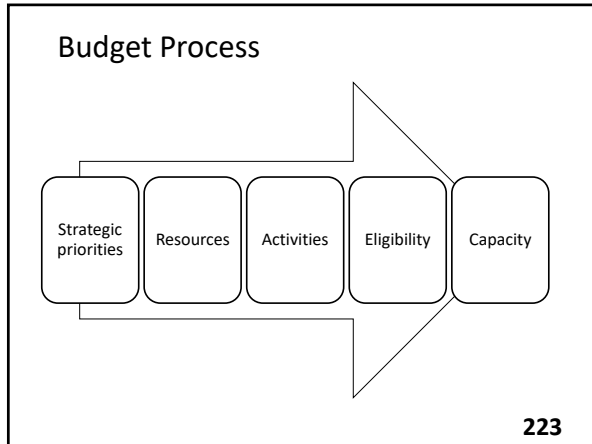**NAHASDA does not prohibit use of IHBG funds as matching funds**
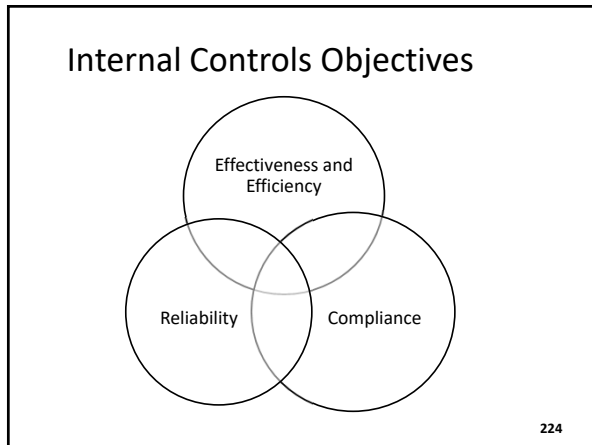
221

Why is budgeting important?

- Budgets help set targets
- Strategy requires funding
- Identify Tribal priorities
- Control and Accountability
- Required by Uniform Guidance §200.302(b)(5): The Financial Management System must provide for comparison of expenditures with budget amounts for each Federal award.
- When the Tribe/THDE undertakes the time to budget, they are making a deliberate decision to plan their financial goals for the short and long term.

222

Budget Process

Strategic priorities · Resources · Activities · Eligibility · Capacity

223

Internal Controls Objectives

Effectiveness and Efficiency

Reliability

Compliance

224

Internal Controls
2 CFR 200.303

A non-Federal entity MUST:

a) Establish and maintain effective internal controls that provides reasonable assurance in management of federal awards;

b) Comply with Federal statutes, regulations, and the terms and conditions of the award;

c) Evaluate and monitor compliance;

d) Take prompt action when instances of non-compliance are identified, including non-compliance identified in audit findings;

e) Take reasonable measures to safeguard protected personally identifiable information (PII) and other sensitive information (consistent with law).

225

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