

# Executive Director Training - *Module 3*

November 17-18, 2020




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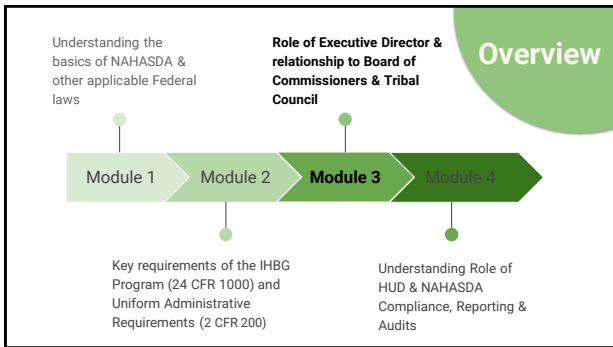
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
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## Module 3: Role of Tribal Council & Relationship to Board of Commissioners and Executive Director



Key Roles of Executive Director Under NAHASDA



Oversight of Housing Board of Commissioners



Relationship to Tribal Council

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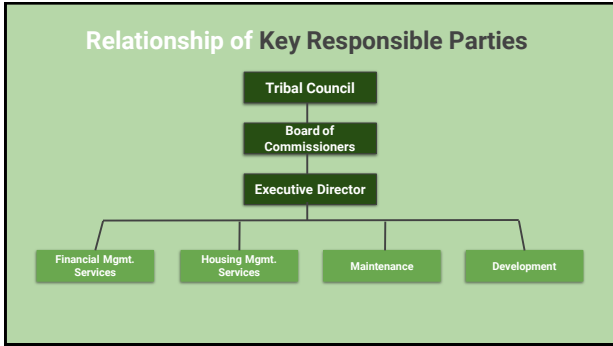
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### Organizational Oversight Structure Comparison

<u>CORPORATION</u>	<u>TDHE</u>
<ul style="list-style-type: none"> <li>● Founding Fathers</li> <li>● Board of Directors</li> <li>● CEO</li> <li>● Employees</li> <li>● Customers and consumers</li> </ul>	<ul style="list-style-type: none"> <li>● Tribal Council</li> <li>● Board of Commissioners</li> <li>● Executive Director</li> <li>● Employees</li> <li>● Tenants and Homebuyers</li> </ul>

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### Key Roles of Executive Director

→ <b>Planning</b> – setting goals and objectives and deciding how to achieve them
→ <b>Organizing</b> – assigning work, allocating resources, coordinating activities
→ <b>Leading</b> – directing efforts and spurring enthusiasm to achieve goals
→ <b>Controlling</b> – measuring performance, identifying deficiencies, taking corrective action

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**Planning Considerations**



- ✓ **Leveraging** - When developing your Indian Housing Plan (IHP), **contemplate** funds leveraging, **consider** the rules and regulations from other resources (LIHTC, USDA, Sec. 184, etc.) and your staff capacity.
- ✓ **Debt Service** - In applying for other financial resources for leveraging, most agencies will award either grants or loans; **Know the difference between grants and loans and plan accordingly** for grant performance periods and loan repayments.
- ✓ **Assets** - What does your TDHE or Tribe have **as assets**? **What type of funds are available** to supplement affordable housing activities?
- ✓ **Jobs Creation** - What type of jobs will be generated? Does the tribe have the **resources** and **administrative capacity** to meet the skills and trades required?

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**Organizing**

- **Roles** – general hierarchy
- **Divisions of Labor** – who does what?
- **Reporting Relationships** – who is subordinate to whom?
- **Communication Channels** – how will information flow?

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**Leading**

- Provide opportunities to ensuring Housing staff have access to personal development training
- Support and enforce Board-approved policies and overall direction
- Seek Board guidance for policy interpretations and support Board training and attend board meetings
- Plan for the future of community/Tribe in providing Affordable housing through strategic planning

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Controlling

- Controlling = Monitoring
- Measure organizational performance and ensure staff performance evaluations
- Plan for the future of community/Tribe in providing Affordable housing through strategic planning
- Performance Tools:
  - Annual Performance Report
  - Annual Compliance Assessment (Self-monitoring)
  - HUD Monitoring Reports
  - Audit Reports

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Oversight of Housing Board

**Board members are:**

1. Policy makers for housing program
2. Involved in strategic planning/roadmap for TDHE/Tribe
3. Involved in oversight/guidance of housing organization
4. Involved in monitoring and measuring output of housing program and IHP objectives
5. Involved in the IHP for Tribal/board review & approval
6. Evaluates Executive Director annual performance

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Some important reminders:

<ul style="list-style-type: none"> <li>→ Board <b>makes policies and participates in overall IHP planning and monitoring</b></li> <li>→ The board and executive director <b>must work together</b></li> <li>→ The board guides the <b>overall direction of the program</b></li> <li>→ No business can be conducted <b>outside of a properly called board meeting</b></li> </ul>	<ul style="list-style-type: none"> <li>→ Board members have <b>no individual power</b></li> <li>→ The power of the board <b>lies within the body as a whole</b></li> <li>→ No board member has <b>more power than another</b> – not even the Chair</li> <li>→ Board <b>should not micromanage</b> Executive Director functions</li> </ul>
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## Relationship to Tribal Council

- Provide periodic reports to Tribal leadership using Performance tools
- Prepare IHP for approval by Board and Tribal leadership for approval and report accomplishments through the APR
- Executive Director is responsible to assure NAHASDA program compliance, HUD reporting and conduct of annual independent audits which should be shared with Tribal leadership

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## Additional Points to Remember:

- ✔ Decisions should be **based on factual information**
- ✔ **Avoid conflicts of interest** and **make public disclosures** if conflict is apparent and inform HUD in writing
- ✔ Always choose what is **right and good**, versus what is wrong and bad
- ✔ Be prepared to **support your position** but **compromise when necessary** while not violating any laws or regs
- ✔ Ensure NAHASDA compliance through **Self Monitoring assessments**

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## How To Make Good Governance Decisions

- 1 Recognize the Dilemma
- 2 Gather all the Facts
- 3 Establish your Options  
Test each option & choose your option
- 4 Do the "Headline Test"
- 5 Take appropriate action with ALL documentation

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**SOME EXAMPLES OF EXECUTIVE DIRECTOR INTERFACE WITH BOARD & TRIBAL LEADERSHIP**



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**Determining Rent Payment Policy:** *Requires analysis of adjusted income, rent computations and program subsidy calculations*

- Program eligibility is based on gross annual income
- Adjusted annual income is calculated based on gross income less eligible deductions
- Deductions are established in the NAHASDA statute
- Adjusted income is used to determine the amount of rent or homeowner payments

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**Allowable Deductions from Gross Income:**

- \$480 for Each child under 18 & full-time students over 18
- \$400 for elderly or disabled family members
- Medical and attendant expenses over 3% of annual income
- Childcare expenses that enable family members to work or go to school
- Earned income of minors under 18
- Travel expenses, not to exceed \$25 per family per week
- Other exclusions provided in the local housing policies



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**Sample Rent Calculation for Tenant and Rental Revenue for Tribe/TDHE**

<b>Annual Income</b>		<b>\$27,000</b>
<b>Adjustments:</b>		
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

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**Sample IHBG Subsidy for Tribe/TDHE**

	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

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**Rental Payment Policy determination:**

- Affordability of families should play a major factor - defer to housing needs assessment data to know affordability level of low-incomes of families
- The amount of IHBG formula allocation is another factor to consider in determining rent income percentages for rent charge calculations for subsidy considerations and sustainable operations
- How much subsidy can the Tribe/TDHE afford to sustain housing program assistance in long term?
- There is no right or wrong answer, but logic should dominate in arriving at policy for determining the percentage of income for Rent payment policy.

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### A Simplified Illustration of an IHP/APR: Recipient IHP Grant is \$3,500,000

IHP Planned Activities:		APR Accomplishments:	
- O&M for 1937 Units	30 \$ 108,000	- 1937 Units O&M	30 \$ 195,850
- 1937 Modernization	5 \$ 375,000	- 1937 Modernization	4 \$ 325,000
- O&M NAHASDA Units	10 \$ 30,000	- NAHASDA O&M	10 \$ 27,250
- New Construction (LR)	20 \$3,000,000	- New Construction-LR	10 \$ 1,750,000
- Housing Mgmt. Services	\$ 60,000	- Housing Mgmt. Svcs.	\$ 55,000
- Planning & Admin.	\$ 600,000	- P&A: A/E & Plan Staff	\$ 300,550
- <b>Total IHP Planned Costs</b>	<b>\$4,173,000</b>	- <b>Total IHP Expenditures</b>	<b>\$2,653,650</b>

Financial Sources		Financial \$ Actual Used/Spent:	
- IHBG	\$3,500,000	-IHBG	\$2,653,650 -
- Program Income*	\$ 673,000	Program Income	\$-0-

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### Analysis of IHP and APR Scenario

- While there are budget line cost overruns, the TDHE's expenditures were below the planned IHP grant amount with unspent funds of \$1,519,350. **The TDHE will need to explain the cost overruns and why the number of new construction was not met.**
- The unexpended funds balance can be carried over into the next IHP funding plan with plans to complete the unfinished work.
- The planned use of the Program Funds were spared and can either be reprogrammed or carried over into the next program year for final expenditure
- Are there any other observations to note? Open for discussion.

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### Other IHP/APR Observations

- Is the P & A amount budgeted compliant? Yes, it is below the max. allowed of 20% of IHBG.
- How many activities were 100% completed? 4 of 6 were 100% completed

ACTIVITY	# UNITS	Budget	Spent	Difference	Analysis Notes
● O&M 1937 Units	30/30	108,000	195,850	<\$87,850>	---
● Modernization 1937 Units	4/5	375,000	325,000	\$50,000	\$81,250/unit X 1 = 81,250
● O&M NAHASDA Units	10/10	30,000	27,250	\$ 2,750	---
● New Construction	10/20	3,000,000	1,750,000	\$1,250,000	\$175,000/unit X 10= 1,750,000
● Hsg. Mgmt. Services	---	60,000	55,000	\$ 5,000	---
● P & A	---	600,000	300,550	\$ 299,450	---
		4,173,000	\$2,653,650	\$1,519,350	Need: \$1,831,250

- What is the final cost savings or cost overruns of IHP? Costs savings of \$1,519,350 for carry over
- Does the TDHE have enough to carry over uncompleted projects? No, will need additional \$311,900 to the carryover amount in the next IHP to complete remaining activities.

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## A Conflict of Interest Situation

- The Executive Director (ED) tells the Board that the program needs to hire a consultant to facilitate scheduled management trainings.
- A board member who is also related to a Tribal Council member has a family member who owns a management consulting firm.
- The Procurement Officer (PO) learns that this particular consulting firm heard about the need for consulting services and asked the PO when the proposals are due when, in fact, the proposal has not been advertised yet?
- Are there any apparent or real conflict of interest in scenario? If so, what are they?
- What actions should be taken and whom should be notified about any of this?
- What mitigating steps can be taken to avoid the conflict?

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## Addressing the Conflict of Interest

- Immediately, the Procurement Officer **needs to document the information received** (date, time, names of contact) and **report to Executive Director in writing** per the Code of Ethics and Conduct Policy and procedures
- The Executive Director (ED) **needs to inform the Board** of the inside information breach to the firm and **request any disclosures of any conflict of interest** be provided in writing per Board-approved Code of Ethics and Conduct policy. **Any board member who has conflict must agree to recuse him/herself in any future discussion** on the consulting services needed by the TDHE
- The E.D. then **needs to make public disclosure and inform HUD in writing** that includes mitigation measures taken and abide by any other recommendations offered by HUD.
- The procurement is followed for competitive proposals and award made to prospective offeror.
- Board (absent recused member) reviews and approves contract award to management firm per Procurement Policy.

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## Other Typical Interfaces with Tribal Council

- **Grievances** - disputes by tenants or homebuyers have with respect to their lease or homebuyer agreement relating to actions taken by Tribe/TDHE - all participants should be deferred to Executive Director and respective policy(s)
- **Evictions** - when tenants or homebuyers violate terms of lease or homebuyer agreement and ends in termination - Same as above, refer all matters to Executive Director and respective policy(s)
- **Audits/HUD Monitoring Findings** - Seek report from Executive Director and Board on Corrective Action Plan to address achieving compliance

*The Bottomline: Always refer back to the federal laws and regulations and TDHE policies and consult with LEGAL COUNSEL in all disputes to arrive at appropriate solutions.*

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## Q & A Session

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