




**Executive Director Training**

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October 27-28, 2020  
11:00-4:00 PM EST  
Lunch 1:00-2:00

1



**Office of Native American Programs**  
Office of Public & Indian Housing

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

National American Indian Housing Council  
"A Tradition of Native American Housing"  
N A I H C

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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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# CLASS OBJECTIVES

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This 2 Day Virtual Executive Director Training will provide a summary of the components of NAHASDA. Participants will have a clear understanding of IHA management and operations. It will help answer common questions regarding Recipient/Staff responsibilities and functions. It will also identify management options and administrative requirements for NAHASDA implementation. We will also discuss how to Navigate HUD resources. (Regulations and Guidance, 2 CFR Part 200).

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# AGENDA DAY 1

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10:45 -11:00 A.M.

ZOOM SIGN IN & ROOM ENTRY

11:00 – 4:00 P.M.

Welcome, Introductions

The History of Indian Housing

Understanding NAHASDA and its  
Implementing Regulations and Guidance

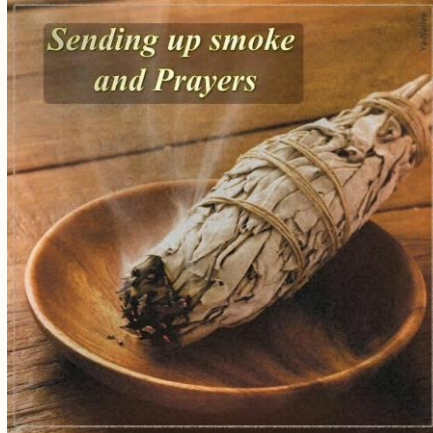
Required Statutory & Regulatory Policies

1:00 – 2:00 P.M.

LUNCH BREAK

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# WELCOME & GOOD MORNING!



5

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## Getting to know The Instructor

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Greetings my name is Cheryl

My Anishinaabe name is Red Bird Woman

I am Loon Clan and I come from Gnoozhekaaning (Place of The Pike), Bay Mills

Bay Mills is a Reservation located in the Upper Peninsula of Michigan, we are at the top and our waters border Canada

I served as my Tribes Director of Housing for over 28 years

I was honored to serve as the Chairwoman of the National American Indian Housing Council (NAIHC) for Four years and on the Board of Directors as Vice-Chair and Secretary for an additional 12 years

I also served as The Chairwoman of the Great Lakes Indian Housing Association for 7 Years

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## ZOOM POLL

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- What is your name?
- Where are you from?
- What is your position?



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## *The History Of Indian Housing*

9

### *Trust Responsibility*

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*The United States has a trust responsibility to Native American tribes and to our people. This trust responsibility is based on sacred treaties with Indian tribes, federal statutes, court decisions, executive agreements, and through the course of other transactions and federal policy from the early 1800s.*

*This trust responsibility extends to areas of health care, education, natural resources, public safety, and, of course, housing.*

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## *The 1937 Housing Act*

– *After the Great Depression, federal programs were created in an effort to help America's poorest citizens. The United States Housing Act of 1937, one of many post-Depression New Deal programs, promised to provide "safe and sanitary" dwellings for America's poor. The 1937 Housing Act authorized local governments to organize public housing agencies and provided loan funds to these agencies for low-income housing projects. It also permitted the federal government to guarantee these loans and to make yearly payments.*

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## *The 1937 Housing Act*

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*In 1949, Congress passed another housing bill that updated the '37 Act and addressed the post-World War II housing shortage. The bill renewed the federal commitment to provide safe and sanitary homes to the poor and expanded it to include a "decent home and suitable living environment for all American families." Regrettably, "all American families" did not include Indian County families. The housing needs in Indian Country were not included in the '37 Housing Act.*

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*This was probably due to the Federal government termination policy toward Indian tribes in the late 1940s and 1950s. Termination was a process designed to dissolve the Federal government-to-government relationship with tribes and assimilate Indian people into mainstream America. Tribes lacked the experience and influence in government and politics to assert their housing rights under existing federal and state law during this time period. Most tribes also lacked the financial capability to finance their own housing programs.*

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## The Kennedy Vow

1960-John F. Kennedy visited The Pine Ridge Reservation, during his campaign for President of the of the United States. After viewing housing conditions, He vowed to bring Federal assistance to Native Americans if elected.

1961- After being elected, President Kennedy convened his Cabinet and asked how they could provide Federal assistance to Tribes.

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## *Indian Tribes Eligibility*

– *It was not until 1961 that Indian tribes became eligible for housing assistance under federal programs—assistance that the rest of the United States had accessed for 25 years. Still, in 1961, two major events forever changed Indian housing.*

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## *Indian Housing Authorities*

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First, the Public Housing Administration, HUD's predecessor agency, recognized tribal governments as local governing bodies that could establish Indian Housing Authorities under tribal law by approving a tribal ordinance. This meant that Indians on reservation and trust lands became formally "eligible" through the IHAs for publicly assisted housing programs which the rest of the country had been accessing for the last 25 years.

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## *First Indian Housing Authority*

– *With this ruling the first Indian Housing Authority was established when the Oglala Sioux tribe on the Pine Ridge reservation in South Dakota created an IHA under tribal law in August 1961.*

17

## *States Can Establish IHAs*

– *Second, the Public Housing Administration also determined that states could establish IHAs in cases where a tribal government was not federally recognized but exercised the necessary administrative powers. States were required to pass a law that authorized the establishment of an IHA. This opened the programs to non-reservation federally recognized tribes, Alaska native villages, and a limited number of state-recognized tribes.*

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## *Pine Ridge Demonstration Project*

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*By the end of 1962, the Pine Ridge demonstration project, helped convince the PHA legal counsel that more than low rent projects were needed, since 85 percent of Indian families needing homes earned \$2,000 or less per year.*

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## *Self-Help Programs*

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*PHA's legal counsel had concluded that the '37 Housing Act contained the legal authority to create self-help programs. The self-help, or mutual help concept, was based on the idea that the homebuyer would contribute one of the following: land; materials; or labor ("sweat equity") toward the purchase of the home.*

*These contributions would give more low-income Indian families the chance to own single family homes, often at lower payments than the low rent program. Also, it was believed, pride of ownership would be inspired, and there would be more incentive to maintain the home and property.*

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## *The First Mutual Help Program*

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– *The PHA announced the first mutual help housing program in December 1962. The first mutual help program was inaugurated in Indian Country by the San Carlos Apache IHA in 1964. Indian homes were developed under this program (now known as "Old Mutual Help") until 1976.*

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## *INDIAN HOUSING ENCOUNTERS PROBLEMS*

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*Problems which arose from the onset of these first initiatives still plague tribal housing programs and their federal funding agencies today. The PHA modeled both the low-rent and mutual-help delivery systems after its urban multi-family prototype. Unfortunately, this approach had a long list of unforeseen consequences for Indian housing.*


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## *Some Issues Include:*

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- 1. *Indian preference for single family as opposed to multi-family dwellings*
- 2. *Trust status of Indian lands*
- 3. *Cultural considerations*
- 4. *IHA lack of training and professional expertise*
- 5. *Rural isolation of most reservations*
- 6. *Banks reluctance to lend money on trust lands*
- 7. *Inefficient Federal inter-agency coordination*
- 8. *The high cost and slowness of the development process*

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*These problems persisted for many years despite many efforts to address them. Many of these issues remain today in varying degrees, directly affecting the quality of the Tribe's housing programs.*

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## ***THE FEDERAL GOVERNMENT'S RESPONSE TO THE PROBLEMS***

*It soon became apparent that PHA and the Bureau of Indian Affairs had to work closely together in order to address the problems. In 1963, PHA and the BIA signed the first coordination agreement for mutual help projects. The agreement identified each agency's responsibilities in the mutual help development process. The BIA was already developing homes using construction supervisors so it was logical that it should provide the construction superintendent for mutual help projects. Consequently, the Bureau was designated the lead oversight agency for all development activities.*

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## ***THE FEDERAL GOVERNMENT'S RESPONSE TO THE PROBLEMS***

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*The PHA's role was to give technical assistance and facilitate projects. In 1965, a second coordination agreement was signed between the two agencies, this time to cover PHA low-rent projects. Both agencies' responsibilities remained the same under this agreement. Problems arose, however, as both agencies were severely criticized for vague and overlapping roles requiring a complexity of bureaucratic red tape that caused unnecessary and costly construction delays. Furthermore, it became apparent that the BIA's responsibilities were more than it could handle. In response, two major changes occurred in 1965.*

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*First, the BIA established the Division of Housing Assistance with two programs:*

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*Housing Development, which primarily funded staff salaries;*

*and the Housing Improvement Program (HIP) which gave grants to rehabilitate homes and for building homes for the very low income.*

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*Department of Housing and Urban Development Act*


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*– Also, in 1965, Congress passed the Department of Housing and Urban Development Act, creating HUD as a new federal, umbrella agency.*

DEPARTMENT  
OF  
HOUSING  
AND  
URBAN  
DEVELOPMENT

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## *Six former federal agencies were merged under HUD*

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- 1. Public Housing Administration (PHA)*
- 2. Federal Housing Administration (FHA)*
- 3. Housing and Home Finance*
- 4. Community Facilities Administration*
- 5. Urban Renewal Administration, and*
- 6. Federal National Mortgage Administration*

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## *Housing and Urban Development Act of 1968*

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*The first formal reference to HUD's obligation to serve low-income Indian families was in the Housing and Urban Development Act of 1968, which included the modernization program, the Comprehensive Improvement Assistance Program (CIAP).*

*CIAP was designed to fund major rehabilitation and repairs to low-income rental units. It was not until 1979, however, that Indian Housing Authorities became eligible for CIAP.*

30



## *Logistical Challenges*

– *The promise of the Indian housing programs established in the 1960s was under increasing pressure as the 1970s began. Federal programs administered by HUD, more fitted to an urban environment, made the development of effective housing programs even more difficult in Indian Country. There was considerable national interest in satisfying the recognized housing need; however, the logistical challenges of developing housing in Indian Country remained.*

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## *Developing Housing in Indian Country*

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*Overwhelming construction delays were compounded by new projects from multiple programs and funding agencies going into production without adequate delivery system controls and virtually untrained local IHA staff. HUD issued various rules and regulations that continued a long history of federally established guidelines intended to better monitor and measure the effectiveness of Indian Housing programs. The guidelines and HUD directed housing programs did not work. HUD and the BIA quickly realized that the goal of eliminating substandard Indian housing conditions would not be completed by their self-imposed goal of 1974.*

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***Government  
Accounting  
Office (GAO)  
Issued a  
Congressional  
Report on  
Indian  
Housing***

*In 1971, the Government Accounting Office (GAO) issued a congressional report on Indian housing that recommended a National Indian Housing Policy to stimulate agency coordination and accelerate the completion of projects.*

33

***HUD published the Interim Indian  
Housing Handbook (7440.1).***

*In March 1976, HUD published the Interim Indian Housing Handbook (7440.1). The handbook contained the regulations, their guidelines and procedures. The new regulations made it easier for centralized oversight of Indian programs and clarified federal agency roles. They also created a measuring device for monitoring the effectiveness of IHA management particularly in rent and homebuyer payment collections. Tenant Accounts Receivable or "TARs" became an industry buzzword as collection became directly tied to IHA management subsidy funds. In the regulations the mutual help program became "old" mutual help (OMH), superseded by the "new" mutual help program. The New Mutual Help (NMH) program had, among other things, fixed unit prices and fixed amortization schedules.*

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## *Developing Housing in Indian Country*

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*In 1978 the General Accountability Office issued a report on Indian housing that found that 86,500 Indian families lived in substandard housing or needed new housing as compared to 63,000 documented in its 1971 publication. Housing construction starts had dropped dramatically and many of the long-standing problems still had not been addressed. Obviously, the federally-directed program delivery system had failed.*

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## *Lack Of Training*

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*The failure of top-down administration was made even worse because local Indian Housing Authorities received no training in housing development and administration. NAIHC, established in 1974, reasoned with HUD and Congress that the goal of eliminating substandard housing conditions would not occur with Indian housing programs that were federally directed, and that training and other capacity building efforts should be tribal-specific. It would be 22 years until tribally directed housing would be authorized by law.*

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## *Decade of Survival*

*1980s was truly a decade of survival for tribal housing funding. Indian housing conditions worsened and the Presidential Budget Requests during this time proposed no funding for Indian housing programs. Throughout the decade, Congress allocated only limited resources that would create an average of 2,300 new units during the 80s, about half of the funding for previous years.*

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## **TYPES OF IHA HOUSING PROGRAMS DEVELOPED AND MANAGED UNDER THE 1937 HOUSING ACT**



### **HUD LOW-INCOME HOUSING PROGRAMS** **Low-Income Rental**

*In the rental program low income families typically are month-to-month lessees. Most rental programs include two or three primary types of structures such as single-family detached units and duplexes or triplexes. Elderly and handicapped projects may include congregate housing with common dining and other facilities. The homes are rented to low-income families and HUD subsidized their rental payments with payments to the IHA in the form of an "operating subsidy". HUD provided this assistance over a 40-year period. At the end of 40 years, the project's development costs were retired through provisions of the Annual Contributions Contract (the financing contract).*

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**HUD LOW-INCOME HOUSING PROGRAMS**  
Low-Income Rental



*Tenants paid according to their income which means that if a tenant's income decreased, their rent also decreased (and there was no minimum payment required). The rent also increased if the tenant's income increased. The IHA was responsible for maintenance and repairs for damage not caused by tenants.*

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***TYPES OF IHA  
HOUSING  
PROGRAMS  
DEVELOPED  
AND MANAGED  
UNDER THE  
1937 HOUSING  
ACT***

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## ***Mutual Help Homeownership***

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*This program was for low-income Indian families to own their homes rather than to rent. Before construction began the Mutual Help, homebuyer entered into a Mutual Help and Occupancy Agreement (MHOA) with the IHA. Among the terms and conditions, the family agreed to contribute at least \$1500 to the project before moving in.*

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**(a) cash,**



**(b) labor,**



**(c) land where the unit will be located, and/or**



**(d) appropriate materials and equipment, such as appliances.**

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***The Mutual Help contribution included at least one of the following:***

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## ***The MHOA (Mutual Help and Occupancy Agreement)***

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*The MHOA specifies the type and amount of the contribution. Credit was given to the homebuyer for the contribution when the initial purchase price of the home was determined. HUD gave financial assistance to the IHA for the cost of the project. The government helps the homebuyers pay off the purchase price annually through the ACC. Mutual Help homebuyers were also responsible for paying their own utilities and for maintaining the home. In addition, they paid the IHA a monthly administrative charge. As income permitted, they also made additional monthly payments toward the purchase of the home*

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***The MHOA  
(Mutual Help  
and  
Occupancy  
Agreement)***

*Homes in the mutual help homeownership program that were built between 1962 and 1976 are called "Old Mutual Help"; homes built after 1976 are called "New Mutual Help". The Old Mutual Help program is very similar to the New Mutual Help program. The main difference is in the accounting process and the Mutual Help and Occupancy Agreement.*

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***Turnkey III***


*This was a homebuyer program that was used prior to March 9, 1976 to provide homes for low income families who had the potential to be homebuyers. In Turnkey III projects participants did not play a role in the construction of the house. The participant purchased a completed home under terms similar to those in the Mutual Help Homeownership Program.*

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## Section 8

*The Section 8 Leased Housing Assistance Payments Program gave assistance to low-income families who lived in or preferred to find housing in the private housing market. HUD provided a subsidy to help meet the costs for operating the program and the IHA paid that portion of the rent that the tenant is unable to pay because their income was too low. Section 8 was and still is widely used in public housing but was only minimally used (some 3,602 units nationally) by tribes before the passing of the Native American Indian Housing Assistance Act (NAHASDA) of 1996.*

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*HUD reported in 1981 that over 30% of all IHAs were "troubled" or unable to meet financial obligations.*

*By the end of 1980, mutual help homes comprised about 61% of IHA housing. HUD reported in 1981 that over 30% of all IHAs were "troubled" or unable to meet financial obligations. The following reasons were given:*

*IHA failure to collect TARs  
over-budget expenditures  
lack of cooperation between the IHAs and tribes/states/regional corporations  
lack of good management resources  
tribal government instability, and  
poor tribal economies.*

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## *Indian Housing Act of 1988*

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*In 1984, HUD established an Office of Indian Housing that separated Indian housing programs from public housing programs for the first time. Indian housing was legislatively separated from public housing when Congress passed the Indian Housing Act of 1988.*

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## *Office of Native American Programs (“ONAP”)*

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*The Act created a separate title II of the U.S. Housing Act of 1937 that was directly and specifically applicable to Indian Housing. HUD’s Office of Native American Programs (“ONAP”), as it currently operates, was created by Section 902 of the Housing and Community Development Act of 1992.*

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## **CREATION OF THE OFFICE OF NATIVE AMERICAN PROGRAMS (ONAP) OFFICE**

*On October 1, 1993, the HUD Office of Indian Housing (OIH) at HUD Headquarters in Washington, DC, and the Regional Offices of Indian Programs (OIPs) became the Office of Native American Programs (ONAP). For the first time, all Regional ONAP field offices came under the direction of the central ONAP office of HUD. This change improved uniformity between regions and provided IHAs with direct assistance from the HUD central office in addition to assistance provided through the regional ONAP offices.*

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## ***The Creation of NAHASDA***

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*The 1990s started the process that culminated in passage of the Native American Housing Assistance and Self-Determination Act (“NAHASDA”) of 1996.*

*An extraordinary amount of thought and work preceded the passage of NAHASDA. Tribes, IHAs, and NAIHC were closely involved with representatives from Congressional and Administration staff to craft legislation that would address the long-neglected housing needs in tribal communities.*

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## *("The Commission")*

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*Much of the work that went into crafting NAHASDA was the result of the creation of a commission to evaluate the barriers to housing development in tribal communities. The National Commission on American Indian, Alaska Native, and Native Hawaiian Housing ("the Commission") was established by Congress in 1990 to evaluate the factors that were impeding the development of safe and affordable housing for Native Americans.*

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## *"Building the Future: A Blueprint for change,"*

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*The Commission also considered alternative strategies for the development, management, and modernization of housing for Native Americans. The Commission's report, "Building the Future: A Blueprint for change," was submitted to Congress in 1992.*

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## *NAHASDA Was Signed into Law*

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*NAHASDA was signed into law on October 26, 1996. While not perfect, this legislation represented a vast improvement over previous programs for Native Americans. NAHASDA was intended to enhance tribal capacity to address the substandard housing and infrastructure conditions so prevalent in our tribal communities. NAHASDA encouraged greater self-management of housing programs and emphasized the need to include private sector financing to complement scarce Indian Housing Block Grant (“IHBG”) dollars.*

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## *The Annual IHBG was Formula Driven*

*– The annual IHBG was formula driven and awarded to eligible Indian tribes, or their designated tribal housing entity—what HUD calls (“TDHEs”) for a range of affordable housing activities that primarily benefit low-income Indian families living on Indian reservations or in other Indian areas. The amount of each grant was based on a formula that considers need and the amount of existing housing stock. We know the formula was not perfect. however, most would agree it is a great improvement over the previous funding methods based on competitive housing grants more suited to public housing.*

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## ***NAHASDA Eligible Activities***

*– Some NAHASDA eligible activities would not have been eligible, under the 1937 Housing Act, including down-payment and other mortgage assistance programs, transitional housing, the construction of domestic abuse shelters, and creation of revolving loan funds. NAHASDA is not perfect, funding has not kept pace with housing needs in our tribal communities, and we have been continuously underfunded.*


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## ***NAHASDA Recognizes the Right of Tribal Self-Governance***

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*Many of the recommendations from the Commission's "Building the Future: A Blueprint for Change" were taken into account when NAHASDA was in the development process. NAHASDA recognizes the right of tribal self-governance and the unique relationship between the Federal Government and the governments of Indian tribes that have been established by long-standing treaties, court decisions, statutes, Executive Orders, and the United States Constitution.*

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## *The Final Rule*

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*NAHASDA changed the way that HUD provides housing assistance to Native Americans in other ways too. Its implementation in 1998 eliminated a number of separate assistance programs and replaced them with the IHBG program and Title VI Tribal Housing Loan Guarantee program. The regulations governing the IHBG and Title VI programs were established in a final rule dated March 12, 1998*

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## *Repealed Programs*

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The following programs were replaced by NAHASDA:	Traditional Indian Housing Development Program;	Comprehensive Grant and Comprehensive Improvement Modernization Programs;	Indian HOME;
	Youthbuild;	Youthsports; and	Homeless programs, including ESG. (Emergency Shelter Grants)

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## *Self-Determination the Hallmark of NAHASDA*

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*NAHASDA is a definite departure from the top-down process of previous Indian housing rules and regulations. NAHASDA recognizes the right of Indian self-determination and tribal self-governance by making assistance available directly to the Indian tribes or TDHE, under authorities similar to those accorded Indian tribes in Public Law 93-638. Self-Determination was, and continues to be, the hallmark of NAHASDA*

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## *The Importance of Funding for our Programs*

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*NAIHC Board members, tribal leaders, tribal housing professionals and other allies strive to continually educate Congress, especially those on the House and Senate Appropriations Committees, to the importance of funding for our programs and the destructive impact any reduction in funding would have in tribal communities.*

*Without sufficient funding, proper training and technical assistance, progress regarding tribal housing will not only cease; but years of hard work will be reversed, as many tribes will lack the funds to maintain and operate existing housing units, much less provide new ones.*

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## *Building, Strong, Vibrant Communities*

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*We must work together to ensure that Indian housing programs are funded sufficiently to address the immense need we know still exists in our communities. Too many of our families live in overcrowded and substandard homes. This is unacceptable. It is through our shared passion to provide safe and healthy homes that we strengthen our native people and our communities. We need to support each other, as together we continue the important work of building, not just homes but strong, vibrant communities and nations for generations to come.*

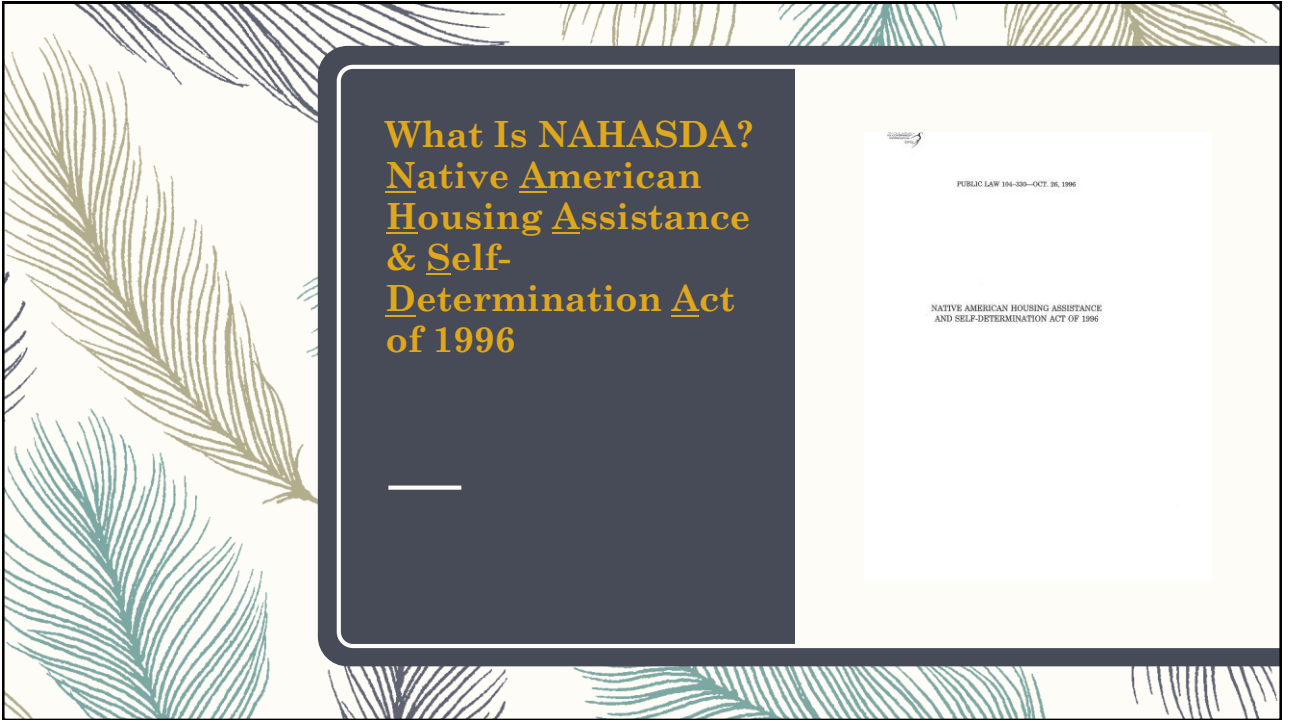
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## Understanding NAHASDA and Its Implementing Regulations & Guidance

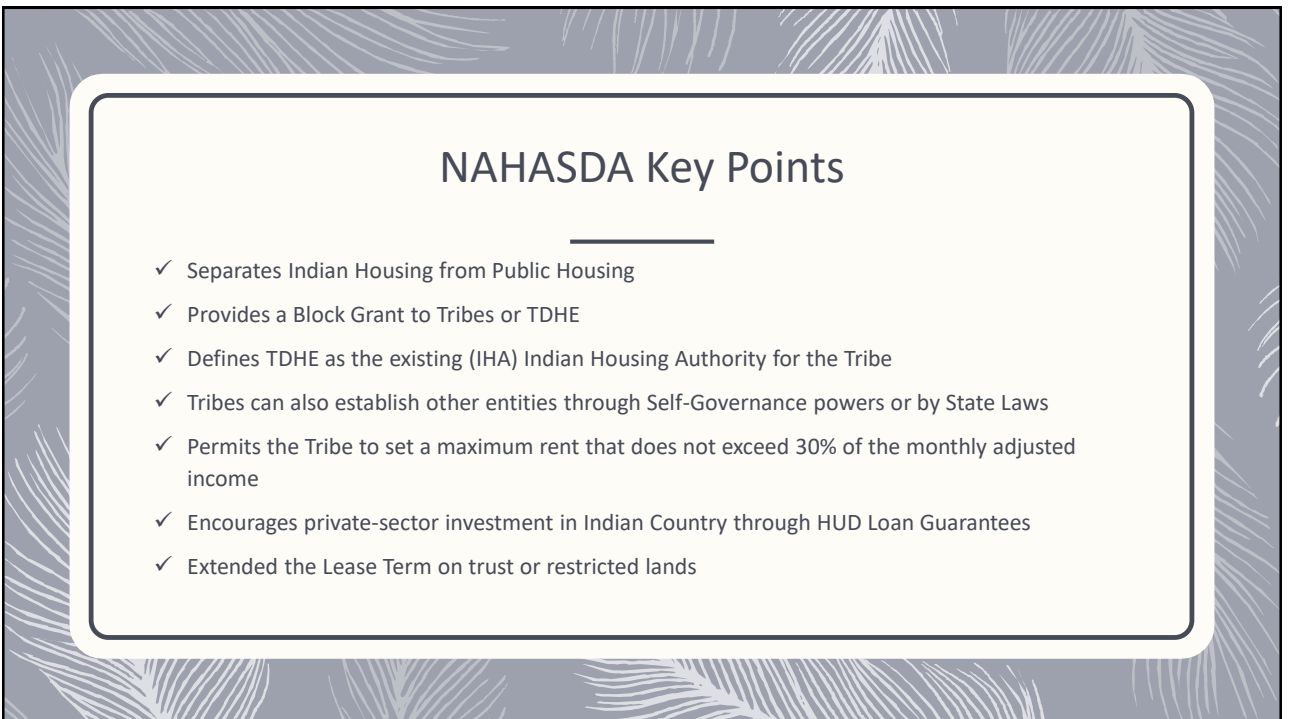
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## NAHASDA Key Points

- ✓ HUD monitors for non-compliance and to take steps when compliance does not occur
- ✓ 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 (Title Six)
- ✓ Re-authorizes the Indian Housing Loan Guarantee Program (184 Program)
- ✓ Extends Leasehold Interest in trust or restricted land to 50 years
- ✓ Conflict-of-Interest provisions
- ✓ Expands affordable housing opportunities
- ✓ Specifically addresses families who are above low-income

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## NAHASDA Key Points

Block Grant used to operate and maintain current housing units

Block Grant used for development, rehabilitation, acquisitions, housing support services, such as counseling or loan processing, and to initiate model housing programs

Distributes Block Grant through an Allocation Formula developed under Negotiated Rule-Making

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## What is: Negotiated Rule-Making

In order to interpret and implement NAHASDA, Regulations were developed using Negotiated Rule-Making (Negotiated Rule-Making Committee of 58 members, which included Tribal Leaders from across the country, as well as HUD staff)

The process of developing the Regulations was mandated by Section 106(b) of the Statute

*This unusual way of writing Regulations is significant because it was the first step in implementing the "Self-Determination" intention of NAHASDA*

The IHBG Regulations:

*Replaced the U.S. Housing Act of 1937 (1937 Act)*

*Set forth the necessary policies and procedures for the administration*

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## Areas of Change

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- ✓ Guiding Principles
- ✓ Definitions
- ✓ Program Income
- ✓ Administrative & Planning
- ✓ IHP/APR
- ✓ HUD Monitoring
- ✓ Investments
- ✓ Qualifying as Affordable Housing
- ✓ Non-low-Income Families
- ✓ Cooperation Agreements
- ✓ Preference

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# NAHASDA Overview

Reorganized the system of housing assistance provided to Native Americans through the Department of Housing and Urban Development (HUD) by eliminating several separate programs of assistance and replacing them with a Block Grant Programs.

**Block Grant Programs authorized for Indian Tribes under NAHASDA:**

**Indian Housing Block Grant (IHBG)  
Title VI Loan Guarantee**

**Native Hawaiian Housing Block Grant (NHHBG)**

# NAHASDA Overview

• Regulations are published at 24 CFR Part 1000

**Indian Housing Block Grant (IHBG)**

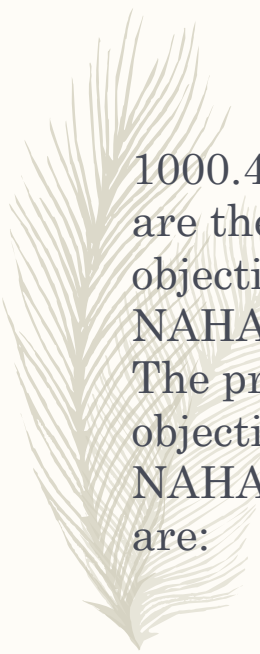
- a formula-based grant program

**Title VI Loan Guarantee**

- provides financing guarantees to Indian Tribes for private market loans to develop affordable housing

Amended in 2000 to add Title VIII-Housing Assistance for Native Hawaiians. **Native Hawaiian Housing Block Grant (NHHBG)**

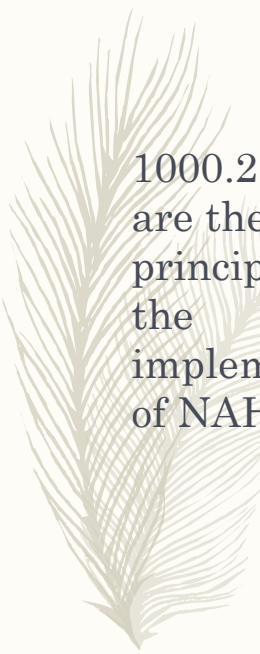
• Regulations are published at 24 CFR Part 1006



## 1000.4 What are the objectives of NAHASDA? The primary objectives of NAHASDA are:

- a) 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;
- (b) 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;
- (c) To coordinate activities to provide housing for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members;
- (d) To plan for and integrate infrastructure resources for Indian tribes with housing development for Indian tribes; and
- (e) To promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

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## 1000.2 What are the guiding principles in the implementation of NAHASDA?

(a) The Secretary shall use the following Congressional findings set forth in section 2 of NAHASDA as the guiding principles in the implementation of NAHASDA:

(1) The Federal government has a responsibility to promote the general welfare of the Nation:

(i) By using Federal resources to aid families and individuals seeking affordable homes in safe and healthy environments and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control;

(ii) By working to ensure a thriving national economy and a strong private housing market; and

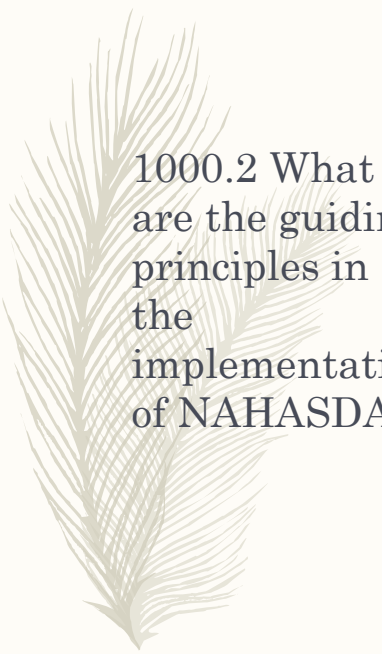
(iii) By developing effective partnerships among the Federal government, state, tribal, and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day-to-day activities.

(2) There exists a unique relationship between the Government of the United States and the governments of Indian tribes and a unique Federal responsibility to Indian people.

(3) The Constitution of the United States invests the Congress with plenary power over the field of Indian affairs, and through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a unique trust responsibility to protect and support Indian tribes and Indian people.

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## 1000.2 What are the guiding principles in the implementation of NAHASDA?

(4) The Congress, through treaties, statutes, and the general course of dealing with Indian tribes, has assumed a trust responsibility for the protection and preservation of Indian tribes and for working with Indian tribes and their members to improve their housing conditions and socioeconomic status so that they are able to take greater responsibility for their own economic condition.

(5) Providing affordable homes in safe and healthy environments is an essential element in the special role of the United States in helping Indian tribes and their members to improve their housing conditions and socioeconomic status.

(6) The need for affordable homes in safe and healthy environments on Indian reservations, in Indian communities, and in Native Alaskan villages is acute and the federal government shall work not only to provide housing assistance, but also, to the extent practicable, to assist in the development of private housing finance mechanisms on Indian lands to achieve the goals of economic self-sufficiency and self-determination for Indian tribes and their members.

(7) Federal assistance to meet these responsibilities shall be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance by making such assistance available directly to the Indian tribes or tribally designated entities under authorities similar to those accorded Indian tribes in Public Law 93-638 (25 U.S.C. 450 et seq.).

(b) Nothing in this section shall be construed as releasing the United States government from any responsibility arising under its trust responsibilities towards Indians or any treaty or treaties with an Indian tribe or nation.

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## NAHASDA: Eligible Affordable Housing Activities

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Areas of Eligible Affordable Housing Activities are:

- 1) Indian Housing Assistance
- 2) Development
- 3) Housing Services
- 4) Housing Management Services
- 5) Crime Prevention & Safety Activities
- 6) Model Activities

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## NAHASDA: Eligible Affordable Housing Activities

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### 1) Indian Housing Assistance:

- The provision of modernization, or operating assistance, for housing previously developed or operated in accordance with a contract between the Secretary of HUD and an IHA or TDHE.

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## NAHASDA: Eligible Affordable Housing Activities

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### 2) Development:

The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include:

- Real property acquisition
- Site improvement
- Development of utilities & utility services
- Conversion
- Demolition
- Financing
- Administration & Planning
- Other related activities

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## NAHASDA: Eligible Affordable Housing Activities

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### 3) Housing Services:

- Housing Counseling in connection with rental or homeownership assistance
- Establishment & Support of resident organizations & resident management corporations
- Energy Auditing
- Activities related to Self-Sufficiency & other services
- Services related to assisting owners, tenants, contractors, & other entities, participating or seeking to participate in other housing activities assisted

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## NAHASDA: Eligible Affordable Housing Activities

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### 4) Housing Management Services:

- Preparation of work specifications
- Loan processing
- Inspections
- Tenant selection
- Management of tenant-based rental assistance
- Management of affordable housing projects

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## NAHASDA: Eligible Affordable Housing Activities

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### 5) Crime Prevention & Safety Activities:

- safety, security & law enforcement measures including activities appropriate to protect residents of affordable housing from crime.

### 5) Model Activities:

- Housing activities under model programs that are designed to carry out the purposes of NAHASDA

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## Overview of the NAHASDA Statute

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Title I Block Grant Requirements

Title II Affordable Housing Activities

Title III Allocation of Grant Amounts

Title IV Compliance, Audits & Reports

Title V Termination of Assistance Under Incorporated Programs

Title VI Federal Guarantees for Financing

Tribal Housing Activities

Title VII Other Housing Assistance

Title VIII Housing Assistance for Native Hawaiians

80

Native American Housing Assistance and  
Self-Determination Act of 1996  
(P.L. 104-330 as amended by P.L. 105-276, P.L. 106-568, P.L. 107-292, and P.L. 108-393)

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*The Statute is color coded by Amendments*

- 1998 Amendments [P.L. 105-276] are in RED
- 2000 Amendments [P.L. 106-568] are in BLUE (IHBG) and [P.L. 106-569] in NAVY (Title VIII for Native Hawaiians)
- 2002 Amendments [P.L. 107-292] are in GREEN
- 2004 Amendment [P.L. 108-393] is in PURPLE
- 2005 Amendment [P.L. 109-136] is in PINK & 2005 Amendment [P.L. 109-58] is in BROWN
- 2008 Amendment [P.L. 110-411] is in ORANGE
- 2010 Amendment [P.L. 111-269] is in LIGHT BLUE

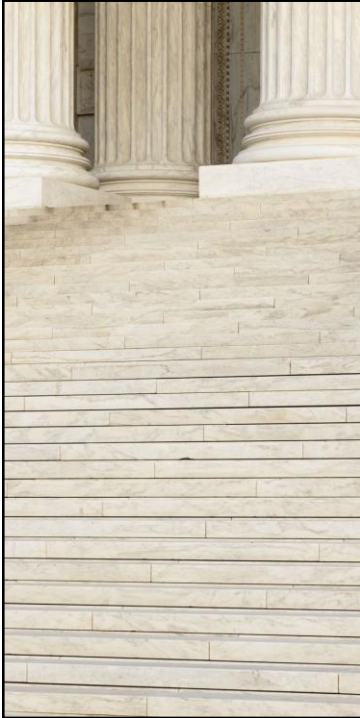
81

## SECTION 1. SHORT TITLE AND TABLE OF CONTENTS

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- (a) SHORT TITLE- This Act may be cited as the 'Native American Housing Assistance and Self-Determination Act of 1996'.
- (b) TABLE OF CONTENTS- The table of contents for this Act is as follows:
  - Sec. 1. Short title.
  - Sec. 2. Congressional findings.
  - Sec. 3. Administration through Office of Native American Programs.
  - Sec. 4. Definitions.

82

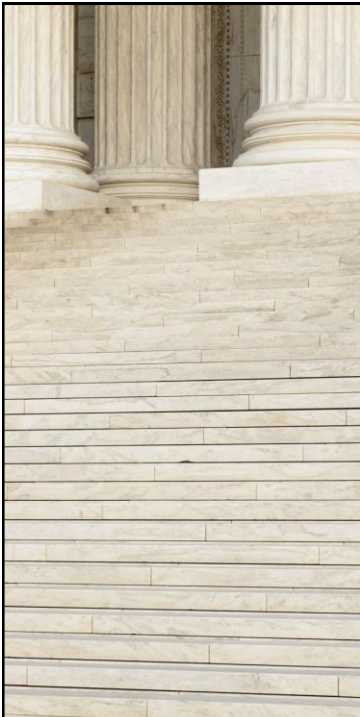


## TITLE I--BLOCK GRANTS AND GRANT REQUIREMENTS

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- Sec. 101. Block grants.
- Sec. 102. Indian housing plans.
- Sec. 103. Review of plans.
- Sec. 104. Treatment of program income and labor standards.
- Sec. 105. Environmental review.
- Sec. 106. Regulations.
- Sec. 107. Effective date.
- Sec. 108. Authorization of appropriations.

83



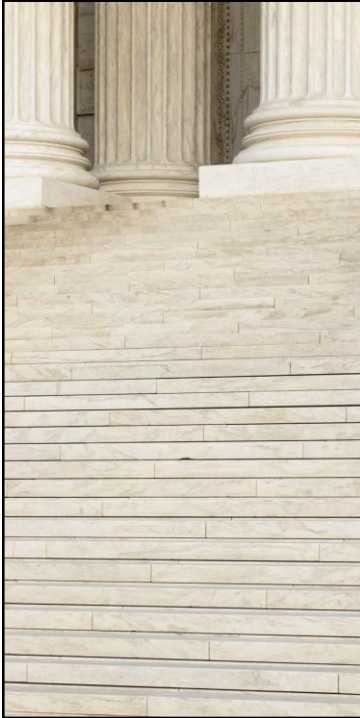
## TITLE II--AFFORDABLE HOUSING ACTIVITIES

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- **Subtitle A—General Block Grant Program**
- Sec. 201. National objectives and eligible families.
- Sec. 202. Eligible affordable housing activities.
- Sec. 203. Program requirements.
- Sec. 204. Types of investments.
- Sec. 205. Low-income requirement and income targeting.
- ~~Sec. 206. Certification of compliance with subsidy layering requirements.~~
- **Sec. 206. Treatment of funds.**
- Sec. 207. Lease requirements and tenant selection.
- Sec. 208. Availability of records.
- ~~Sec. 209. Repayment.~~ **209. Noncompliance with affordable housing requirement.**
- Sec. 210. Continued use of amounts for affordable housing.

84



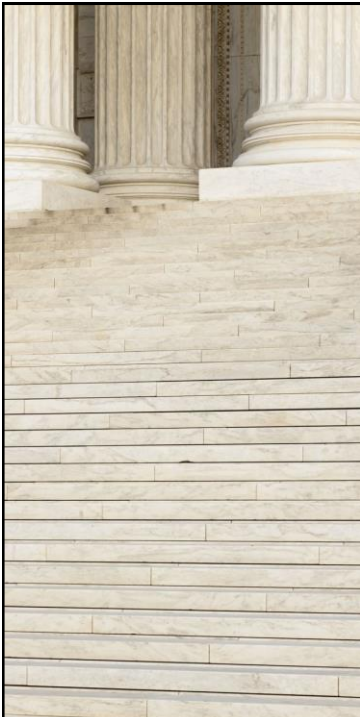


## TITLE II--AFFORDABLE HOUSING ACTIVITIES

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- **Subtitle B—Self-Determination Housing Activities for Tribal Communities**
- Sec. 231. Purposes.
- Sec. 232. Program authority.
- Sec. 233. Use of amounts for housing activities.
- Sec. 234. Inapplicability of other provisions.
- Sec. 235. Review and report.

85



## TITLE III--ALLOCATION OF GRANT AMOUNTS

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- Sec. 301. Annual allocation.
- Sec. 302. Allocation formula.

86

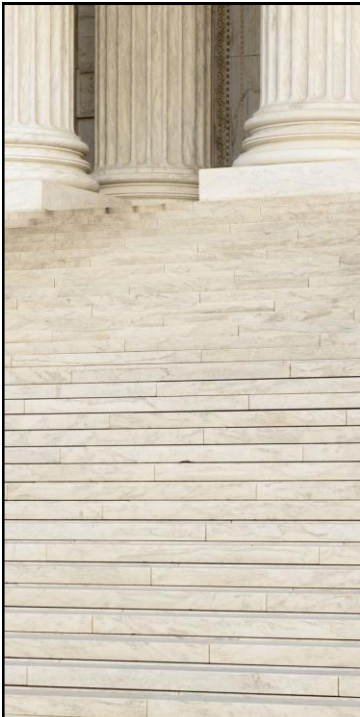


## TITLE IV--COMPLIANCE, AUDITS, AND REPORTS

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- Sec. 401. Remedies for noncompliance.
- Sec. 402. Replacement of recipient.
- Sec. 403. Monitoring of compliance.
- Sec. 404. Performance reports.
- Sec. 405. Review and audit by Secretary.
- Sec. 406. GAO audits.
- Sec. 407. Reports to Congress.
- Sec. 408. Public availability of information.

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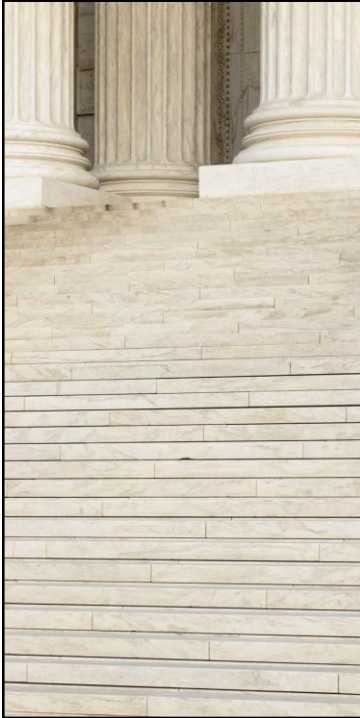
## TITLE V--TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS

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- Sec. 501. Repeal of provisions relating to Indian housing assistance under United States Housing Act of 1937.
- Sec. 502. Termination of Indian housing assistance under United States Housing Act of 1937.
- Sec. 503. Termination of new commitments for rental assistance.
- Sec. 504. Termination of Youthbuild program assistance.
- Sec. 505. Termination of HOME program assistance.
- Sec. 506. Termination of housing assistance for the homeless.
- Sec. 507. Savings provision.
- Sec. 508. Effective date.
- Sec. 509. Effect on HOME Investment Partnerships Act.

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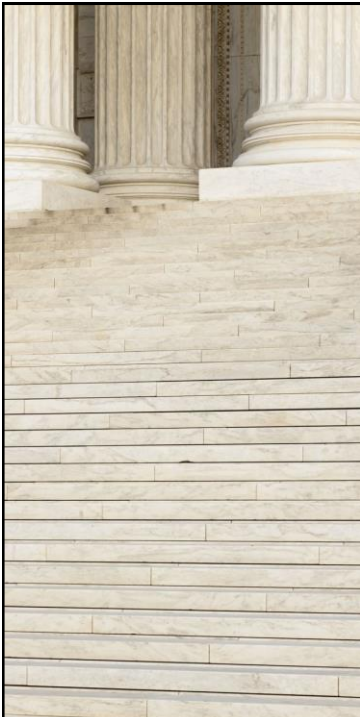


## TITLE VI--FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES

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- Sec. 601. Authority and requirements.
- Sec. 602. Security and repayment.
- Sec. 603. Payment of interest.
- Sec. 604. Training and information.
- Sec. 605. Limitations on amount of guarantees.
- Sec. 606. Effective date.
- Sec. 606. Demonstration program for guaranteed loans to finance tribal community and economic development activities.

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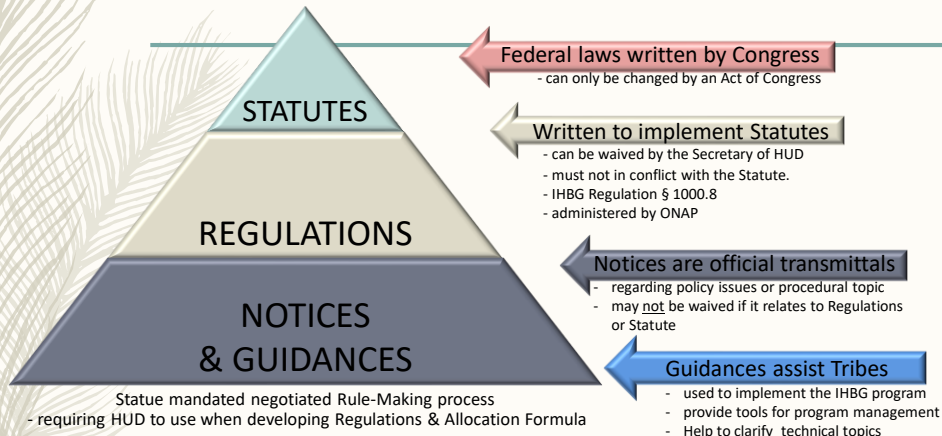
## TITLE VII--OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

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- Sec. 701. Loan guarantees for Indian housing.
- Sec. 702. 50-year leasehold interest in trust or restricted lands for housing purposes.
- Sec. 703. Training and technical assistance.
- Sec. 704. Public and Assisted Housing Drug Elimination Act of 1990.
- Sec. 705. Effective date.

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# NAHASDA Administration Flow



91

## 24 CFR Part 1000 – Native American Housing Activities

### 6 Subparts of Regulations



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92

## What is the difference between statutes, regulations, and HUD guidance

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It's important to understand the difference between statutes, regulations, and HUD guidance, as these terms will be used throughout your involvement with ONAP. These terms are often confusing for new grantees. Statutes, regulations, HUD Notices and guidance bulletins are different from one another. Statutes are Federal laws written by Congress. HUD must implement its programs in accordance with statutory requirements. The only way a statute can be changed is by an Act of Congress. Thus, statutory requirements cannot be waived unless the statute specifically gives this power to the administering Federal agency.



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## What is the difference between statutes, regulations, and HUD guidance

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- Regulations are written to implement statutes. Program regulations provide detail on the intent of the laws and specify the parameters of how the laws should be carried out. They can be waived by a Departmental Secretary, such as the Secretary of HUD, so long as this waiver is not in conflict with the statute.
- Regulations are administered by the Federal agency that is designated in the statute to oversee the program. Under NAHASDA, it is HUD, and more specifically ONAP, (The Office of Native American Programs) that is the designated Federal agency.



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## What is the difference between statutes, regulations, and HUD guidance

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- HUD Notices are official transmittals to recipients regarding policy issues or procedural topics. The information in HUD Notices may be waived by ONAP's Deputy Assistant Secretary unless it conflicts with the regulations or statute. PIH Notices are specific to the programs and activities performed by PIH. (Office of Public and Indian Housing)
- Guidance Bulletins assist tribes in implementing HUD programs and provide tools for program management. They help clarify various technical topics. Though most guidance bulletins are advisory, some guidance bulletins further explain the regulations or the statute. Guidance bulletins that further explain the regulations can be waived by the Secretary of HUD, however guidance bulletins that further explain the statute cannot be waived.



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## What is the difference between statutes, regulations, and HUD guidance

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- To the extent that guidance bulletins are advisory and designed to help tribes implement their programs, no waiver is needed.
- You can download Guidance Bulletins and PIH Notices from ONAP's website. All PIH Notices include the name and description of the notice, as well as the date it was issued and the date it will expire.
- The statute, regulations, notices, and guidance bulletins work together to provide the full picture of each grant recipient's opportunities and responsibilities.



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## What is the difference between statutes, regulations, and HUD guidance

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- The negotiated rulemaking committee charged with drafting the regulations decided not to re-state information that was already stated in the statute unless the statute was not clear.
- Thus, a program administrator must be able to refer to both the statute and the regulations simultaneously to have a complete understanding of how the program must be administered.
- For example, if you need to know more about the Indian Community Development Block Grant program, as known as ICDBG, you would refer to the Native American Housing Assistance and Self-Determination Act of 1996, which is the statute. You would also refer to 24 CFR Part 1003 Community Development Block Grant for Indian Tribes and Alaska Native Villages, which is the ICDBG Regulations.



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## What is the difference between statutes, regulations, and HUD guidance

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- The guidance bulletins and notices can provide you with clarification on the statute and the regulations. For example, if you needed clarification on financial audit requirements for the ICDBG program, you could refer to PIH Notice 2006-20. This Notice provides specific guidance on financial audit requirements for ICDBG and other HUD programs available to Native American grant recipients.



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## Required Statutory & Regulatory Policies



The following Governing Documents are Required and should be readily available:

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- Tribal Ordinance creating the HA
- If you are a TDHE- The Tribal Resolution designating the HA as the TDHE
- By-Laws for the Board or Commissioners
- Mission Statement
- Organizational Chart



# Policies and Procedures

Policies and procedures provide for consistent and cohesive action on the part of an organization. Policies generally establish the broad parameters of a particular function of the TDHE or tribal housing division. A procedure establishes the specific way a function is to be performed, assigns responsibility, and describes specific actions, including forms and documents, and report preparation. Sections 203 and 207 of NAHASDA and implementing regulations at 24 CFR Part 1000 and 2 CFR Part 200 require that IHBG recipients adopt written policies in the following areas:

101

## 1. Rents and homebuyer payments policy.

A policy regarding rents and homebuyer payments charged for dwelling units assisted with NAHASDA funds, including the methods by which rents, and homebuyer payments are determined (Section 203(a) (1)). This policy would also address the tribe/TDHE's procedures for how and when tenants/homebuyers shall make payments, along with the requirements for collection of payments.

102



## 2. Eligibility, admission, and occupancy policies.

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Policies addressing the eligibility, admission, and occupancy of families for housing assisted with NAHASDA funds (Section 203(d)). Following are subjects that should be addressed in each policy.

103

## 2. Eligibility, admission, and occupancy policies.

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- **Eligibility Policies** - Address the three types of eligible participants, including low-income Indian families, non-low-income Indian families, and non-Indian families.
- **Admission Policies** - Ensure fair treatment of all those who apply for housing assistance. The policy should address all programs managed, and provisions for preferences, if any. The policy should also address how conflicting requirements for mixed financing projects will be addressed. For example, funding provided by other Federal programs may prohibit discrimination based on race in accordance with the Fair Housing Act. When these funds are combined with NAHASDA funds, which are exempt from Fair Housing requirements, a conflict occurs.
- **Occupancy Policies** - Requirements for continued occupancy and grounds for termination of a housing lease or sales contract.

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### 3.Tenant and homebuyer selection policy.

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This policy must include criteria which:

- Are consistent with the purpose of providing housing for low-income families
- Are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease
- Provide for:
  - a) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and activities in the IHP for the tribe that is the grant beneficiary of such grant amounts; and
  - b) the prompt written notification to any rejected applicant of the rejection and the grounds for the rejection.



105

In addition to the statutorily required policies just listed, other applicable Federal laws and regulations require the following standards, statements, or policies.

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106

## 4. Management and Maintenance policies

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Policies addressing the management and maintenance of housing assisted with NAHASDA funds (Section 203(e)). Although not specifically specified by statute or regulation, management policies should include policies such as:

- Personnel
- Grievance
- Capitalization
- Disposition

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## 5. Fiscal and Financial Management

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Refer to 2 CFR Part 200 Post Federal Award Requirements  
Standards for Financial and Program Management  
§200.300-309

Financial Management & Internal Controls Policy required by  
200.302

Refer to NAHASDA §1000.26 Administrative Requirements for  
NAHASDA specific requirements

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## 6. Procurement and Contract Administration.

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The regulations at §1000.26 require compliance with 2 CFR 200.317 through 326. The language at 2 CFR 200.318(a), requires grantees and subgrantees to use their own procurement procedures that reflect applicable state and local laws and regulations, provided that the procurements conform to applicable Federal laws and standards identified in this section. The regulations at 2 CFR 200.318(c)(1) also requires that grantees and subgrantees maintain a written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts.

109

## 7. Tribal or Indian preference

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This may be incorporated into the procurement policy or may be a separate policy. IHBG recipients are subject to section 7(b) of the Indian Self-Determination and Education Assistance Act and Section 3 of the Indian Financing Act of 1974, in accordance with §1000.48. Section 1000.52 (a) (1) requires recipients to have policies that are consistent with the sections cited above. In addition, §1000.54 on Indian Preference complaint procedures requires tribal policies that meet or exceed the requirements listed under this citation.

110

## 8. Real property acquisition and relocation

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IHBG recipients are subject to real property acquisition and relocation policies at §1000.14 and 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.

The regulations at §24.103 (a) and (d), respectively, require grantees to develop minimum standards for appraisals, as well as criteria for determining the minimum qualifications of appraisers.

111

## 9. Section 3.

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Recipients are required to comply with Section 3 of the Housing and Urban Development Act of 1968. Section 3 addresses job training, employment, and contracting opportunities for low-income individuals. This may be addressed in the personnel and procurement policies. This requirement is found at §1000.42.

112

## 10. Cash Management

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The regulations at 2 CFR 200.302 require all grant recipients to establish cash management procedures. Cash management is the process of managing the cash flow to optimize the use of funds.

113

## 11. Travel

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The regulations at 24 CFR § 1000.26 state that recipients shall comply with the requirements and standards of 2 CFR § 200.474. The regulations at 2 CFR 200.474(d) require that grantees must use Federal travel standards in the absence of a local governmental unit travel policy.

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## 12. Drug-free workplace

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One of the certifications required before a recipient's IHP is determined to be "in compliance" is the Certification for a Drug-Free Workplace. This certification is required by the regulations at 24 CFR §24.600. The required form for certification, form HUD-50070, requires the recipient to certify that it has: 1) published a statement notifying employees of the drug-free workplace requirements, and 2) provided each employee engaged in the performance of work under IHBG a copy of the written statement.

115

**Additional policies, procedures, or standards are also required under certain circumstances. These are as follows:**

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116



## Investment and Internal Control

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Recipients that seek approval to invest IHBG funds must comply with the regulations at 24 CFR 1000.58 and Notice PIH 2015-08. The Notice requires recipients to have an Internal Control Policy and an Investment Policy.

In addition, investment policies and procedures are required by Notice PIH 1996-33 for 1937 Housing Act investments from the following programs: Low Rent, Turnkey III, and Mutual Help.

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## Housing Standards

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NAHASDA regulations regarding Revisions to Cost Limits for Native American Housing at §1000.158 require that grant recipients either "adopt written standards for its affordable housing programs that reflect the requirements of §1000.156" or comply with the Total Development Cost limits published periodically by HUD.

More information regarding these requirements can be found in Notice PIH 2010-47, Total Development Costs (TDC) for Affordable Housing under (NAHASDA).

ONAP Guidance 2004-02 outlines these policy requirements.

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## SOME MORE SPECIFICITY:

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NAHASDA Sec. 102(b)(2)(D) – required Certifications of Compliance  
 Eligibility, admissions, and occupancy - NAHASDA, Section 203(d)  
 Rents charged and methods of calculation - NAHASDA, Sec. 203(a)  
 Management and maintenance of assisted housing - NAHASDA, Sec. 203(b) and (e)  
 2 CFR 200.318(a) – Procurement Procedures  
 2 CFR 200.318(c) – Conflicts of Interest in Procurement  
 2 CFR 200.318(k) – Settlement of any Procurement Contractual/Administrative Issues

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## SOME MORE SPECIFICITY:

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2 CFR 200.474.(d) – Travel  
 24 CFR 1000.14 – Relocation and Property Acquisition  
 24 CFR 1000.26 – Overarching Administrative Requirements  
 24 CFR 1000.42 – Section 3  
 24 CFR 1000.46 – Drug-Free Requirements  
 24 CFR 1000.158 – Moderate Housing Standards and (c) = Total Development Costs  
 24 CFR 1000.30, 32, .34 and 36 - Conflicts of Interest:  
 24 CFR 1000.54 – Complaints/Issues stemming from Indian Preference

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## INDIAN OR TRIBAL PREFERENCE REFERENCES:

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Section 101 (k) of NAHASDA allows a tribe to adopt **tribal preference** in employment and contracting. The tribal employment and contract preference laws (including regulations and tribal ordinances) must be adopted by the Indian tribe that receives the preference.

**NOTE:** Indian and tribal preference requirements should be referenced in both the procurement policy and personnel policy.

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## INDIAN OR TRIBAL PREFERENCE REFERENCES:

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- 24 CFR 1000.48 – Indian or Tribal Preference applicable to IHBG-assisted activities
- 24 CFR 1000.50 - Indian or Tribal Preference applicable to IHBG-assisted administrative activities
- 24 CFR 1000.52 - Indian or Tribal Preference applicable to IHBG-assisted procurement activities
- PG 2013–07 – Preference [2013-07](#): Indian and Tribal Preference in Employment and Contracting in IHBG

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## OTHER GUIDANCES:

- PG [2002-11 \(Recipient\)](#) - Required Policies and Statements Under NAHASDA (Everything Listed Here)
- PG [2002-13 \(Recipient\)](#) - Conflict of Interest in IHBG Housing Admissions
- [2014-03](#): Insurance Requirements
- [2020-02](#): Useful Life and Binding Commitments

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## 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.
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## NAHASDA Other Federal Law Requirements

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- **Non-Discrimination Laws:**
- -Age Discrimination Act of 1975
- -Section 504 of the Rehabilitation Act of 1973 (option for use with American with Disabilities Act of 1990)
- -Indian Civil Rights Act of 1968
- -Title VI & VIII of the Civil Rights Act of 1968

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## Other Federal Requirements

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**Uniform Relocation Assistance & Real Property Acquisition Act of 1970** -assures fair compensation for displacement of families

**Davis-Bacon Act of 1931** -Prevailing wages (Tribal prevailing wages can preempt Davis-Bacon if adopted by Tribe)

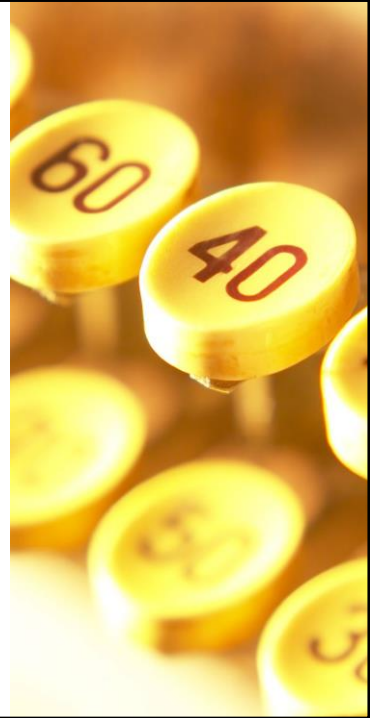
- **National Environmental Policy Act (NEPA)** of 1969
- **Flood Disaster Protection Act of 1973**
- **Lead-based Paint Poisoning Prevention Act of 1973**
- **Section 3 of the Housing and Urban Development Act of 1968** -training & employment opportunities for low-income persons
- **Uniform Administrative Act (2 CFR Part 200)** —Consolidation of all former OMB Guidance for Uniform Administrative requirements, Cost Principles, and Audit Requirements for Federal Awards

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## Uniform Administrative Act (2 CFR Part 200)

To ensure the accountability of all federal funding, the Office of Management and Budget (OMB) establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities.

The regulations implementing NAHASDA (24 CFR § 1000) include a variety of general administrative requirements that must be followed by recipients of the Indian Housing Block Grant funds. Prior to December 26, 2014, the NAHASDA regulations addressing administrative requirements at 24 CFR §1000.26 cited two former OMB regulatory documents: OMB Circular A-87 (cost principles), and OMB Circular A-102 (Uniform Administrative Requirements codified for HUD programs in 24 CFR § 85).



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## Uniform Administrative Act (2 CFR Part 200)

The OMB has streamlined the Federal government's guidance from eight existing OMB circulars (which includes A-87, A-102, and A-133) into one consolidated set of guidance in the code of Federal regulations (2 CFR §200) and is titled the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the 'Uniform Guidance').

This consolidation is aimed at eliminating duplicative or almost duplicative language in order to clarify where policy is substantively different across types of entities, and where it is not.

OMB issued the final rule on December 26, 2013. The final rule became effective for grantees on December 26, 2014. When a recipient accepts IHBG funds, it agrees to comply with these administrative requirements.



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## Uniform Administrative Act (2 CFR Part 200)

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- **Subpart A** – Acronyms and Definitions
- **Subpart B** – General Provisions
- **Subpart C** – *Pre-Federal Award Requirements & Formula Allocation*
- **Subpart D** – *Post-Federal Award Requirements*
- **Subpart E** – Cost Principles
- **Subpart F** – Audit Requirements