



# NAHASDA INTERMEDIATE

*SELECTED TOPICS*

Virtual Training  
December 2-3, 2020  
11:00 AM – 5:00 PM (EDT)



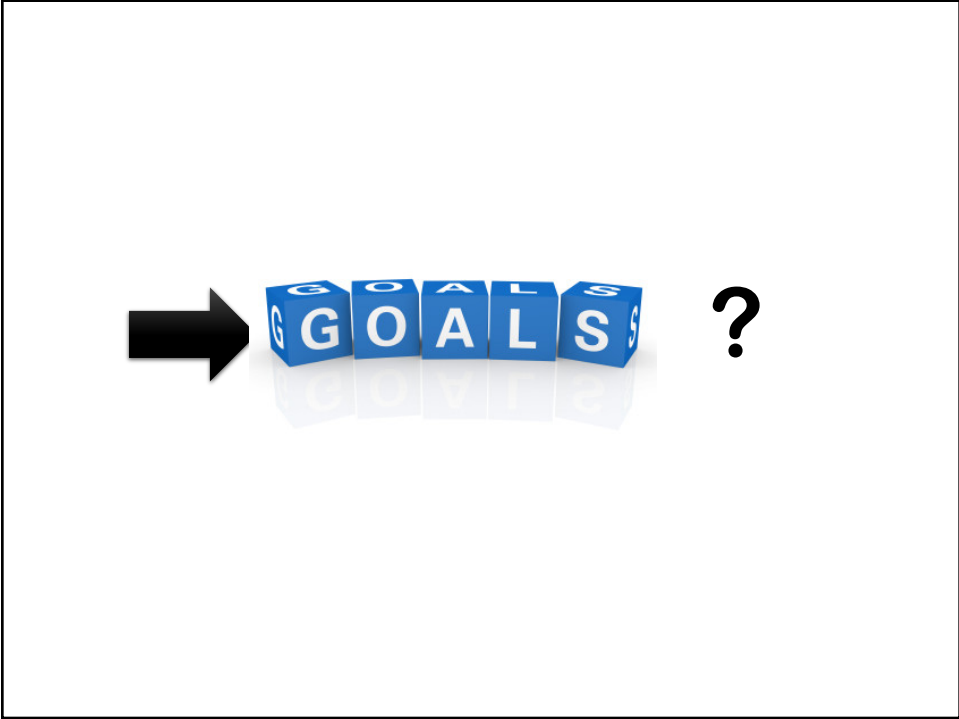
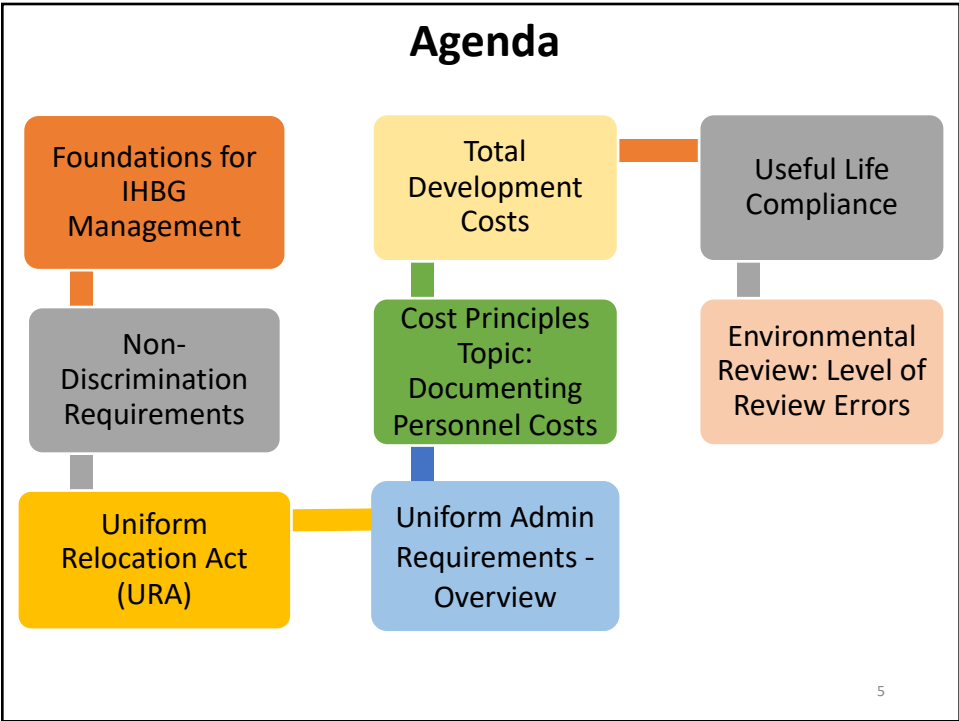
This training is offered by the U.S. Department of Housing and Urban Development (HUD) and the Office of Native American Programs under a cooperative agreement with National American Indian Housing Council (NAIHC).

Welcome, Introductions and Launch ...

## Training Logistics

- Agenda
- Exercises and breaks
- Training handouts
- PowerPoint slides





At the end of the training you should be able to:

- ✓ Navigate the NAHASDA Statute, implementing regulations, PIH Notices, and ONAP program guidance to locate specific information needed to determine compliance requirements to implement programs.
- ✓ Assess the policies of your tribe/TDHE to evaluate compliance with the non-discrimination provisions of NAHASDA.

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At the end of the training you should be able to: (cont.)

- ✓ Assess the policies of their tribe/TDHE to evaluate compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- ✓ Navigate the Uniform Guidance and applicable exceptions in the NAHASDA regulations, to locate and determine administrative compliance requirements.

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At the end of the training you should be able to: (cont.)

- ✓ Assess your system for documenting personnel expenses meeting standards of Subpart E of 2 CFR § 200.
- ✓ Assess capacity of the tribe/TDHE to comply with TDC limits.

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At the end of the training you should be able to: (cont.)

- ✓ Implement systems to track and document compliance with Useful Life requirements.
- ✓ Accurately categorize an activity as maintenance for purposes of compliance with HUD's environmental regulations, 24 CFR Parts 50 and 58.

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# 1. Foundations for IHBG Program Management

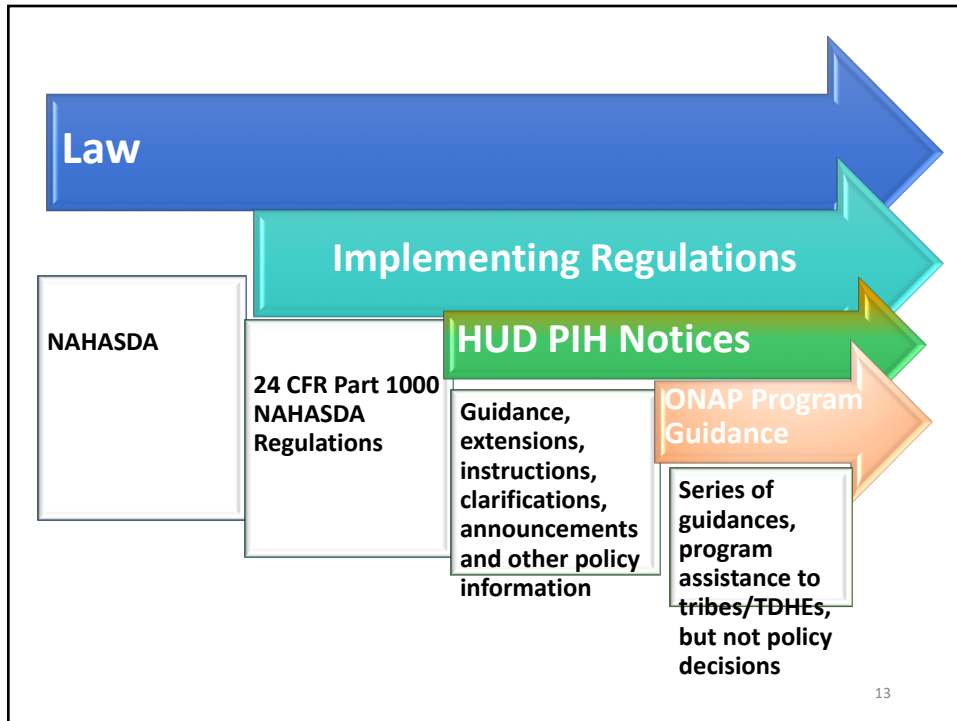
- *Navigating the NAHASDA Statute and Regulations*
  - *Orientation to PIH Notices and Program Guidance*
  - *Navigating HUD Resources*
- 

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## IHBG & Decision Making

- Grants are legal instruments through which funds are transferred to support a public purpose.
  - As long as a recipient includes NAHASDA funds in project or program design and management, the IHBG provides the context in which informed decisions are implemented.
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## 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
-

## NAHASDA Regulations: 24 CFR 1000

- Regulations developed by HUD and tribes through the negotiated rulemaking process.
- The process is mandated by Section 106(b) of NAHASDA.



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## NAHASDA Regulations

- 24 CFR 1000
- Final 3/12/98, and amended many times since first adopted.
- Recent amendments:
  - December 7, 2015: to conform to new Uniform Guidance (2 CFR 200)
  - November 17, 2016 to add “equal housing” amendment
  - November 22, 2016: to revise IHBG Formula

code of  
federal regulations



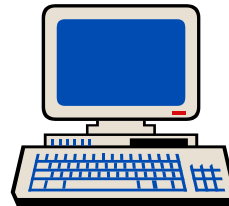
## Regulatory Sections

- Subpart A: General
- Subpart B: Affordable Housing Activities
- Subpart C: Indian Housing Plan (IHP)
- Subpart D: Allocation Formula
- Subpart E: Federal Guarantees
- Subpart F: Recipient Monitoring, Oversight & Accountability

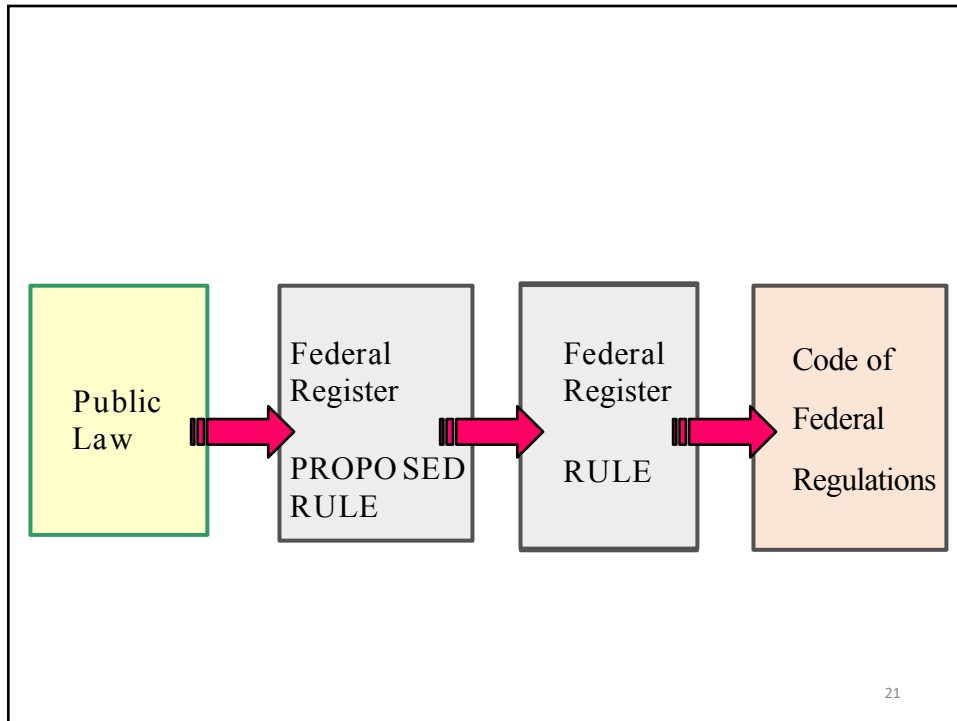
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- The diagram shows the following mappings:
- Title I: Block Grants and Grant Requirements → Subpart A: General Objectives
  - Title II: Affordable Housing Activities → Subpart B: Affordable Housing Activities
  - Title III: Allocation of Grant Amounts → Subpart C: IHP
  - Title IV: Compliance Audits and Reports → Subpart D: Formula
  - Title V: Termination of Assistance → Subpart E: Federal Guarantees
  - Title VI: Federal Guarantees for Financing → Subpart E: Federal Guarantees
  - Title VII: Other Housing Assistance → Subpart F: Monitoring & Oversight

## Notices and NAHASDA Guidance

- PIH Notices
- Guidance bulletins
- Sources:
  - <http://www.hud.gov/offices/pih/ih/codetalk/nahasda>



## UNDERSTANDING THE CODE OF FEDERAL REGULATIONS (CFR)



## 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.
-

## Six Levels of Paragraphs

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

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## Navigating HUD Resources

Using HUD.gov

## Other HUD.gov Resources

- HUDCLIPS  
[https://www.hud.gov/program\\_offices/administrati  
on/hudclips](https://www.hud.gov/program_offices/administrati<br/>on/hudclips)
  - Case Studies
  - Handbooks/Guidebooks
  - Past training material
  - Valuable links
  - Policies
- 

## Application Exercise

## 2. NON-DISCRIMINATION REQUIREMENTS

- *Age Discrimination Act of 1975*
  - *Section 504 of the Rehabilitation Act of 1973*
  - *Indian Civil Rights Act*
  - *Tribal Preference Exception to Civil Rights Act*
  - *Equal Access to Housing Regardless of Sexual Orientation or Gender Identity*
- 

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### What non-discrimination requirements are applicable? (24 CFR § 1000.12)

- Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) and HUD's implementing regulations in 24 CFR part 146.
  - Section 504 of the Rehabilitation Act of 1973
  - The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968)
  - Title VI and Title VIII does not apply to Federally Recognized Tribes (Tribal Preference applies)
  - Equal access to HUD-assisted or -insured housing requirements in 24 CFR 5.105(a)(2)
-

www.ecfr.gov/cgi-bin/text-idx?SID=310883984b5e6e4442cf1912535a...

Simple Search

Advanced Search  
 — Boolean  
 — Proximity

Search History  
 Search Tips  
 Corrections  
 Latest Updates  
 User Info  
 FAQs  
 Agency List  
 Incorporation By Reference

Electronic Code of Federal Regulations  
*e-CFR*

Related Resources

The Code of Federal Regulations (CFR) annual edition is the codification of the general and permanent rules published in the *Federal Register* by the departments and agencies of the Federal Government, produced by the Office of the Federal Register (OFR) and the Government Publishing Office.

Download the Code of Federal Regulations in XML.

Download the Electronic Code of Federal Regulations in XML.

Monthly Title and Part user viewing data for the e-CFR is available for download in CSV format.

Parallel Table of Authorities and Rules for the Code of Federal Regulations and the United States Code  
 Text | PDF

Title 24 → Subtitle B → Chapter IX → Part 1000 → Subpart A → §1000.12

Browse Previous | Browse Next

Title 24: Housing and Urban Development  
 PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES  
 Subpart A—General

**§1000.12 What nondiscrimination requirements are applicable?**

(a) The requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) and HUD's implementing regulations in 24 CFR part 146.

(b) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD's regulations at 24 CFR part 8 apply.

(c) The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968; 25 U.S.C. 1301-1303), applies to Federally recognized Indian tribes that exercise powers of self-government.

(d) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*) apply to Indian tribes that are not covered by the Indian Civil Rights Act. The Title VI and Title VIII requirements do not apply to actions under NAHASDA by federally recognized Indian tribes and their TDHES. State-recognized Indian tribes and their TDHES may provide preference for tribal members and other Indian families pursuant to NAHASDA sections 201(b) and 101(k) (relating to tribal preference in employment and contracting).

(e) The equal access to HUD-assisted or -insured housing requirements in 24 CFR 5.105(a)(2).

[63 FR 12349, Mar. 12, 1998, as amended at 77 FR 71522, Dec. 3, 2012; 81 FR 80993, Nov. 17, 2016]

Need assistance?

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## The Age Discrimination Act of 1975

- 24 CFR § 146
- Prohibits discrimination on the basis of age in programs and activities receiving Federal financial assistance.
- The Act applies to discrimination at all age levels.

**Discrimination**  
 Discrimination is the prejudicial treatment or discrimination against disallowing one from recognized as employment discrimination

...not to be confused with the Age Discrimination in Employment Act (ADEA)

- separate statutes,
- different purposes, procedures, and remedies
- Equal Employment Opportunity Commission's regulations implementing the ADEA at [29 CFR 1625](#), 1626, and 1627



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“...actions that have the effect, on the basis of age, of:



- Excluding individuals
- Denying them the benefits
- Subjecting them to discrimination
- Denying or limiting opportunity to participate in any program or activity...”

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## Exceptions...



Exception  
to the  
Rule!

### 24 CFR § 146.13:

(b) *Exceptions for normal operation or statutory objective of any program or activity.*

(c) *Exceptions for reasonable factors other than age.*

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(f) ...if a recipient operating a program provides special benefits to the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program.

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### Scenario 1:

The Board has authorized the development of a down payment assistance program to enable more families to achieve homeownership. However, after lengthy discussion amongst the Board, there was concern raised that some young adult families might not yet be suited for homeownership (given maturity levels, brain development etc.) and may “get in over their heads.” As a result, the Executive Director was directed by the board to add a requirement in the policy for applicants to be at least 25 years old to qualify for assistance under the program.

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### Scenario 2:

The IHA has identified a unique need for supportive services for young adults who have a difficult time transitioning to work or college. The IHA proposed a new program in the IHP to purchase a large home for congregate living for young single adults (age 18-25). The program offers young adults a 6-18 month living arrangement while gaining resources, skills and education/training to successfully transition to independent living.

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## 504 Rehabilitation Act of 1973

### 24 CFR § 8



Section 504 obligates recipients to make their programs accessible to persons with disabilities, including:

- reasonable structural modifications
  - not segregated based upon disability
  - **auxiliary aids/services for communication** [applies to A & O application process. See § 8.6]
-

## 504 Rehabilitation Act of 1973

### 24 CFR § 8.22 & 8.23



#### New Construction/or Rehabilitation:

- A minimum of **5 percent** or at least one unit (whichever is greater) in a housing project is required for mobility-impaired persons.
  - An additional minimum of **2 percent** or at least one unit (whichever is greater) is required for people with hearing or vision impairments.
  - Uniform Federal Accessibility Standards (UFAS) deemed to comply with these requirements.
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## 504 Rehabilitation Act of 1973

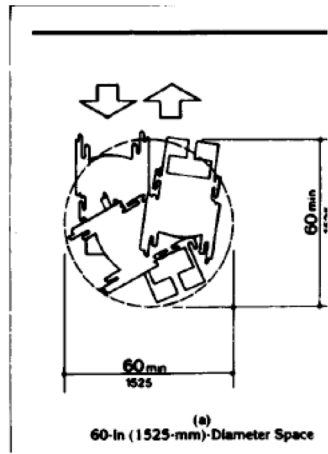
### “Maximum Extent Feasible”



#### Applies to non-housing facilities [§ 8.21]:

- New Construction
  - Alterations
  - Existing non-housing facilities -
    - when viewed in its entirety, readily accessible and usable
    - not necessarily all facilities accessible
    - **Rule of thumb: accessibility to the maximum extent feasible** ...unless will impose undue financial and administrative burdens on the operation of the program.
-

## PIH 2014-08: Applicable Notes on UFAS



**4.22 Toilet Rooms**

**4.22.3 Clear Floor Space.** The accessible fixtures and controls required in 4.22.4, 4.22.5, 4.22.6, and 4.22.7 shall be on an accessible route. An unobstructed turning space complying with 4.2.3 shall be provided within an accessible toilet room. The clear floor space at fixtures and controls, the accessible route, and the turning space may overlap.

*EXCEPTION: In toilet rooms with only one water closet and one lavatory, a clear floor space of 30 in by 60 in (815 mm by 1525 mm) may be used in lieu of the unobstructed turning space.*

“...cannot be used for dwelling unit bathrooms.” [pg. 8 of PIH 2014-08]

## PIH 2014-08: Applicable Notes on UFAS

### 3.5 Definitions

<p><b>Facility.</b> All or any portion of a building, structure, or area, including the site on which such building, structure or area is located, wherein specific services are provided or activities performed.</p> <p><b>Full and Fair Cash Value.</b> Full and fair cash value is calculated for the estimated date on which work will commence on a project and means:</p> <ul style="list-style-type: none"> <li>(1) The assessed valuation of a building or facility as recorded in the assessor's office of the municipality and as equalized at one hundred percent (100%) valuation, or</li> <li>(2) The replacement cost, or</li> <li>(3) The fair market value.</li> </ul> <p><b>Functional Spaces.</b> The rooms and spaces in a building or facility that house the major activities for which the building or facility is intended.</p> <p><b>Housing.</b> A building, facility, or portion thereof, including inpatient health care facilities that contain</p>	<p><b>Site.</b> A parcel of land bounded by a property line or a designated portion of a public right-of-way.</p> <p><b>Site Improvement.</b> Landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and the like, added to a site.</p> <p><b>Sleeping Accommodations.</b> Rooms in which people sleep, for example, dormitory and hotel or motel guest rooms.</p> <p><b>Space.</b> A definable area, e.g., toilet room, hall, assembly area, entrance, storage room, alcove, courtyard, or lobby.</p> <p><b>Structural Impracticability.</b> Changes having little likelihood of being accomplished without removing or altering a load-bearing structural member and/or incurring an increased cost of 50 percent or more of the value of the element of the building or facility involved.</p>
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“...does not alleviate responsibility.” [pg. 8 of PIH 2014-08]

## PIH 2014-08: Applicable Notes on UFAS

(15) The following spaces shall be accessible and shall be on an accessible route:

(a) The living area.

(b) The dining area.

(c) The sleeping area, or the bedroom in one bedroom dwelling units, or at least two bedrooms or sleeping spaces in dwelling units with two or more bedrooms.

“...all sleeping areas must be on an accessible route.”

[pg. 8 of PIH 2014-08]

## Review of PIH 2014-08

## Reasonable Accommodations in the Admissions/Occupancy Process

### Example 1:

Tribe/TDHE office has a wheelchair accessible rental office, an applicant's disability may prevent him from actually entering the office. In that instance, it may be a reasonable accommodation for the Tribe/TDHE to send staff to a location the applicant can use, including the applicant's home.

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## Reasonable Accommodations in the Admissions/Occupancy Process

### Example 2:

Tribe/TDHE has a policy of requiring tenants to come to the rental office in person to pay their rent. A prospective tenant has a mental disability that makes her afraid to leave her unit. Because of her disability, she requests permission to have a friend mail her rent payment to the rental office as a reasonable accommodation. The Tribe/TDHE must make an exception to its payment policy to accommodate this tenant.

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## Reasonable Accommodations in the Admissions/Occupancy Process

### Example 3:

A tenant with a seizure disorder needs to have a large seizure alert dog as an assistance animal as a reasonable accommodation to his disability. The Tribe/TDHE may not refuse to allow the assistance animal, even though the Tribe/TDHE generally has a policy that limits the size of pets to small dogs.

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## Reasonable Accommodations in the Admissions/Occupancy Process

### Example 4:

A tenant with severe arthritis needs grab bars added to his bathroom to make it possible for him to use the bathroom safely, due to his disability. The Tribe/TDHE must install and pay for the needed grab bars changes unless doing so imposes undue financial and administrative burdens on the operation of the program.

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## Indian Civil Rights Act of 1968

- Popularly called the “Indian Bill of Rights.”
- Extends most of the constitutional protections of the Bill of Rights to individuals under the jurisdiction of Indian tribal governments
- Note § 1302 (a) (2)...*the right of the people to be secure in their persons, houses...*”



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## Preference to Tribal Members?

- Yes! (see Section 201 (b)(5))
- Preference Policy stated in the Indian Housing Plan (IHP) and adopted in Admissions Policy (see §1000.120)
- Exempt from Title VI of Civil Rights Act of 1964 (NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS) 201 (b) (6)
- Exempt from Title VIII of Civil Rights Act of 1968 (FAIR HOUSING) 201 (b) (6)



## Title VI and VIII of Civil Rights Act

- Prohibits discrimination based upon race, color, religion, sex, national origin, disability, or familial status
  - Does not apply to apply to actions under NAHASDA by federally recognized Indian tribes and their TDHEs
  - Section 201 (b) (5) of NAHASDA provides legal authority for *Preference for Tribal Members and Other Indian Families* for housing assistance
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## Equal access to HUD-assisted or -insured housing requirements in 24 CFR § 5.105(a)(2)

(2) *Equal access to HUD-assisted or -insured housing.* A determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by HUD shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.

Became effective on December 19, 2016.

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## FR NOTICE – Final Rule & Comments

*“...Although the Native American and Native Hawaiian housing programs’ statutory and regulatory definitions of family vary from the definition of family in § 5.403, the substantive rights and protections in § 5.105(a)(2) apply without regard to actual or perceived sexual orientation, gender identity, or marital status.” [emphasis added]*

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Application Exercise/GROUP  
DISCUSSION:

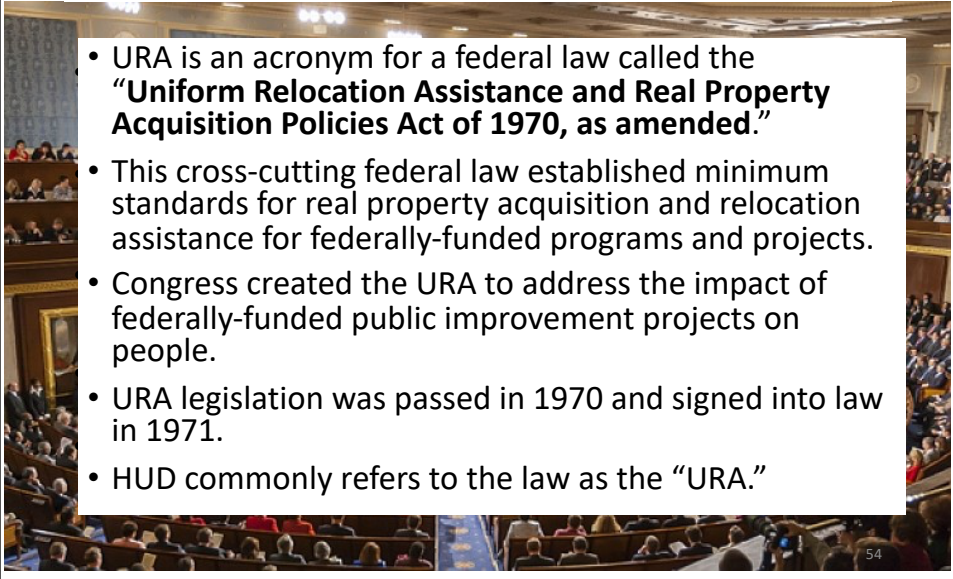
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### 3. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

- Background of URA Statute
  - Applicable Regulations for NAHASDA
- 

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## What is the URA?

- 
- URA is an acronym for a federal law called the **“Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.”**
  - This cross-cutting federal law established minimum standards for real property acquisition and relocation assistance for federally-funded programs and projects.
  - Congress created the URA to address the impact of federally-funded public improvement projects on people.
  - URA legislation was passed in 1970 and signed into law in 1971.
  - HUD commonly refers to the law as the “URA.”

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The 5th Amendment of the U.S. Constitution provides the foundation for the URA:

**“...nor shall private property be taken for public use, without just compensation.” [ Eminent Domain] — 5<sup>th</sup> Amendment**

In addition to protecting landowners, the URA provides protections for people who must move due to a federally-funded project.

## Lead Agency

- The U.S. Department of Transportation’s Federal Highway Administration (FHWA) is the lead federal agency for the URA.
- FHWA creates and maintains the federal regulations that implement the URA.
- HUD coordinates closely with FHWA on URA matters to ensure the nuances of HUD programs and projects are considered.
- URA regulations are found at 49 CFR Part 24.

## The URA Purpose & Objectives

The URA establishes minimum federal requirements for real property acquisition and relocation assistance for federally-funded projects.



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## The URA Purpose & Objectives

### Acquisition Objectives

- Ensure that owners of real property to be acquired are treated fairly and consistently.
- Encourage and expedite acquisition by agreement.
- Minimize litigation and relieve congestion in the courts.
- Promote public confidence in federally-assisted land acquisition programs.

### Relocation Objectives

- Provide fair, consistent, and equitable treatment of persons displaced by federally-assisted projects.
- Ensure displaced persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole.

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## URA AMENDMENT: 2012

- **Public Law 112-141 (MAP-21):**
- Increased residential and nonresidential monetary payments
- Reduced occupancy period to 90 days for homeowner-occupants
- MAP-21 is an acronym for Moving Ahead for Progress in the 21st Century.
- MAP-21 URA changes became effective on 10/1/2014.
- Rulemaking to update 49 CFR Part 24 is underway, but not yet complete.
- MAP-21 changes **must** be implemented even though current regulations do not reflect those changes.
- Refer to HUD Notice CPD-14-09 for MAP-21 guidance.

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The URA generally applies to federally-funded projects involving **acquisition**, **rehabilitation**, or **demolition**.



If federal funds are used in any phase of a project, URA requirements apply to all acquisition of real property and relocation of persons for the project.

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## KEY DEFINITIONS

Who is a Displaced Person?

**Displaced Person, in part, (49 CFR 24.2(a)(9)):**  
“...any person who moves from the real property or moves his or her personal property from the real property.”

“As a direct result of a written notice of intent to acquire, the initiations of negotiations for, or the acquisition of such real property in whole or in part for a project.”

“As a direct result of **rehabilitation or demolition** for a project.”

Refer to 49 CFR part 24.2(a)(9) for the complete definition.

A **person** can be an individual, family, partnership, corporation, or association.

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## KEY DEFINITIONS

What is a Project?

**Project (49 CFR 24.2(a)(22)):**

“...any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated **in any phase of an undertaking** in accordance with the Federal funding Agency guidelines.”

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# KEY DEFINITIONS

What is Federal Financial Assistance?

**Federal Financial Assistance (49 CFR 24.2(a)(13)):**

*"...a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual..."*

HUD funding in a project typically represents federal financial assistance.

Use of Low Income Housing Tax Credits (LIHTC) or FHA mortgage insurance **is not** considered federal financial assistance.

URA may apply where LIHTC and FHA mortgage insurance are combined with other federal financial assistance.

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§ 1000.14 What relocation and real property acquisition policies are applicable?

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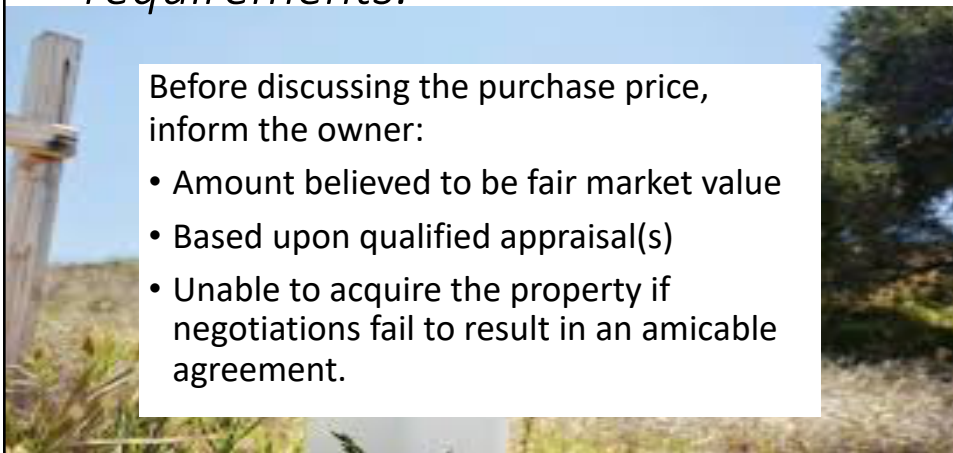


*(a) Real Property acquisition requirements.*



- Subject to [49 CFR part 24](#), subpart B. **Real Property Acquisition**
- "...Whenever the recipient does not have the authority to acquire the real property through condemnation, it shall:

*(a) Real Property acquisition requirements.*



*(a) Real Property acquisition requirements.*

- HUD approval required if exceeds the fair market value.
- Include copy of the appraisal(s) and a justification for the proposed acquisition payment.
- Request from HUD before firm commitment made
- HUD will promptly review the proposal and inform the recipient of its approval or disapproval.

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*(b) Minimize displacement.*

- Consistent with the other goals and objectives of this part,
- Take all reasonable steps to minimize the displacement of persons (households, businesses, nonprofit organizations, and farms).

”Recipient shall assure...”



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## (c) *Temporary relocation.*



For residential tenants/ homebuyers who must relocate temporarily for the project:

- Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and
  - any increase in monthly housing costs (e.g., rent/utility costs).
- 

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## (c) *Temporary relocation. (cont.)*

- Also, appropriate *advisory services*, including **reasonable advance written notice** of:
    - The date and approximate duration of the temporary relocation;
    - The location of the suitable, decent, safe and sanitary dwelling to be made available for the temporary period;
    - The terms and conditions under which the tenant may occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the repairs; and
- 

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## (d) *Relocation assistance for displaced persons.*

- A **displaced** person (defined in paragraph (g) of this section) **must** be provided relocation assistance according to URA.
- Implementing Regulations at [49 CFR part 24](#).

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## (e) *Appeals to the recipient*



...A person who disagrees with the recipient's determination concerning whether the person qualifies as a "displaced person," or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the recipient.

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## *(f) Responsibility of recipient*

- Certify that it will comply with the URA and this section
- Relocation assistance is an eligible project cost OR can be paid from other funds
- Maintain records to demonstrate compliance



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## *(g) Definition of displaced person.*

For purposes of this section, the term “displaced person” means any person (household, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently, as a direct result of rehabilitation, demolition, or acquisition for a project assisted under this part.

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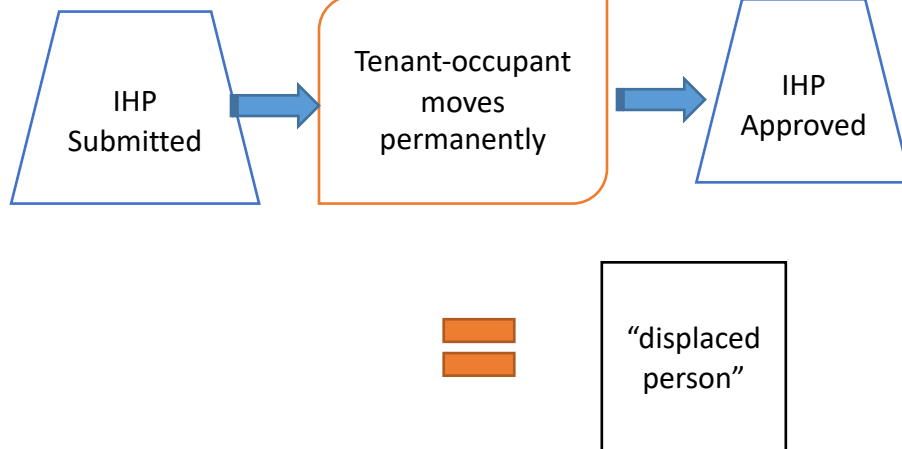
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*(g) Definition of displaced person.  
(cont.)*

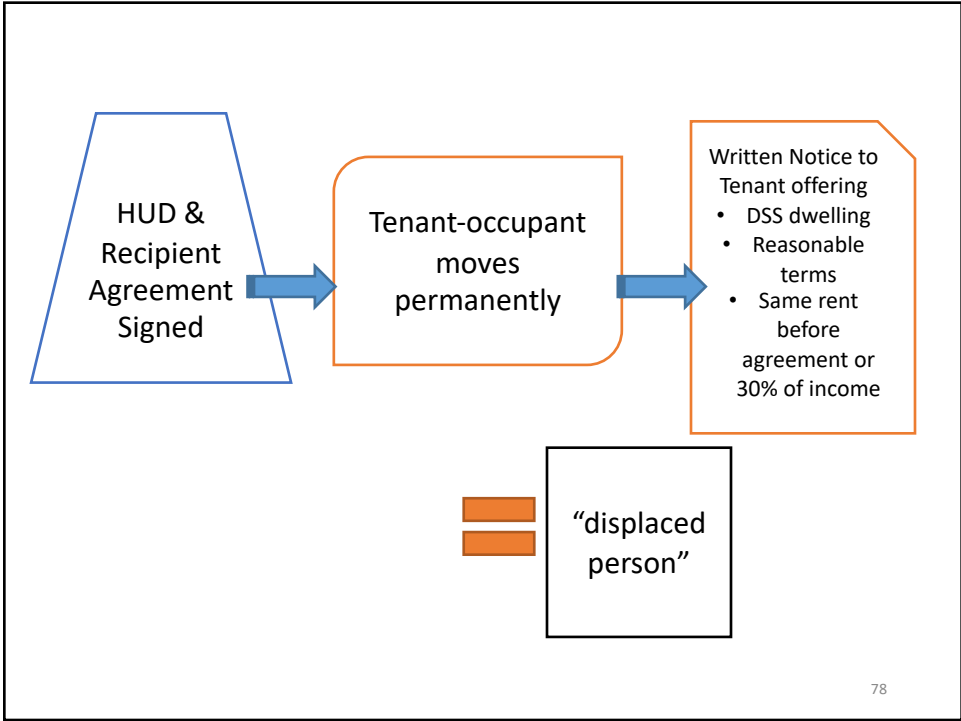
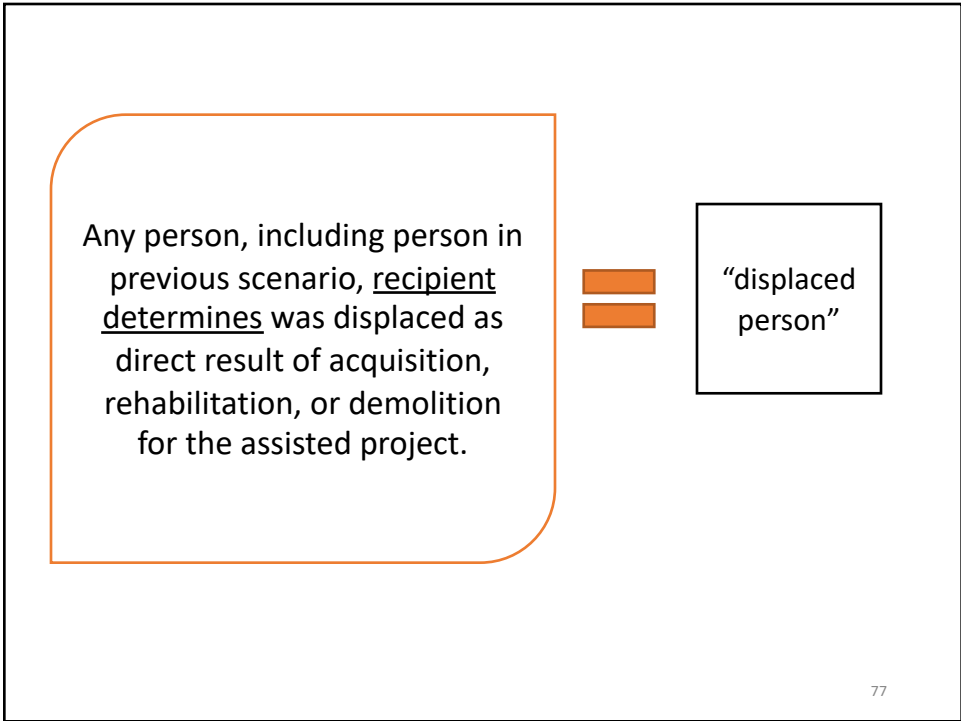
The term “displaced person” includes, but is not limited to:

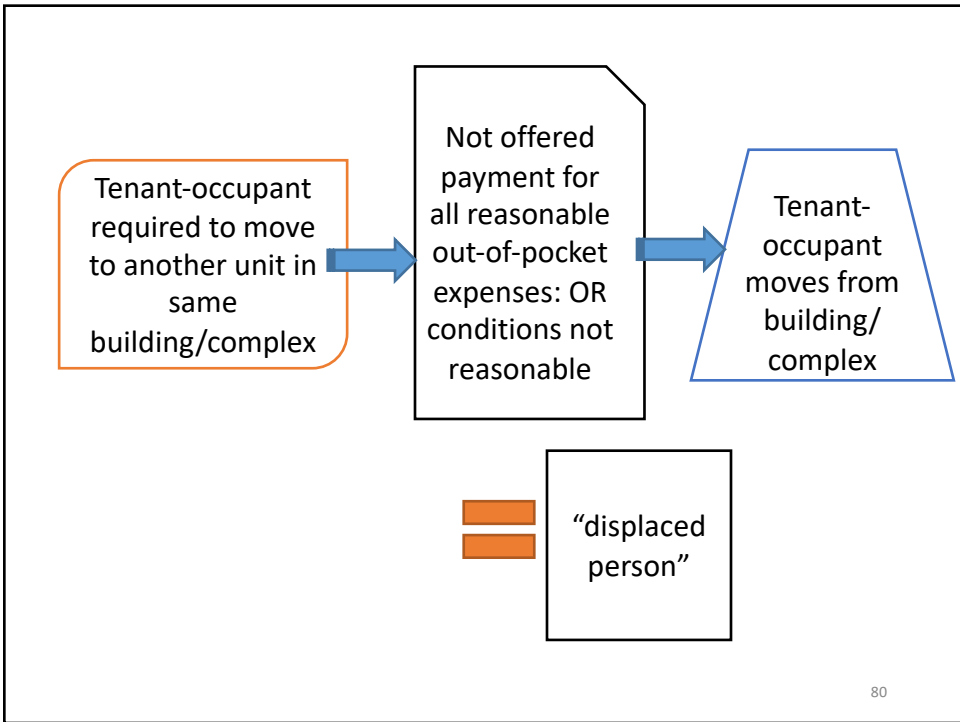
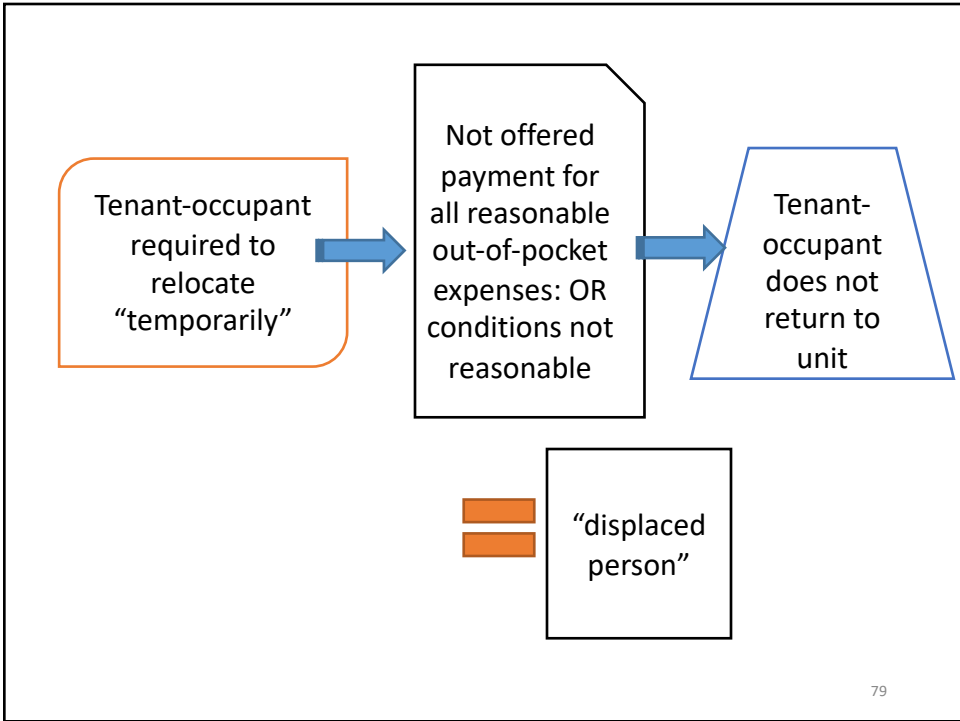
[note the following 5 conditional scenarios in the regulations in making a determination a person is displaced.]

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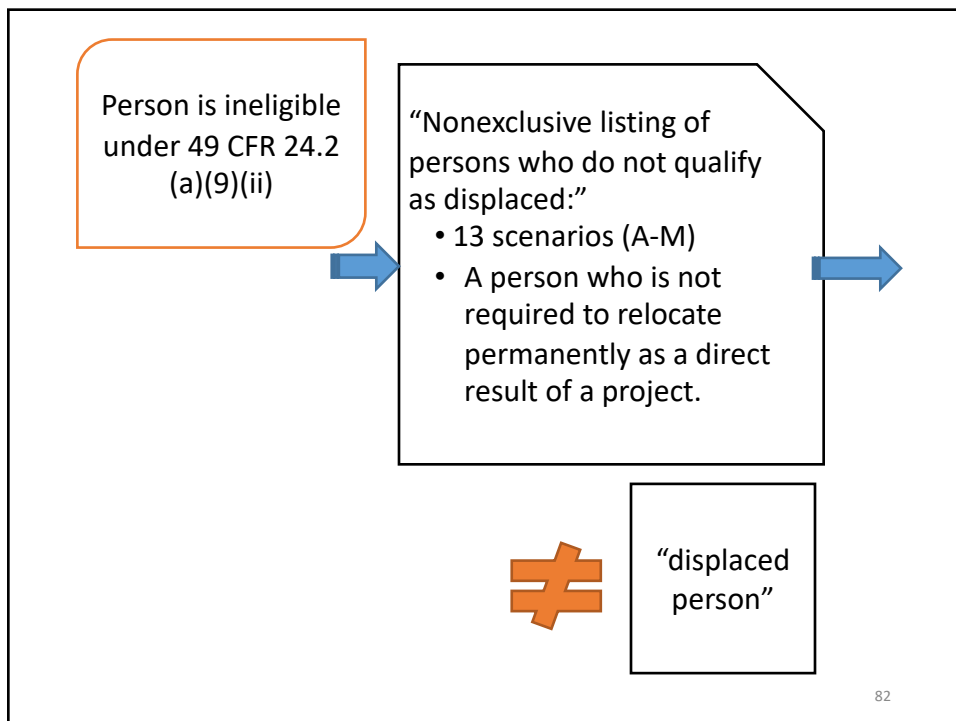
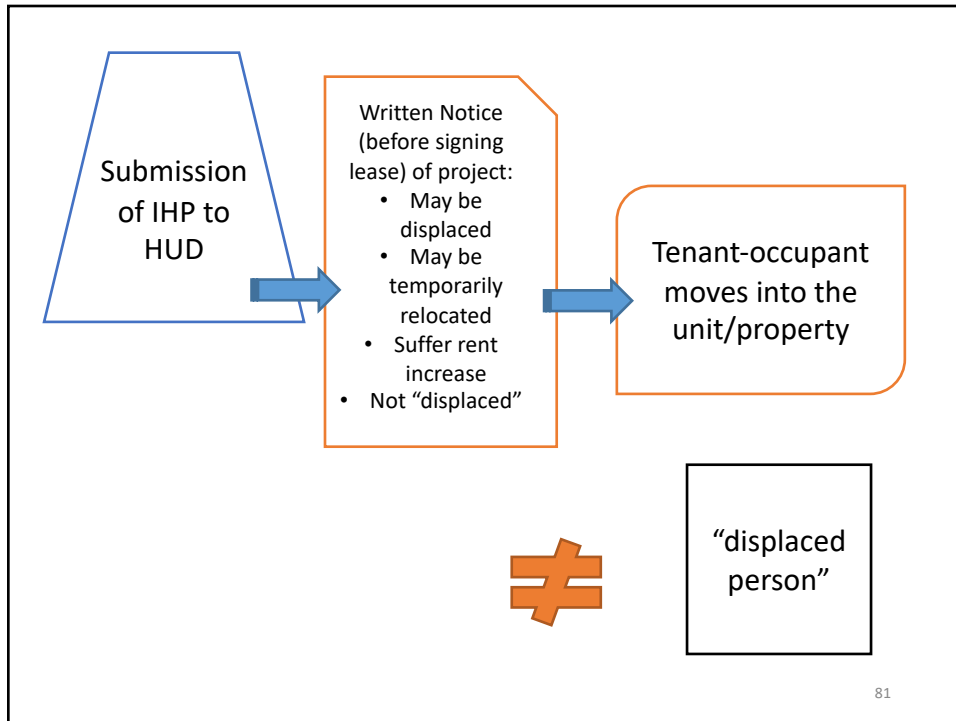


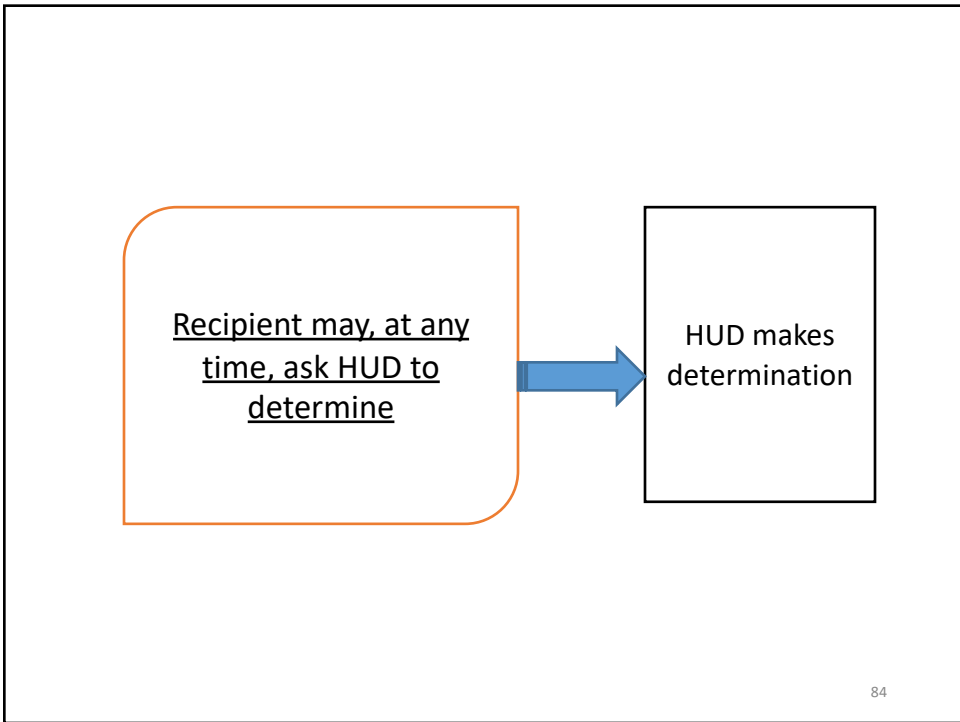
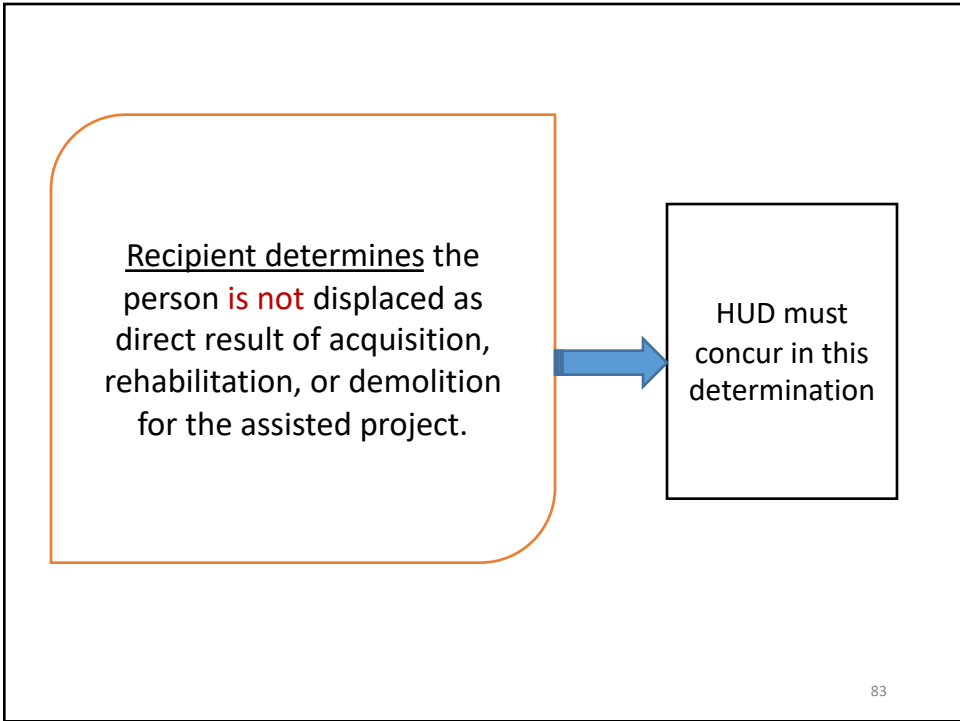
76











## *(g) Definition of initiation of negotiations.*

For purposes of determining the formula for computing the replacement housing assistance to be provided to a person displaced as a direct result of rehabilitation or demolition of the real property, the term “initiation of negotiations” means the execution of the agreement covering the rehabilitation or demolition (See [49 CFR part 24](#)).

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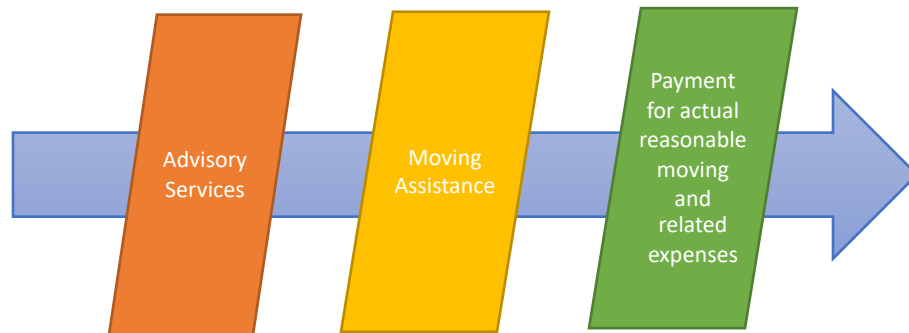
85

## Temporary vs. Permanent Displacement: Major Differences

Temporary Relocation	Permanent Displacement
Must be less than 12 months; begins when the tenant is required to vacate the property	Permanent move based on NOE <u>OR</u> if temporary relocation exceeds 12 months
Benefits aimed at preventing displacement and minimizing temporary location time	Benefits aimed at ensuring displaced persons are treated fairly; residential displacees are offered the opportunity to relocate to comparable replacement housing
Program specific guidance helps to lead temporary relocation activities	Regulatory and Statutory laws help to lead permanent displacement activities
Situation-based	Regulation-based

86

## Temporary Relocation Flowchart



87

## CASE STUDY EXAMPLE:

Your Tribe/TDHE established a new project in the FY 2021 Indian Housing Plan to rehabilitate 10 Low Rent (LR) Units of their 1937 Act stock. Project plans require the tenant families to vacate the units during construction, but they will be able to return to their units. Construction is projected to be complete in 9 months.

88

## 4. UNIFORM ADMINISTRATIVE REQUIREMENTS & COST PRINCIPLES TOPICS

- *Brief background and overview*
  - *Navigating the Guidance and Exceptions under NAHASDA*
  - *August 13, 2020 Revision to 2 CFR 200*
  - *Subpart E Cost Principles: Standards for Documentation of Personnel Expenses*
- 

89

## Uniform Guidance: What is it?

Code of Federal Regulations: 2 CFR 200

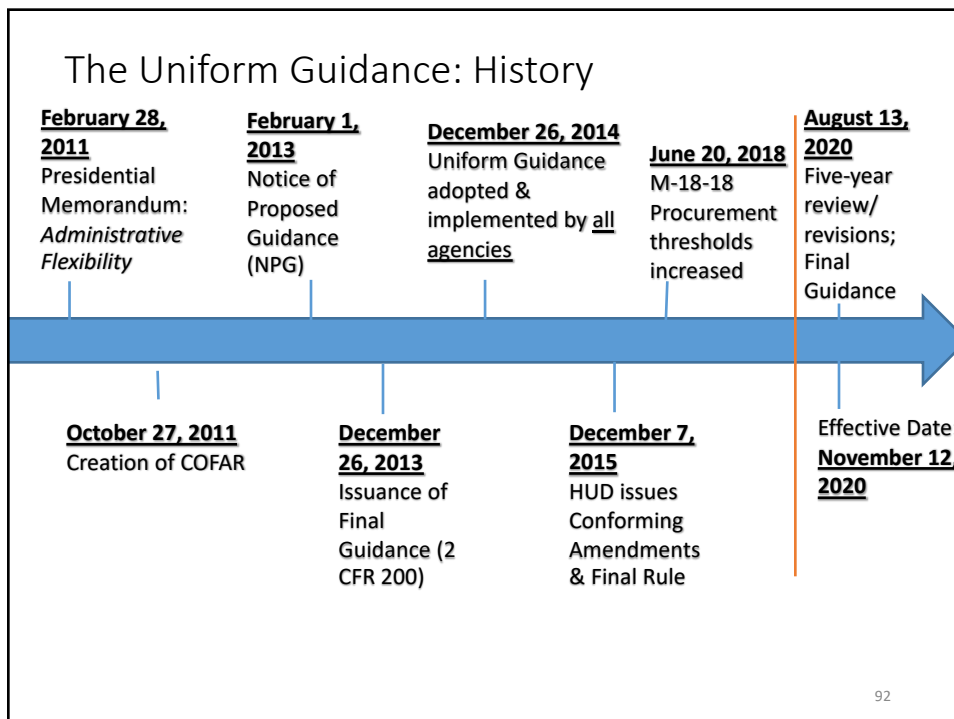
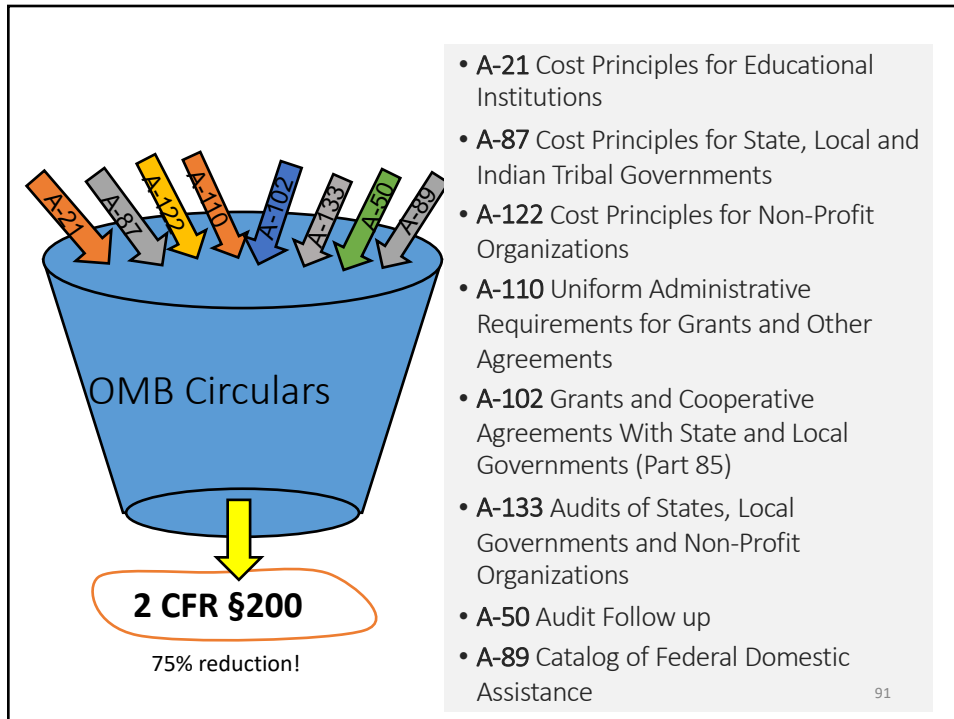


Title 2: Grants and Agreements

### **PART 200— “UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS”**

- Commonly referred to as the “Uniform Guidance” for Federal Awards (2 CFR Part 200).
- Replaced, consolidated, and streamlined eight Federal regulations into a single guide
- Applies to all Federal grants and to certain other types of Federal awards

90



## The Uniform Guidance: History (cont'd)

HUD published a final rule on December 7, 2015 to conform HUD regulations to the Uniform Guidance

Revises cross references and other conforming changes

Amended various program sections of 24 CFR 1000 (IHBG), 24 CFR 1003 (ICDBG), and 24 CFR 1006 (NHHBG)

Published in the Federal Register (80 FR 75943) and became effective on January 6, 2016

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## The Uniform Guidance: History (cont'd)

OMB published a revised final rule on August 13, 2020 to conform HUD regulations to the Uniform Guidance

Required 5 year review

Scope - President's Management Agenda, Results-Oriented Accountability for Grants Cross-Agency Priority Goal (Grants CAP Goal)

Published in the Federal Register (80 FR 75943) and became effective November 12, 2020

94

## Council on Financial Assistance Reform (COFAR)

- COFAR was established by OMB Memorandum M-12-01 (October 2011)
- Composed of the OMB Controller and senior policy officials from nine other Federal agencies (includes HUD)



95

## Council on Financial Assistance Reform (COFAR) (Disbanded)

- **June 15, 2017** COFAR disbanded (Memorandum M-17-26)
- Grants CAP Goal Executive Steering Committee formed – reports to CFOC



96





## UNIFORM GUIDANCE

In December 2014, OMB together with Federal awarding agencies issued an interim final rule to implement the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ([Uniform Guidance](#)). This guidance and implementing regulations delivers on President Obama's second term management agenda and his first term directives under [Executive Order 13520](#), the [February 28, 2011 Presidential Memorandum](#), and the objectives laid out in [OMB Memorandum M-13-17](#) to better target financial risks and better direct resources to achieve evidence-based outcomes. The final guidance, originally published December 26, 2013 ([available at 78 FR 78589](#)) simultaneously improves performance, transparency, and oversight for Federal awards. The COFAR will measure the impact of this guidance as described under [M-14-17](#).

Questions about the Uniform Guidance? Check the [Frequently Asked Questions](#), and then our [Training page](#).

The Latest:

[Roundtable with Federal and Non-Federal Stakeholders on Proposed Uniform Guidance](#)

FINANCIAL ASSISTANCE

BEST PRACTICE GUIDANCE

[Introducing the Uniform Guidance: Improving Outcomes by Reducing Red Tape for Financial Assistance](#)

FINANCIAL ASSISTANCE

BEST PRACTICE GUIDANCE

[Uniform Guidance Promising Practices in Implementation](#)

FINANCIAL ASSISTANCE

BEST PRACTICE GUIDANCE

← CAP Goal Overview

## Results-Oriented Accountability for Grants

NEWS & EVENTS

RESOURCES

JOIN COMMUNITY

2 CFR REVISIONS

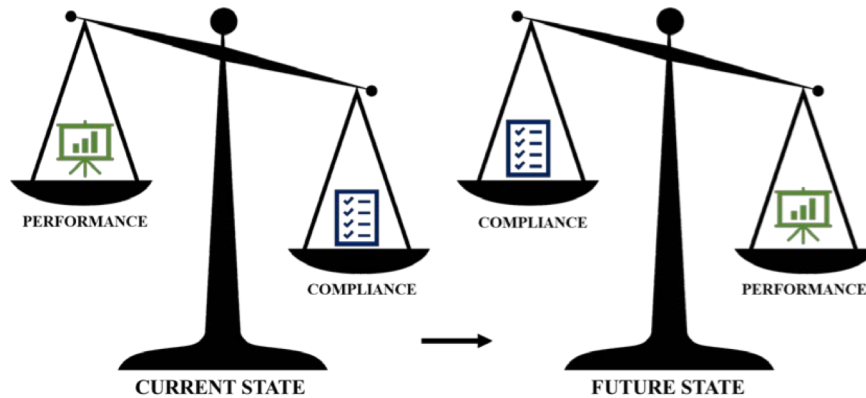
View the New Revisions to Grants Guidance (2 CFR)

VIEW



“Federal Grant Programs support activities that touch every American, such as medical research, education, transportation infrastructure, and more.”

Revisions are limited in scope to support implementation Results-Oriented Accountability for Grants Cross-Agency Priority (CAP) Goal



99

Where is the Uniform Guidance included in NAHASDA Regulations?

**§ 1000.26 What are the administrative requirements under NAHASDA?**

(a) Except as addressed in §1000.28, recipients shall comply with the requirements and standards of 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards", **except** for the following sections:



# Navigating NAHASDA exceptions to the Uniform Guidance:

Demonstration

101

## Review of 11/12/2020 changes...

This site is for beta evaluation only. Please provide feedback using the Feedback button at the bottom right.

Home Titles Search Recent Changes Corrections Reader Aids My eCFR Search the eCFR Sign In / Sign Up

 **Code of Federal Regulations**   
A point in time eCFR system

**Title 2**

You are comparing 11/12/2020 to how it previously appeared on 11/11/2020. [view current version](#)  
Changes are highlighted in the text below.

Title 2 / Subtitle A / Chapter II / Part 200 Subpart D [Previous](#) / [Next](#)

**ECFR CONTENT**

Table of Contents  
Timeline  
Go to Date  
Compare

**Subpart D - Post Federal Award Requirements**  
~~Law for a contract published at~~  
**Source:** 85 FR 49543, Aug. 13, 2020

**STANDARDS FOR FINANCIAL AND PROGRAM MANAGEMENT**

102

# Wrap-up Day 1

Summary

Q & A



103

## **Cost Principles – Basic Considerations**

Subpart E of 2 CFR 200.400 - 475

104

# Application of Cost Principles

§ 200.400

## Assumes Non-Federal Entity:

- Responsible for the efficient and effective administration
- Application of sound management practices
- Accounting practices consistent with these cost principles
- Provides ***adequate documentation*** to support costs charged to the Federal award



105

# Application of Cost Principles

§ 200.400 (d)

The non-Federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal award.



106

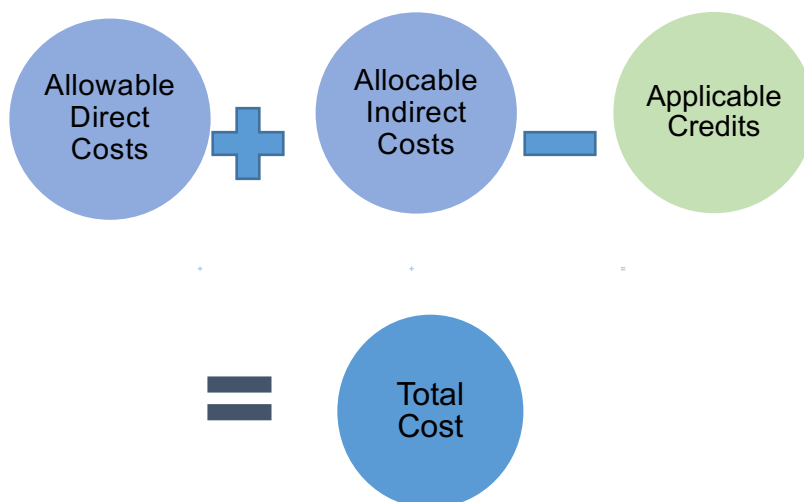
## § 200.401 General Provisions - Application

(a) These cost principles APPLY and must be used as a guide:

- In determining the allowable costs of work performed by the non-Federal entity under Federal awards.
- By the non-Federal entity as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price.

107

## § 200.402 Composition of Costs



108

## 200.403 Factors affecting allowability of costs, are allowable if.....



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

109

## § 200.400 – 475 Program Specific Requirements

### **24 CFR 1000.26(b)(1)**

With respect to the applicability of cost principles, all items of cost listed in 2 CFR part 200, subpart E which require prior Federal agency approval are allowable without the prior approval of HUD to the extent that they comply with the general policies and principles stated in 2 CFR part 200, subpart E and are otherwise eligible under this part.

**EXCEPT FOR THE FOLLOWING.....**

110

§ 200.400 – 475

Program Specific Requirements per 24 CFR  
1000.26(b)(1)

- (i) **200.436(d)(2): Depreciation method** for fixed assets shall not be changed without the approval of the Federal cognizant agency.
- (ii) **200.441: Fines, penalties, damages and other settlements** are unallowable costs to the IHBG program.

111

§ 200.400 – 475

Program Specific Requirements per 24 CFR  
1000.26(b)(1)

- (iii) **200.445: Costs of housing** (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses (goods or services for personal use), regardless of whether reported as taxable income to the employees, require HUD prior approval.

112



**§ 200.400 – 475**  
**Program Specific Requirements per 24 CFR**  
**1000.26(b)(2)**

No person providing consulting services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with IHBG (or ICDBG) funds.

In no event shall such compensation exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule.

<http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2016/EX.pdf>

Salary Table No. 2016.EX  
Rates of Basic Pay for the Executive Schedule (EX)

Effective January 2016

Level	Rate
Level I	\$205,700
Level II	\$185,100
Level III	\$170,400
Level IV	\$160,400
Level V	\$150,700

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113

**ONLINE DEMONSTRATION:**  
**§ 200.420 Considerations for selected items of cost.**

114

## 2 CFR 200.430 Compensation – personal services, has nine subsections:

- *200.430(a) General*
- *200.430(b) Reasonableness*
- *200.430(c) Professional Activities Outside the Non-federal Entity*
- *200.430(d) Unallowable Costs*
- *200.430(e) Special Considerations*
- *200.430(f) Incentive Compensation*
- *200.430(g) Nonprofit Organizations*
- *200.430(h) Institutions of Higher Education (IHEs)*
- *200.430(i) Standards for Documentation of Personnel Expenses*

115

## § 200.430 Compensation - personal services.

### *(a) General. Compensation for personal services includes all...*

- remuneration, paid currently or accrued,
- for services of employees rendered during the period of performance under the Federal award,
- including but not necessarily limited to wages and salaries.
- Compensation for personal services may also include fringe benefits which are addressed in § 200.431.

116

## § 200.430 Compensation - personal services.

*...Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees:*

- (1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities;
- (2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and
- (3) Is determined and supported as provided in paragraph (i) of this section, [**Standards for Documentation of Personnel Expenses**], when applicable.

117

## § 200.430(b) Compensation – personal services

### (b) **Reasonableness.**

...consistent with that paid for similar work in other activities of the non-Federal entity.

OR ...to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.

118

§ 200.430(c)  
Compensation – personal services

(c) **Professional activities outside the non-Federal entity.**

Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity:

Must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation.

119

§ 200.430(c)  
Compensation – personal services

(c) **Professional activities outside the non-Federal entity.** (cont.)

If written policies do not exist...or are not adequate:

Federal Government may impose allocations if they deem non-organizational professional effort **excessive or inconsistent with the conflicts-of-interest** terms and conditions of the Federal award

120

§ 200.430(c)  
Compensation – personal services

(d) **Unallowable costs.**

(1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation.

(2) The allowable compensation for certain employees is subject to a ceiling in accordance with statute.

121

§ 200.430(i)  
Standards for Documentation  
of Personnel Expenses

(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed.

These records must:

- (i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;
- (ii) Be incorporated into the official records of the non-Federal entity;

122

§ 200.430(i) cont'd  
Standards for Documentation  
of Personnel Expenses (cont.)

- (iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, **not exceeding 100%** of compensated activities
- (iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;
- (v) Comply with the established accounting policies and practices of the non-Federal entity

123

§ 200.430(i) cont'd  
Standards for Documentation  
of Personnel Expenses (cont.)

- (vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

124

§ 200.430(i) cont'd  
Standards for Documentation  
of Personnel Expenses (cont.)

- (viii) Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:

125

§ 200.430(i) cont'd  
Standards for Documentation  
of Personnel Expenses (cont.)

...provided that:

- (A) The system for establishing the estimates produces **reasonable approximations** of the activity actually performed;
- (B) Significant changes in the corresponding work activity...are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and

126

§ 200.430(i) cont'd  
Standards for Documentation  
of Personnel Expenses (cont.)

...and,

- (C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal award based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

127

## System of Internal Control?

Internal Controls is defined in 2 CFR 200.1

**Processes** designed and implemented by non-Federal entities to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (i) Effectiveness and efficiency of operations;
- (ii) Reliability of reporting for internal and external use; and
- (iii) Compliance with applicable laws and regulations.

128



## § 200.303 (a) Internal controls.



A non-Federal entity MUST:

Establish and maintain effective internal controls over the federal award providing *reasonable assurance* it is being managed in compliance with statutes, regulations, and terms of award.

...Internal controls should be in compliance with guidance in “**Standards for Internal Control in the Federal Government**” issued by the Comptroller General of the United States or the “**Internal Control Integrated Framework**”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)

129

## COSO Framework?




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**Standards for Internal Control in the Federal Government**  
 GAO-14-704G; Published: Sep 10, 2014. Publicly Released: Sep 10, 2014.


**HIGHLIGHTS** [VIEW REPORT \(PDF, 86 PAGES\)](#) Share This: [f](#) [t](#) [in](#) [v](#)

*Standards for Internal Control in the Federal Government* (the "Green Book"), sets the standards for an effective internal control system for federal agencies and provides the overall framework for designing, implementing, and operating an effective internal control system.


An entity uses the Green Book to help achieve its objectives related to operations, reporting, and compliance.




**Objective identified**



**Controls designed**




**Controls in place**




**Objective achieved**

Source: GAO. | GAO-14-704G

The standards in the Green Book are organized by the five components of internal control shown in the cube below. Each of the five components contains several principles. Principles are the requirements of each component.

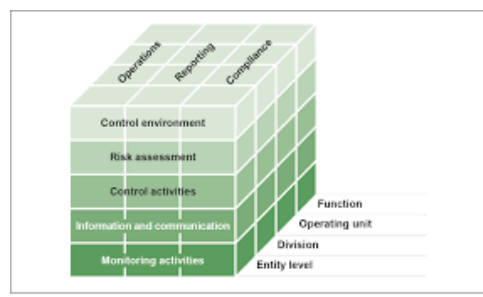


**Multimedia:**



**Additional Materials:**

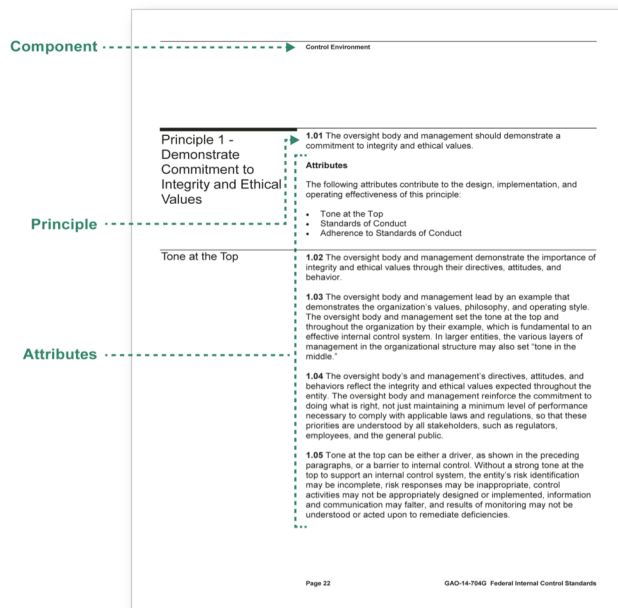
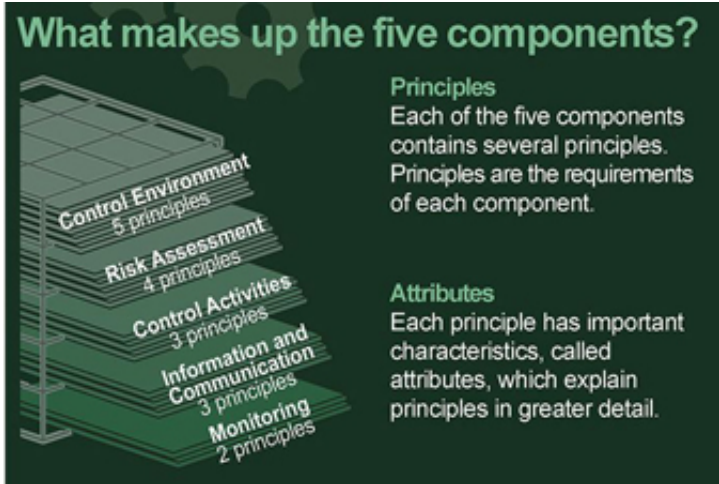
[Full Report: View Report \(PDF, 86 pages\)](#)



Source: COSO

# GAO "Greenbook" ?

- |  |  |
|--|--|
| <b>Control Environment</b>             | 1. Demonstrate Commitment to Integrity and Ethical Values<br>2. Exercise Oversight Responsibility<br>3. Establish Structure, Responsibility, and Authority<br>4. Demonstrate Commitment to Competence<br>5. Enforce Accountability |
| <b>Risk Assessment</b>                 | 6. Define Objectives and Risk Tolerances<br>7. Identify, Analyze, and Respond to Risk<br>8. Assess Fraud Risk<br>9. Analyze and Respond to Change  |
| <b>Control Activities</b>              | 10. Design Control Activities<br>11. Design Activities for the Information System<br>12. Implement Control Activities  |
| <b>Information &amp; Communication</b> | 13. Use Quality Information<br>14. Communicate Internally<br>15. Communicate Externally  |
| <b>Monitoring</b>                      | 16. Perform Monitoring Activities<br>17. Remediate Deficiencies  |



§ 200.430(i) cont'd  
Standards for Documentation  
of Personnel Expenses

- (2) For records which meet the standards required in paragraph (i)(1) of this section, the non-Federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section.
- (3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, **must also be supported by records indicating the total number of hours worked each day.**

135

## IHP uses of funding by program

15.3 Individual Development Accounts	\$454,400	\$0	\$454,400	\$155,779	\$0	\$155,779
16.1 Homeownership Rehabilitation	\$7,504,000	\$0	\$7,504,000	\$7,494,203	\$1,184,766	\$8,678,969
16.2 Self-Help Home Repair	\$150,000	\$0	\$150,000	\$2,288	\$0	\$2,288
16.3 Home Energy Audits	\$0	\$175,000	\$175,000	\$0	\$149,282	\$149,282
16.4 Homeownership Replacement Home Program	\$1,341,100	\$1,367,645	\$2,708,745	\$123,328	\$1,326,381	\$1,449,709
17.1 Rental Assistance	\$4,000,000	\$0	\$4,000,000	\$3,049,414	\$0	\$3,049,414
17.2 Site Development						

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## Section 3 Program Descriptions

### Example

(a) **Program Name:** XYZ Tribe Lease to Own Homeownership Program

(b) **Unique Identifier:** [2018-4 ...or other unique identifier determined by Tribe- some link to chart of accounts by a fund number.

**Program Description:**

This program provides the costs for the ongoing operations and asset management of the tribe's lease to own single family homes (currently 20 homes acquired with funding from the Indian Housing Block Grant program) located in various locations on the reservation and off-reservation in service area of the Tribe. Under this program, qualified Indian families are able to purchase available homes under a 20-year lease to own purchase agreement. Homebuyers are responsible for the regular maintenance of the homes. In the event the homebuyer defaults in the required maintenance of the home, the CNDH will complete the necessary maintenance to protect the tribe's asset and the subsequent cost is charged to the homebuyer. This program supports the adequate labor and staffing necessary to conduct inspections, maintenance (in the case of defaults), occupancy management, homebuyer accounting, financial management, and property management. Selection, admittance, and continued occupancy of low income Indian families to the program is managed according to the *Caddo Lease to Own Program Policy*.

- **Eligible Activity Number:** (20) Operation and Maintenance of NAHASDA-Assisted Units [202(4)]
- **Intended Outcome Number:** (2) Assist renters to become homeowners

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## Also Planning and Admin allocations

2016-05 - Other Housing Services for NAHASDA-Subsidized Units (Non-1937 Act Units)	\$49,000	\$3,000	\$52,000	\$68,686	\$951	\$69,637
2016-06 - Operation and Maintenance of NAHASDA-Subsidized Units (Non-1937 Act Units)	\$27,000	\$3,700	\$30,700	\$17,171	\$1,564	\$18,735
2016-07 - Model Activity: Operation and Maintenance of Workshop/Warehouse for NAHASDA-Subsidized Units (Non-1937 Act Units)	\$9,192	\$0	\$9,192	\$34,343	\$0	\$34,343
Planning and Administration	\$174,922	\$0	\$174,922	\$163,129	\$0	\$163,129
Loan repayment - Sections 103 & 4 below	\$116,000	\$19,624	\$135,624	\$67,007	\$0	\$67,007
<b>TOTAL</b>	<b>\$874,614</b>	<b>\$114,324</b>	<b>\$988,938</b>	<b>\$925,579</b>	<b>\$40,643</b>	<b>\$966,222</b>

**Notes:**

a. Total of Column L cannot exceed the IHBG funds from Column C, Row 1 from the Sources of Funding table in Line 1 above.

b. Total of Column M cannot exceed the total from Column C, Rows 2-10 from the Sources of Funding table in Line 1 above.

c. Total of Column O cannot exceed total IHBG funds received in Column H, Row 1 from the Sources of Funding table in Line 1 above.

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**§ 1000.236 What are eligible administrative and planning expenses?**

- (a) Eligible administrative and planning expenses of the IHBG program include, but are not limited to:
  - (1) Costs of overall program and/or administrative management;
  - (2) Coordination monitoring and evaluation;
  - (3) Preparation of the IHP including data collection and transition costs;
  - (4) Preparation of the annual performance report;
  - (5) Challenge to and collection of data for purposes of challenging the formula; and
  - (6) Administrative and planning expenses associated with expenditure of non-IHBG funds on affordable housing activities if the source of the non-IHBG funds limits expenditure of its funds on such administrative expenses.
- (b) Staff and overhead costs directly related to carrying out affordable housing activities or comprehensive and community development planning activities can be determined to be eligible costs of the affordable housing activity or considered as administration or planning at the discretion of the recipient.

*[63 FR 12349, Mar. 12, 1998, as amended at 77 FR 71527, Dec. 3, 2012]*

**§ 1000.236 (b)**  
What are eligible administrative and  
planning expenses?

**§ 1000.236 (b)**

Staff and overhead costs directly related to carrying out affordable housing activities or comprehensive and community development planning activities can be determined to be eligible costs of the affordable housing activity or considered as administration or planning at the discretion of the recipient.

§ 200.430(i) cont'd  
Standards for Documentation  
of Personnel Expenses

**NOTE:** in Paragraph (8) of this section:

For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require **personnel activity reports**, including prescribed certifications, or equivalent documentation that support the records as required in this section.

## Sample of a PAR

PERSONNEL ACTIVITY REPORT (PAR)															
Name: _____			Emp ID: _____			Pay Period: _____									
Position: _____						Work Hours: _____									
Location: _____						Total Hours Per Week: _____									
				Position 1		Position 2		Position 3		Position 4		Position 5			
				Title: _____		Title: _____		Title: _____		Title: _____		Title: _____			
				Funding Source: _____		Funding Source: _____		Funding Source: _____		Funding Source: _____		Funding Source: _____			
Day	Date	Start Time	End Time	Hours / Mins	% of Time	Hours / Mins	% of Time	Hours / Mins	% of Time	Hours / Mins	% of Time	Hours / Mins	% of Time	Total Daily Hours	Paid Leave Used
Monday															
Tuesday															
Wednesday															
Thursday															
Friday															
Monday															
Tuesday															
Wednesday															
Thursday															
Friday															
Total Number of Hours															

Note: The purpose of this form is to assure that grants are managed properly by correctly reporting the percentage of time worked on a grant in order to be in compliance with the Office of Management and Budget (OMB) Circular A-87.

Employee Signature and Date

Supervisor Signature and Date

**ABC Non-profit**

**BI-WEEKLY TIME SHEET**

1234 United Blvd.  
 Dallas, TX 75555  
 Telephone: (214) 111-4444; FAX: (214) 222-5555

Employee Name: \_\_\_\_\_ Project Name: \_\_\_\_\_  
 Title: \_\_\_\_\_ Pay Period Ending: \_\_\_\_\_  
 Department: \_\_\_\_\_ Supervisor: \_\_\_\_\_

Task or Grant Project	S	M	T	W	TH	F	S	S	M	T	W	TH	F	S	Total Hrs.
FGP Grant		3.5							7						10.5
RSVP Grant		2.5	1.5												4
Fundraising			1	3		0.25									4.25
Annual Leave							7								7
Sick Leave												7			7
Holiday															0
Leave: Other _____															0
<b>TOTALS:</b>	0	7	4.5	0	0.25	7	0	0	7	0	0	7	0	0	32.75

By signing below, I hereby attest that the time recorded on this time sheet is true and accurate to the best of my knowledge.

\_\_\_\_\_  
 Employee Signature

\_\_\_\_\_  
 Supervisor's Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date

- Instructions:**
1. Calculate all time in 15 minute increments, for example: 1.25, 2.50, 4.75.
  2. Employee must submit timesheet to his/her supervisor by the \_\_\_\_ day of the pay period.
  3. Sign timesheet with ink pen only.
  4. Do not use "white-out" to correct mistakes, instead cross-out the error, write-in the correct number, and initial correction.

## System of Internal Controls Evaluation:

Example Scenarios for Discussion



## Evaluation Action Item Checklist:

- ✓ Is the level of compensation reasonable and in line with work on similar activities performed by tribe/TDHE? OR considered reasonable if comparable to that paid for similar work in the applicable labor market?
- ✓ Does the tribe/TDHE have written policies addressing
  - documentation of personnel costs (time and effort reporting) that are consistently applied to both federal and non-Federal activities?
  - how time and effort for matching funds (if applicable) are documented and reported?
  - how restrictions are applied for professional activities outside of the tribe/TDHE required by 2 CFR § 200.430(c):

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## Evaluation Action Item Checklist:

- ✓ How time and effort is aligned to a particular cost objective, and accurately charged
- ✓ How the actual percentage of employees' time is recorded and documented per funding source
  - Not by estimates or budgets
  - Total must not exceed 100%
  - Documentation must be maintained to support allocations

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## 5. Total Development Costs (TDCs) Compliance

- *Moderate Design Requirements*
  - *PIH Notices*
  - *Sample Development Proforma*
  - *Issues in Documenting TDCs (Case Example)*
- 

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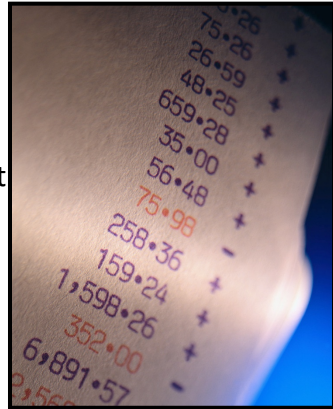
## Total Development Costs - TDCs

- PIH Notice 2019-19 (TDHEs)
  - Transmits updated schedule for the maximum amount of funds for affordable housing under NAHASDA
  - TDCs under 1937 Act became Dwelling Construction and Equipment (DC&E) costs.
  - September 2001 returned to TDCs
  - Covers 1-5 bedroom unit and up to a four-plex
- 

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## Maximum TDC's

- Includes:
  - All development and construction costs
  - Planning and administration costs
  - Site acquisition and development costs
  - Financing costs
- Excludes:
  - Offsite development costs

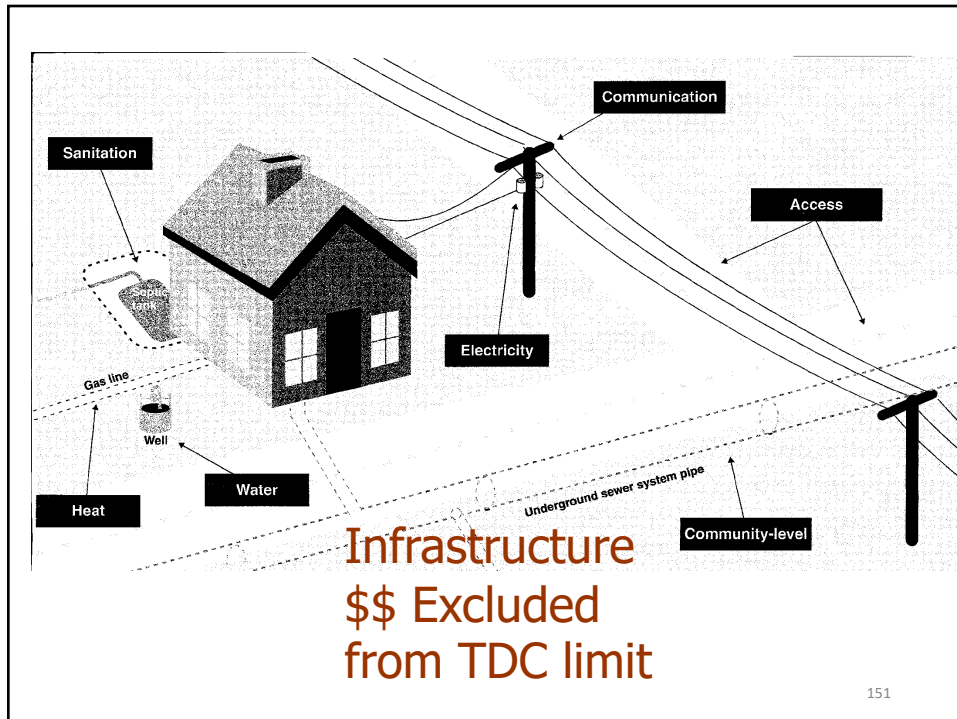


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## Why TDCs?

- “**Moderate Design**” per § 1000.156
- Defined as:
  - “housing that is a size and with amenities consistent with unassisted housing offered for sale in the Indian tribes general geographic area to buyers who are at or below the area median income.”

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## How TDCs are determined:

- Averaged national construction cost indices
  - Marshall & Swift
  - RSMeans Residential Cost Data
- Base Cost
- Local Cost Multiplier
- Total Development Cost (TDC Multiplier)
- Cost of infrastructure excluded from TDC limits

## Sample Performa:

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### TDC Compliance Monitoring – Appendix 5 of Financial and Fiscal Management Monitoring Plan



The scope of the review is to consider all housing and/or buildings developed or acquired since the inception of NAHASDA or since the last review of TDCs, whichever is later.

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## 6. Compliance with “Useful Life” Provisions of NAHASDA

- *Affordability Period and Binding Commitments*
  - *HUD ONAP Program Guidance – Types of Binding Agreement*
- 

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§ 1000.141	What is “useful life” and how is it related to affordability?
§ 1000.142	How does a recipient determine the “useful life” during which low-income rental housing and low-income homebuyer housing must remain affordable as required in sections 205(a)(2) and 209 of NAHASDA?
§ 1000.143	How does a recipient implement its useful life requirements?
§ 1000.144	What are binding commitments satisfactory to HUD?
§ 1000.145	Are Mutual Help homes developed under the 1937 Act subject to the useful life provisions of section 205(a)(2)?
§ 1000.146	Are binding commitments for the remaining useful life of property applicable to a family member or household member who subsequently takes ownership of a homeownership unit?

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## Useful Life

- 24 CFR §1000.141
- Useful life is the time period during which an assisted property must remain affordable, as defined in section 205(a)(2) of NAHASDA.
- Secretary authorized to determine:
  - ✓ Without regard to term of mortgage
  - ✓ consistent with sound economics and the purposes of this Act



## Useful Life

- Mutual Help homes developed under the 1937 Act are not subject to the useful life provisions



§ 1000.142 How does a recipient determine the “useful life” during which low-income rental housing and low-income homebuyer housing must remain affordable as required in sections 205(a)(2) and 209 of NAHASDA?



- A description of the recipient’s plan or system for determining the useful life of the housing it assists with IHBG resources must be provided in the IHP.
- In accordance with local conditions
- IHP guidance provides example of tiered schedule from the HOME program

program, to determine the affordability period. This would specify a number of years during which the housing must remain affordable, dependent on the amount of IHBG resources being invested in the property per occurrence. For example:

<u>IHBG Resources Invested</u>	<u>Affordability Period</u>
Under \$5,000 .....	6 months
\$5,000 to \$15,000 .....	5 years
\$15,001 to \$40,000 .....	10 years
Over \$40,000 .....	15 years
New construction or acquisition of newly constructed housing .....	20 years

The dollar ranges and/or the corresponding number of years may differ from those shown above depending on local conditions. The recipient may choose to assign a longer affordability period to ensure the availability of a larger continuing affordable housing





No. 2020-02  
September 9, 2020

**DANCE**

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**PROGRAM:** Indian Housing Block Grant (IHBG)

**FOR:** Tribal Government Leaders and Tribally Designated Housing Entities

*Heidi Frechette*

**FROM:** Heidi Frechette, Deputy Assistant Secretary for Native American Programs, PN

**TOPIC:** Useful Life and Binding Commitments

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In determining a property's affordability period or useful life, a recipient could use a tiered schedule similar to that used in the Department's HOME program to determine the affordability period. This would specify a number of years during which the housing must remain affordable, dependent upon the amount of IHBG funds being invested in the property per occurrence. For example:

IHBG Funds Invested Affordability Period\*

Under \$5,000 .....	6 months
\$5,000 to \$15,000 .....	5 years
\$15,001 to \$40,000 .....	10 years
Over \$40,000 .....	15 years
New construction or acquisition of newly constructed housing.....	20 years

\* NOTE: For relatively minor investments, the designated affordability period can be some nominal period of time, but NAHASDA requires that some period be designated, and that it be secured with a binding commitment. Additionally, if the reasonable affordability period is less than one year, a binding commitment is required; however, it is not necessary to record the written use restriction for purposes of complying with NAHASDA. It is good business practice,

## Binding Commitments “...satisfactory to HUD”

- 24 CFR §1000.144
- Written use restriction agreement, developed by the recipient, and placed on an assisted property for the period of its useful life.



## Program Guidance 2020-02 Attachments

ATTACHMENT 3

**NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-  
DETERMINATION ACT  
USEFUL LIFE/USE RESTRICTION**  
(Indian Housing on Fee Land with Pro-rated Recovery Amount)

Address: \_\_\_\_\_  
Located at: \_\_\_\_\_  
Lot \_\_\_\_\_, in the subdivision known as \_\_\_\_\_,  
shown by map on file in Book No. \_\_\_\_\_, pages \_\_\_\_\_ through  
\_\_\_\_\_ of Maps \_\_\_\_\_, Records of County of \_\_\_\_\_,  
and State of \_\_\_\_\_.  
or  
Legal description: \_\_\_\_\_

Safari

## Binding Commitments “...satisfactory to HUD”

- [24 CFR §1000.146](#)
- Transfer of unit to a family member or household member is not subject to binding commitment.
- Unless there is a later transfer to a third party



## Record of Use Restrictions:

- Records must be kept for all use restrictions.
- Program Guidance 2020-02 provides sample Record of Use Restrictions form
- Model reporting form is designed to be the registry of all of the various use restrictions that are placed on recipient properties.



# Sample Record of Use Restrictions Form

RECIPIENT GUIDANCE 2014-09(R)

UNIT INFORMATION					ASSISTANCE INFORMATION				USE RESTRICTIONS (IF ANY)			
1 Unit Number/ Property	2 Unit Address/ Location	3 Land Status	4 Unit Type	5 Current Owner	6 Date Assisted	7 Type of Assistance	8 Amount of Assistance	9 Funding Sources Requiring Restriction	10 Use Restriction Document	11 Length of Restriction	12 Start Date	13 End Date

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## Useful Life Compliance – part of the IHP/APR Monitoring Plan

- Does the IHP identify the useful life period that the recipient uses for IHBG-assisted properties?
- If not, did the IHP include a description of the recipient’s plan or system for determining the useful life of the housing it assists with IHBG funds?
- Does the recipient maintain a record of the current, specific useful life for each individual property assisted with IHBG funds?
- ONAP will request a copy of the record of IHBG-assisted properties and ask that the list identify the useful life for each unit.

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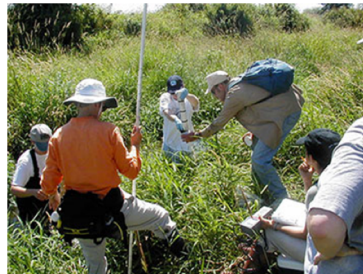
## 7. Environmental Review: Avoiding Level of Review Errors

- *Maintenance Activities vs. Extensive Repair/Rehab*
  - *HUD Community Planning & Development Notice 16-02*
- 

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## National Environmental Policy Act

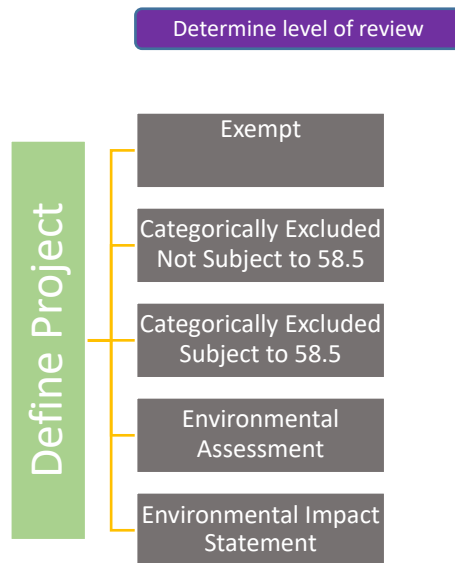
- NEPA Applies - Section 105
- Regs - 24 CFR 1000.18
- HUD may complete the reviews as Certifying Officer under 24 CFR Part 50
- If tribe chooses to be responsible for environmental reviews, the Certifying Officer follows 24 CFR Part 58
- No commitment of funds until Environmental Review completed – RROF if required



# The Environmental Review Process



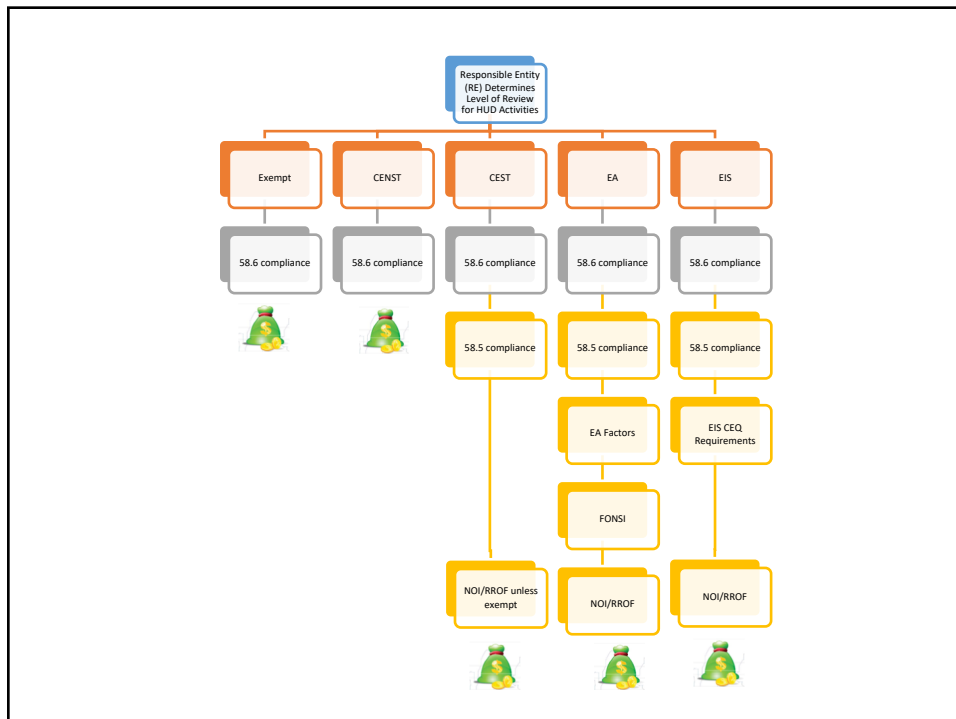
## Level of Review



# Environmental Review Categories

Exempt	Categorical Exclusions (not subject to 58.5)	Categorical Exclusions (subject to 58.5)	Environmental Assessments
<ul style="list-style-type: none"> <li>• Administrative</li> <li>• Engineering</li> <li>• Feasibility study</li> </ul>	<ul style="list-style-type: none"> <li>• Rental assistance</li> <li>• Operating costs</li> <li>• Down payment assistance</li> <li>• Maintenance</li> </ul>	<ul style="list-style-type: none"> <li>• Utility upgrades</li> <li>• Accessibility modifications</li> <li>• Individual actions on 1-4 unit structures (with restrictions)</li> <li>• Rehab larger structures (with restrictions)</li> </ul>	<ul style="list-style-type: none"> <li>• All projects not exempt or categorically excluded</li> </ul>

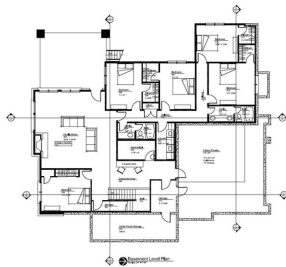
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## Exempt

Determine level of review

- Except for the applicable requirements of § 58.6, RE does not have to undertake any environmental review, consultation or other action under NEPA.



### Listed in 24 CFR §58.34(a):

- Environmental, planning & design costs
- Information & financial services
- Administrative & management activities
- Public services (no physical impact)
- Inspections
- Purchase of tools & insurance
- Technical assistance & training
- Payment of principal and interest
- Temporary assistance for disaster or imminent threats

## Categorically Excluded Not Subject to 58.5 (CENST) Activities

Determine level of review

- Activities do not require a review or compliance determination under the Federal laws and authorities cited in § 58.5.
- Do not have to publish or submit to HUD, a NOI/RROF or execute a certification.

### Listed in 24 CFR 58.35(b):

- Tenant-based rental assistance
- Supportive Services (healthcare, housing placement)
- Operating costs (utilities, supplies)
- Economic development costs (non-construction)
- Pre-development costs
- **Maintenance**
- Supplemental Assistance





U.S. Department of Housing and Urban Development  
Community Planning and Development

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Special Attention of:

Regional Directors  
Field Office Directors  
CPD Division Directors  
Regional Environmental Officers  
Responsible Entities  
Healthcare Directors  
PIH Staff  
Public Housing Agencies  
Program Environmental Clearance Officers  
Multifamily Office Directors  
Multifamily Regional Center Directors  
Multifamily Satellite Office Directors

**Notice:** CPD-16-02

Issued: February 8, 2016

Expires: This Notice is effective until amended, superseded, or rescinded.

Supersedes: March 28, 2006 CPD policy memorandum on this subject

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**SUBJECT: Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58**



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# MAINTENANCE ACTIVITIES vs. REHABILITATION ACTIVITIES

Application Exercise

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# Wrap-up

Summary

Q & A



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Thank you for participating!

Your evaluation and feedback are invited and appreciated!